The Planning Inspectorate

# Appeal Decisions

Inquiry Held on 14-15 May 2019
Site visit made on 15 May 2019

**by David Reed BSc DipTP DMS MRTPI**

**an Inspector appointed by the Secretary of State for Housing, Communities and Local Government**

**Decision date: 25th June 2019**

**Appeal A Ref: APP/M3645/W/18/3198090**
**17 Copthorne Road, Felbridge, East Grinstead RH19 2NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Andy Morehen, Abbey Developments Ltd against Tandridge District Council.
- The application Ref TA/2016/2319, is dated 12 December 2016.
- The development proposed is an access road from Copthorne Road to serve permitted residential development within Mid Sussex District.

**Appeal B Ref: APP/M3645/W/18/3205537**
**15 and 39 Crawley Down Road, Felbridge, East Grinstead RH19 2PP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Wates Developments Ltd against the decision of Tandridge District Council.
- The application Ref TA/2017/1290, dated 19 June 2017, was refused by notice dated 27 April 2018.
- The development proposed is the demolition of existing buildings at Nos 15 and 39 Crawley Down Road and the erection of 63 dwellings with associated new access.

## Decisions

1. Appeal A is allowed and permission is granted for an access road from Copthorne Road to serve permitted residential development within Mid Sussex District at 17 Copthorne Road, Felbridge, East Grinstead RH19 2NR, in accordance with the terms of the application, Ref TA/2016/2319, dated 12 December 2016, subject to the attached schedule of conditions.

2. Appeal B is allowed and permission is granted for the demolition of existing buildings at Nos 15 and 39 Crawley Down Road and the erection of 63 dwellings with associated new access at 15 and 39 Crawley Down Road, Felbridge, East Grinstead RH19 2PP, in accordance with the terms of the application, Ref TA/2017/1290, dated 19 June 2017, subject to the attached schedule of conditions.

## Applications for costs

3. At the Inquiry applications for costs were made by both Abbey Developments Ltd and Wates Developments Ltd against Tandridge District Council. These applications are the subject of a separate decision.

## Preliminary Matters

4. The application which is the subject of Appeal B is in outline with all matters reserved except access.

5. These appeals, concerning two nearby sites, raise the same main issue. The Council did not issue a decision in the case of Appeal A but a committee resolution set out the reason permission would have been refused if it were able to do so. In the case of Appeal B, the first reason for refusal was the same as Appeal A, and the second, relating to the impact of the access on the amenities of adjacent residents, was withdrawn well before the inquiry.

6. The Council withdrew the remaining reason for refusal in both cases on the Friday before the inquiry and put forward no witnesses to explain its position. Nevertheless, it was agreed the survey material submitted as appendices to the Council's proof remained as evidence before the inquiry.

7. Felbridge Parish Council continued to pursue their objection to both proposals on the basis of the Council's reason for refusal.

## Main Issue

8. The main issