The Planning Inspectorate

Appeal Decision

Inquiry Held 24 – 26 April 2019
Site visit made on 25 April 2019

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2019

Appeal Ref: APP/C3620/W/18/3209803
Land adjacent to Deepdene Station and Federated House, Lincoln Road, Dorking

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by CES Properties (Dorking) Limited against the decision of Mole Valley District Council.
- The application Ref MO/2018/0624, dated 29 March 2018, was refused by notice dated 25 July 2018.
- The development proposed is the erection of a part 7, part 5 storey building comprising of 23 residential units, ground level undercroft car parking, landscaping, and associated works.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a part 7, part 5 storey building comprising of 23 residential units, ground level undercroft car parking, landscaping, and associated works at land adjacent to Deepdene Station and Federated House, Lincoln Road, Dorking in accordance with the terms of the application, Ref MO/2018/0624, dated 29 March 2018, subject to the attached schedule of conditions.

Procedural matters

2. The Council refused the planning application for six reasons and prior to the Inquiry, the Council and appellant sought to narrow the areas of difference between them. A signed statement of common ground (SOCG) was provided before the Inquiry opened.

3. The Council has confirmed that it is not defending reason for refusal 3, which is concerned with the effect of the appeal scheme on the environment of Pipp Brook, as the concerns of the Environment Agency have been addressed since the application was determined. In addition, the Council is not defending reason for refusal 4, which is concerned with the proposed housing mix. I will therefore not consider those matters further.

4. Reason for Refusal 6 is concerned with the provision of affordable housing and prior to the Inquiry the main parties agreed that the appeal scheme should provide 4 affordable housing units, the provision of which would be secured by way of a planning obligation. A completed Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (S106) was provided at the Inquiry. The S106 includes obligations relating to affordable housing and on-

street parking permit capping. Accordingly, the Council is also not defending this reason for refusal.

5. A draft S106 unilateral undertaking (UU) was submitted at the Inquiry with the certified copy of the document being provided after the Inquiry closed. In addition to the provisions relating to affordable housing and on-street parking permit capping, the UU also includes a cascade mechanism in respect of affordable housing contributions in lieu.

6. The appeal scheme is situated within the 800m buffer zone for the Mole Gap to Reigate Escarpment SAC. I wrote to the appellant before the Inquiry opened requesting a Habitats Regulation Screening Report in respect of the appeal scheme. I have had regard to the submitted screening report[1] in determining the appeal.

7. In the interests of consistency, I have retained the reference to 'Federated House' in the site address in the heading above, as that is the address stated in the application and appeal documentation. This building has since been converted to flats and has been renamed 'Vista House'. In this decision, I refer to it as Vista House when considering it in its present form.

Main Issues

8. Having had regard to the procedural matters and in light of all that I have read, heard and seen, I consider the main issues for the appeal are:

- The effect of the proposed development on the character and appearance of the area; and
- The effect of the proposed development on the living conditions of the occupiers of properties on Lincoln Road and Vista House, and whether future occupants of the proposed flats would experience acceptable living conditions, with particular reference to outlook and /or privacy.

Reasons

Planning policy context and background

9. The development plan for the area comprises the Mole Valley Local Development Framework Core Strategy Adopted October 2009 (MVCS), the Dorking Town Area Action Plan adopted December 2012 (AAP) and the saved policies of the Mole Valley Local Plan 2000 (MVLP). The main parties have agreed the relevant policies for the appeal as set out in the SOCG. Mr Goddard for the appellant stated under cross examination that the agreed policies are not inconsistent with the policies of the National Planning Policy Framework (the Framework). I agree. The appeal site forms part of an area of land allocated by AAP Policy DT9 for housing.

10. I wrote to the parties before the Inquiry requesting views on the implications of the updated revised Framework, updated Planning Practice Guidance (PPG) and the Housing Delivery Test Results of February 2019 for their cases. In the statement of Mr Gardner for the Council, it is confirmed that the Council is not able to demonstrate a five year supply of specific deliverable sites for housing against their housing requirement, with the supply being about 2.17 years. In addition, at the Inquiry the Council confirmed that the application of the

[1] Appropriate Assessment Screening Report, Pell Frischmann April 2019 (RE13018A/V006).

affordability ratios published in March 2019 do not alter the stated supply figure.

Character and appearance

11. The appeal site is situated in Dorking Town Centre. It is a broadly triangular shaped area of land, situated to the rear of dwellings on Lincoln Road. To the south east, the site is bounded by a footpath, beyond which is the Pipp Brook, commercial premises and a wooded railway embankment. I saw at the site visit that the vegetation and railway embankment visually contain the site to the south. To the west is situated Vista House, a former office building (Federated House) which has been redeveloped for housing. Whilst the character of the immediately surrounding area is predominantly residential, there are some commercial properties to the east of the appeal site, including a garage building with a large footprint.

12. There is some variety in the age and appearance of buildings in the wider area as described in the Councils Supplementary Planning Document, Built Up Areas Character Appraisal for Dorking, North Holmwood and Pixham (CD C5). To the north of Lincoln Road there are three storey office buildings at Dorking Station and whilst the southern side of Lincoln Road has predominantly late 19th century semi-detached dwellings, there is a three storey flat roofed block of apartments on the northern side. In terms of vertical scale, I saw at my site visit that other than Vista House, buildings on Lincoln Road are typically of a domestic scale.

13. Vista House is, in the context of Dorking, a tall building, being appreciably taller than the typical buildings in the surrounding area. However, it is nevertheless part of the established built environment of the Town and has been so for a considerable period. Due to its location and the screening effects of trees, the railway embankments and other buildings I saw that it is not unduly prominent in middle and distance views within the townscape.

14. The proposed building would take the form of a single block. Whilst its footprint would be appreciably larger than that of the dwellings on Lincoln Road, it would not be discordant in terms of footprint with Vista House or the commercial building to the east. The proposed building would be situated close to the boundary of the site with the footpath, with the access to the undercroft parking, the parking arbour and landscaped area between it and the rear of dwellings on Lincoln Road. Excluding the shared access with Vista House, the proposed building would take up a significant proportion of the appeal site. However, I consider that adequate space would be provided to the front and side of the building so that it would not appear cramped on the site when viewed from the access road.

15. In terms of height, the proposed building would have seven stories in a central element with a mansard type roof, with five storey gabled 'wings' to either side. Undoubtedly, the proposed building would be a large building, comparable in height with Vista House. However, the use of the lower height wings would help in reducing its overall mass and it would not appear discordant with the adjacent Vista House. It would however be of a substantially greater scale than the existing dwellings on Lincoln Road even with the stepped down elements to either side and would inevitably introduce a significant new element in the townscape. This is not however necessarily harmful in itself, due to the particular characteristics of the site and its

surroundings, given the height of Vista House and that it would be seen in the context of a visually contained site.

16. There was some discussion at the Inquiry regarding the design of the building, which the Design and Access Statement explains has an Arts and Crafts influence. Whilst the scale and proportions of the building are not of a domestic scale and there would be two stories of development within the deep mansard roof, it would not appear unattractive.

17. Although the ground floor would contain plant rooms, cycle store and parking spaces, the main entrance would be legible and I do not find the otherwise lack of activity on the ground floor to be harmful. The lift shaft at the front of the building would break the symmetry of the building and the use of bay windows and gable features would add interest. I do not find that the building would be either poorly coordinated or cluttered.

18. The proposed building would be seen in medium and longer distance views in the context of Vista House, the railway embankments and trees and would not harm the wider townscape of Dorking. In accordance with Section 85 of the Countryside and Rights of Way Act 2000 I have regard to the purpose of conserving and enhancing the natural beauty of the Surrey Hills Area of Outstanding Natural Beauty (AONB). I am satisfied that the proposed development would not harm the setting of the AONB.

19. The proposed building would be seen in short distance views from Vista House and on the approach to it and from the rear of properties on Lincoln Road from where, given its scale it would be seen as being prominent. However, given the visual separation with Vista House and the use of the lower gabled elements at either end of the building, it would not give the appearance of a 'forbidding wall of development' as has been alleged.

20. The proposed landscape scheme would be of a high quality and would include a number of large trees being planted. Whilst the planting of large trees may recognise that the building proposed is of a large scale, it would nevertheless help to assimilate it into the townscape. I am satisfied that the proposed works to the trees subject to the Tree Presentation Order are necessary and that the proposed landscaping scheme would provide for net overall gains in tree cover at the site.

21. The Council has expressed some concern that the appellant has not presented evidence of any significantly different layouts considered for the redevelopment of the site and has referred to the previous scheme for which planning permission was refused. However, my determination is of the appeal scheme before me.

22. The proposed building would be a large building situated in an area where there is some variety in terms of its architecture. Whilst the building would be of a similar height to Vista House, I do not find that harmful given the particular context within which it would be sited, within a visually well contained site situated adjacent to an existing tall building.

23. The appeal proposal would constitute a significant intensification in the use of the site and the proposed landscaping works would be necessary to mitigate its effects. However, I am satisfied that it has been demonstrated that the appeal site is capable of accommodating the development proposed successfully, with

adequate parking, amenity space and space to the front of the building and accordingly, I do not agree that the site would be 'over developed'.

24. There was some discussion at the Inquiry of national policy for achieving well designed places and making effective use of land as set out in the Framework. The proposed development would make more effective use of underused land through the development of the site in an intensive way. I find that the intensive use of land proposed in this particular case, does not conflict with the design policies of the Framework, given the particular circumstances of the development proposed, the site and its surroundings.

25. To conclude on this matter, I do not find that the proposed development would have an unacceptable effect on the character and appearance of the area. It does not conflict therefore with MVLP Policies ENV22 which sets general development control criteria, ENV23 which is concerned with development respecting its setting or ENV24 which is concerned with the density of development and the space about buildings, MVCS Policy CS14, or the polices of the Framework.

Living conditions

26. The proposed building would be seen from the rear windows and gardens of dwellings on Lincoln Road and from some flats in Vista House. With a relatively large footprint and rising to a similar in height to Vista House, it would inevitably give rise to change to the outlooks from the nearby properties on Lincoln Road and from some flats at Vista House.

27. During the site visit, I viewed the appeal site from a flat at Vista House which is situated close to the appeal site boundary. Whilst the outlook from that flat would change, due to the oblique angle to the proposed building, the outlook would nevertheless remain substantially open towards and over Lincoln Road and the degree of change would not be unacceptable. It is clear however that for the occupiers of some flats in Vista House with windows facing the proposed building, there would be a greater degree of change in terms of outlook. Whilst this would inevitably have some limited harm on the living conditions for the occupiers, I do not find that the appeal scheme would give rise to dominating effects and I do not find such change unacceptable.

28. I also viewed the appeal site from first floor rooms and the gardens of two properties on Lincoln Road. I observed that the outlook from these properties over the appeal site is filtered to some extent by existing trees on the site boundary and is enclosed to a certain extent by the railway embankment and trees to the south. I also noted the prominence of Vista House. Whilst the proposed building would also be prominent to the rear of a number of properties in Lincoln Road, the change would be mitigated to an extent by the planting of trees of around 6 metres in height as part of the landscape scheme taking into account that some of the existing trees would be removed, the stepped appearance of the proposed building, the degree of separation and the maintenance of a gap with Vista House. Consequently, whilst I consider that some minor harm would occur in respect of a change in outlook, such harm would not be unacceptable and the scheme would not give rise to dominating effects for occupiers of properties on Lincoln Road.

29. The proposed building has been aligned so that windows would be at an oblique angle to those of dwellings on Lincoln Road and Vista House. The proposed

layout of the building and the use of obscure glazing would be such that there would not be any significant loss of privacy for the occupiers of dwellings on Lincoln Road and Vista House. The separation distances between the proposed and existing dwellings would also assist in ensuring that privacy would be maintained. The Council explained at the Inquiry that it was concerned with the perceived loss of privacy for neighbours, which would be exacerbated by the height of the proposed building. However, whilst some residents may experience a perception of being overlooked, I do not consider that such perception weighs heavily against the appeal scheme given the oblique relationships between windows and separation distances involved.

30. Due to the design, layout and orientation of the proposed building, I consider that the appeal scheme would give rise to acceptable living conditions for its future occupiers in terms of privacy and outlook.

31. The appellant submitted a daylight and sunlight report (CD A9) with the planning application. Whilst interested persons have raised concerns about possible loss of light to existing dwellings and gardens, on the basis of the evidence before me, I am satisfied that the scheme would not give rise to any unacceptable effects in this regard. Furthermore, I am satisfied that the living conditions of occupiers of nearby dwellings can be adequately safeguarded during construction works and that the lighting of the site can be controlled by way of appropriate planning conditions. Whilst there was some discussion at the Inquiry about potential noise and disturbance arising from the use of the landscape grounds of the proposed building, I am not convinced that the use of the grounds by residents of the proposed building would give rise to any unacceptable effects on the living conditions of nearby occupiers.

32. To conclude on this matter, the appeal scheme would not give rise to unacceptable effects on the living conditions of the occupiers of properties on Lincoln Road and Vista House and the future occupiers of the proposed building would experience acceptable living conditions. The proposal does not conflict therefore with saved MVLP Policy ENV22 which includes amongst other things that proposed development does not significantly harm the amenities of the occupiers of neighbouring properties by reason of overlooking or its overshadowing effect or over powering effect, noise, traffic or other adverse environmental impact. In addition, I do not find any conflict with the policies of the Framework in this regard.

Planning obligations

On-street parking permit capping

33. Both the S106 and UU include obligations relating to on-street parking permit capping. These are concerned with preventing future occupiers of the proposed scheme from applying for parking permits in a residents parking bay on the highway. At the Inquiry, the Council confirmed that it does not seek or require any such provisions, but I must nevertheless consider these obligations against the tests set out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations.

34. The submitted Transport Statement sets out that the appeal scheme would provide a total of 21 parking spaces on site, including visitor parking, at a ratio equivalent to 0.87 parking spaces per dwelling. Given the appeal site is situated in central Dorking, between and close to the town's two railway

stations with a good access also to bus services, it is clear that it is situated in a very accessible location in terms of public transport. I note that the Highway Authority has not objected to the scheme subject to certain planning conditions.

35. I saw at the site visit that Lincoln Road is subject to a mix of waiting restrictions at certain times and residents permit parking and that the level of parking taking place corresponded with the comments made by interested persons as to the levels of parking stress in the area. I am satisfied however that the appeal scheme includes adequate provision for on-site parking, taking into account its accessible location and it has not been demonstrated that it would give rise to any unacceptable increase in parking stress in the area. Accordingly, having regard to the tests set out in paragraph 56 of the Framework and Regulation 122 of the CIL Regulations, the obligations in respect of on-street parking permit capping as set out in the S106 and UU are not necessary to make the development acceptable in planning terms. I therefore do not take them into account.

Affordable housing

36. The completed S106 agreement would provide for the provision of four affordable housing units on site as agreed between the main parties. I am satisfied that the tests are met in that the affordable housing obligations are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to the development. I am also satisfied with the form and drafting of the Section 106 agreement and I therefore take the affordable housing obligations into account as material planning considerations.

37. The UU, unlike the S106 agreement, includes provisions for an 'affordable housing contribution in lieu'. This would entail the payment of £467,000 to the Council for the provision of off-site affordable housing should the developer be unable to find a Registered Provider to take the transfer of the affordable dwellings at a defined 'affordable housing price', within a defined period.

38. Whilst there is no dispute between the parties as to the sum set out for payment in lieu (£467,000) which is fairly and reasonably related in scale and kind to the development, there is disagreement in respect of the necessity for there to be a mechanism for the affordable housing contribution in lieu.

39. MVCS Policy CS4 is concerned with the provision of affordable housing and MVCS paragraph 6.1.33 explains that the preference is for provision to be made on site as it would promote social inclusivity, sustainable communities and minimise delay in making affordable housing available. Paragraph 6.1.35 sets out that off-site affordable housing provision will only be considered appropriate in exceptional circumstances dependent upon the suitability and availability of suitable sites, where it is proven that on-site provision is not feasible, evidenced within a viability assessment for the development. The Council's Supplementary Planning Document, Affordable Housing: A Guide for applicants on Core Strategy Policy CS4 (SPD AF) (CD C6) reaffirms in paragraph 4.9 that off-site provision would only be considered appropriate in exceptional circumstances.

40. In this case, the in lieu payment contained in the UU would be triggered should the appellant not be able to transfer the 4 affordable dwellings to a Registered

Provider for a sum set out in the UU (within 5% of the value agreed for shared ownership units between the main parties for viability assessment purposes).

41. I have regard to the appellants oral comments that such mechanisms have been used successfully elsewhere. However, I have not been convinced that the value of the 'affordable housing price' (with the addition of a 5% margin) which would be sought from Registered Providers for the affordable dwellings, is justified. Whilst the sum to be paid by a Registered Provider has been derived from the Council's review of the submitted viability position and allows a 5% buffer, there is no provision to review that figure to take account of changes in circumstances. Consequently, I am concerned that the affordable housing price' as set down may inhibit the provision of affordable housing on site.

42. Whilst the Parties agree the in-lieu sum for affordable housing, I am not convinced that approach proposed is warranted on the basis of exceptional circumstances for off-site provision, given that the viability assessment demonstrates that on-site provision is feasible at the level agreed. The UU, as constructed, does not give me the comfort that otherwise unacceptable development could be made acceptable in the way proposed and is not consistent with MVCS Policy CS4 and the SPD AF. I do not therefore take the affordable housing contribution in-lieu provisions as set out in Schedule 2 Part 5 of the UU into account.

Other matters

43. Whilst I have regard to the comments by interested parties concerning access to the site by refuse and emergency vehicles, I am satisfied that the swept path analysis included in the appellants Transport Statement shows that such vehicles can access and exit the site in forward gear. In terms of traffic generation, I have not been convinced that the proposed development of 23 homes would have significant effects upon highway safety or the free flow of vehicles. In respect of construction traffic, potential effects can be dealt with by way of a planning condition which should ensure that there would not be any unacceptable effects of the scheme in this regard.

44. In terms of potential effects on air quality, I am satisfied that the proposed scheme would not give rise to any significant effects or that future residents would experience unacceptable living conditions in this regard. The appellant's Noise and Vibration Assessment concludes that the use of conventional glazing would ensure that the required noise levels are achieved within internal living rooms and bedrooms of the proposed dwellings. Consequently, in the absence of contrary technical evidence, and subject to an appropriate planning condition, I do not find the appeal scheme unacceptable in terms of noise from the nearby railway.

45. I have had regard to comments concerning the effect of the appeal scheme on the security of nearby properties but there is no reasonable evidential basis for that fear. The matters of loss of easement and use of the access gate are private matters rather than being concerned with the use of land in the public interest. I also take into account the comments concerning foul drainage, but there is no firm evidence that it would not be feasible to adequately drain the proposed development.

46. In respect to the effect of the proposed scheme on the ecology of the site, I am satisfied that, subject to planning conditions, the proposed scheme would provide net gains in biodiversity at the site in accordance with national policy as set out in paragraph 170 of the Framework.

47. I have had regard to the recent appeal decision relating to Ashcombe House, London Road, Dorking (Inquiry Document 11). However, whilst I do not know what evidence was before that Inspector, I note that the site location has frontages to both Lincoln Road and London Road, and from what I saw at my site visit, would be seen differently in the local context than the scheme before me. Consequently, that decision should not necessarily be followed, given my findings in this case. Similarly, I also have regard to the consented development at 48 and 49 Lincoln Road which was discussed at the Inquiry. Again, there are differences in the immediate context of that site which has a street frontage, but I acknowledge that it does illustrate the process of change in the built environment.

Flood risk

48. The Framework in paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The appeal site falls within Flood Zones 1, 2 and 3. Given that the appeal site is allocated within the AAP and the sequential test was applied in the preparation of the AAP, it need not be applied again. However, the exceptions test needs to be applied. Having regard to the submitted site-specific flood risk assessment, I consider that the development, through the provision of housing in an accessible location would provide wider sustainability benefits to the community that outweigh the flood risk. Turning now to the second part of the exceptions test, having regard to the FRA and response of the Environment Agency, subject to a planning condition to secure the provisions of the FRA, I am satisfied that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

Habitats Regulation Assessment

49. The appeal site is situated within 800 metres of the Mole Gap to Reigate Escarpment SAC. The European Protected Site has been designated due to the presence of three Annex 1 habitats under the EU Habitats Directive. These include areas of Stable xerothermophilous formations with *Buxus sempervirens* on rock slopes, semi-natural dry grasslands with calcareous substrate and *Taxus baccata* woodland. Other qualifying Annex 1 habitats which are present include European dry heath and *Asperlofagetum* beech forest. Annex II species are also present including great crested newts and Bechstein bats. The appeal site is situated close to the Pipp Brook which joins the River Mole, near to where the river enters the SAC. This provides a potential pathway to the SAC. The scheme may also increase the number of people visiting the SAC.

50. The appellant has provided a report[2] which screens the proposed development for the likelihood for any significant effects on the designated site. The report

[2] Land adjacent to Deepdene Railway Station and Federated House, Lincoln Road, Dorking Appropriate Assessment Screening Report (rev 2) Pell Frischmann April 2019

concludes that neither the construction or operational effects of the proposed development from the scheme itself or in combination with other development is likely to have a significant effect on the SAC. This corresponds with the view of Natural England as set out in their consultation response.

51. Having had careful regard to the evidence and the particular characteristics of the qualifying features of the SAC, I am satisfied that the proposed construction works are not likely to give rise to significant effects to the qualifying interests of the SAC, on their own and in combination. In regard to the potential pathway of the Pipp Brook, whilst there is potential for materials to enter the Brook during a flood event, this is unlikely to give rise to significant effects on the qualifying interests given their characteristics. In addition, the very small increase in potential for additional visitors to the SAC is unlikely to give rise to significant effects to the qualifying interests, either on its own or in combination, given the characteristics of the qualifying features and existing access arrangements in the area.

52. Consequently, the potential for likely significant effects on the qualifying interests of the SAC can be excluded at the screening stage and it is not necessary for me to undertake an appropriate assessment to comply with Regulation 63 (1) of the Conservation of Habitats and Species Regulations 2017.

Planning balance

53. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004. In this case I find no conflict with the relevant development plan policies.

54. In addition, Paragraph 11 d) of the Framework applies in this case as the Council cannot demonstrate a 5 year supply of deliverable housing sites (Framework footnote 7). The shortfall in the provision is significant and the provision of 23 homes would make an appreciable contribution to addressing the shortfall in supply. In addition, the proposal would deliver 4 affordable housing units, which, whilst a policy requirement, is nevertheless a benefit of the scheme. The proposal would also give rise to benefits in terms of bringing underutilised land into use and providing net biodiversity gain.

55. As the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, 11 d)i does not apply. Given my findings on the main issues, there are no adverse effects which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conditions

56. A draft list of recommended conditions was provided before the Inquiry and was revised following discussion at the Inquiry. I have made some changes to these having regard to the tests set out in the Framework and the guidance contained in the PPG and have combined some as appropriate. The appellant has agreed to the pre-commencement conditions and their wording.

57. I have imposed conditions specifying time limits, the approved plans and in respect of existing and finished levels as that provides certainty. I apply a condition requiring a Construction Method Statement to prevent pollution, manage construction traffic effects and the living conditions of nearby residents. I also impose conditions to secure the implementation of the scheme of landscaping and its ongoing maintenance to safeguard the character and appearance of the area and the living conditions of the occupiers of nearby dwellings.

58. In the interests of the character and appearance of the area, I impose conditions in respect of the approval of details of external building materials and hard surfacing and to secure refuse and recycling facilities. A condition is imposed in respect of surface water drainage to prevent flooding. I impose a condition to reduce carbon emissions in respect of the predicted energy use of the building in the interest of tackling climate change.

59. In regard to transport considerations, I impose a condition to ensure that the access and parking areas are laid out in the interests of highway safety and regarding cycle storage and electric car charging to facilitate the use of sustainable modes of travel.

60. I attach a condition requiring an investigation of the risk of on-site contamination and measures to deal with any contamination found to prevent pollution and a condition to ensure that noise and vibration attenuation measures are undertaken to safeguard living conditions of future occupiers. I also attach a condition to secure the installation and retention of obscured glazing in certain windows to safeguard living conditions of the occupiers of nearby properties. Finally, I attach a condition to secure ecological mitigation and enhancement measures to secure net gains in biodiversity.

Conclusion

61. For the above reasons and having regard to all matters raised, I conclude the appeal should succeed.

Philip Lewis

INSPECTOR

Schedule of conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 5842/P-01, 5842/P-02, 5842/P-03, 5842/P-04, 5842/P-05, 5842/P-06, 5842/P-07, 5842/P-08, Landscape General Arrangement Plan 5952_001C, Tree Constraints Plan No. DE13018VBBV002C and Flood Risk Assessment by Pell Frisshmann dated July 2018.

3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

   i) the parking of vehicles of site operatives and visitors;
   ii) loading and unloading of plant and materials;
   iii) storage of plant and materials used in constructing the development outside of areas at risk of flooding;
   iv) HGV deliveries and hours of operation;
   v) On-site turning for construction vehicles;
   vi) Details of point of contact between developer and residents;
   vii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
   viii) wheel washing facilities;
   ix) measures to control the emission of dust and dirt during construction;
   x) a scheme for recycling/disposing of waste resulting from demolition and construction works;
   xi) delivery, demolition and construction working hours.

   The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping to accord with the approved Landscape General Arrangement Plan 5952_001C. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

6) Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall

be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

7) No above ground works shall take place until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

8) No above ground works shall take place until details of the hard surfacing to be used within the site have been submitted to and approved in writing by the Local Planning Authority. The details shall indicate either porous materials or the provision of a direct run-off from the hard surface to a permeable or porous area. All hard surfacing shall be carried out in accordance with the approved details, completed prior to the first occupation of the development hereby permitted and thereafter, permanently retained as such.

9) A refuse and recycling storage facility shall be provided as part of the development, in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, prior to the first occupation of the development. The refuse and recycling storage facility shall be permanently retained.

10) No development shall take place until details of the existing ground levels of the site, the proposed finished levels of the ground, the ground floor slab level of the approved building, and the finished levels of any access road and driveway showing their relationship with the existing levels of the immediately adjoining land and buildings, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.

11) Prior to the commencement of the development hereby permitted, surface water drainage details shall be submitted for the approval in writing by the Local Planning Authority. Such details shall include an assessment of the potential for the disposal of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework.

The assessment shall provide information of the design storm period and intensity (typically a 1 in 100 year storm of 30 minutes duration with an allowance for climate change), the method employed to delay and control the surface water discharged from the site and the means to prevent pollution of the receiving groundwater and/or surface water. Where applicable, the details shall include infiltration tests, calculations and controlled discharge rates. If the development is to discharge water into the ground in any form, then a full BRE Digest 365 infiltration test (or falling head test for deep bore soakaways) will have to be submitted to the Local Planning Authority prior to commencement of any works on site. The suitability of infiltration methods should be verified (i.e. possible contaminated ground).

The approved drainage scheme shall be implemented prior to the first occupation of the development.

12) Prior to first occupation of the development, details to reduce the carbon emissions of the predicted energy use of the proposed development by at least 10% through the on-site installation and implementation of decentralised and renewable or low-carbon energy sources shall be submitted and approved by the Local Planning Authority and be implemented prior to the first occupation of a dwelling and shall be retailed thereafter.

13) The development hereby permitted shall not be first occupied unless and until space has been laid out in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter, the parking and turning areas shall be retained and maintained for their designated purposes.

14) The development hereby approved shall not be first occupied unless and until facilties for the secure covered parking of bicycles within the development site have been provided in accordance with the approved plans. Thereafter, the cycle parking areas shall be retained and maintained for their designated purposes.

15) The development hereby approved shall not be occupied unless and until at least 20% of the available parking spaces are provided with a fast charge socket (minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The installed charging sockets shall remain available for use thereafter.

16) The installation of noise and vibration attenuation measures within each facade of the building shall be undertaken in accordance with the approved details provided in Pell Frischmann Noise and Vibration Assessment Dated March 2018. Prior to occupation, a post installation letter report confirming compliance with the standards approved shall be submitted by a suitably qualified person and approved in writing by the Local Planning Authority. The approved details and attenuation measures shall be permanently retained and maintained in working order for the duration of the use hereby approved.

17) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the

approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.

18) A scheme for mitigation and ecological enhancement measures based on the Ecology Report dated March 2018 by Pell Frischmann RE13018V001/K to also include a sensitive lighting management scheme and timescales for implementation shall be submitted to the Local Planning Authority for approval prior to any above ground works being commenced. The approved scheme shall be implemented in full and be maintained thereafter.

19) Prior to the first occupation of the development, those windows indicated as such on the plan shown on page 35 of the Design and Access Statement dated March 2018 shall be fitted with obscure glass up to an internal height of 1500mm above floor level and shall be permanently be retained in that form thereafter.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ben Du Feu	Of Counsel. Instructed by the Head of Legal, Mole Valley District Council.
He called	
Aidan Gardner BA (Hons) Dip TP MRTPI DMS	Mole Valley District Council

FOR THE APPELLANT:

Richard Kimblin QC

He called	
Professor Robert Adam DIPL ARCH (PCL) RIBA FRSA	ADAM Architecture
Peter Stewart MA (Cantab) Dip Arch RIBA	Peter Stewart Consultancy
Mary Fisher BSc (Hons) MA CMLI	LDA Design (adopted the evidence of Mr Benjamin Walker)
Chris Goddard BA (Hons) MRTPI RICS	DP9
Don Messenger	DP9. Participated in discussion on conditions and obligations.
Chad Sutton	Planning Clarity Legal. Participated in discussion on conditions and obligations

INTERESTED PERSONS:

Martin Elliott	Local resident
Nick O'Shea	Local resident representing Local Residents Group
Liz Elliott	Local resident
Andy Holden	Local resident

DOCUMENTS PROVIDED AT THE INQUIRY

1 Opening statement on behalf of the appellant
2 Introduction, Qualifications and Experience for Mrs Mary Fisher
3 Opening submissions on behalf of Mole Valley District Council
4 Draft Unilateral Undertaking
5 Note from Council concerning the five year housing land supply and annual affordability ratios and sequential flood risk assessment.
6 Completed S106 Agreement
7 Closing submissions by Mole Valley District Council
8 Copy of email regarding the proposed UU and provisions for payment in lieu for off site affordable housing
9 Closing submissions on behalf of the appellant

DOCUMENTS PROVIDED AFTER THE CLOSE OF THE INQUIRY

10 Surrey County Council Vehicular and Cycle Parking Guidance January 2018
11 Appeal decision: APP/C3620/W/18/320750 Ashcombe House, London Road, Dorking, RH4 1TA
12 Updated list of planning conditions as agreed by the main parties
13 Note from Council regarding affordable housing calculation
14 Completed S106 UU
15 Note from Appellant on affordable housing matters
16 Appellant note regarding the Ashcombe House appeal decision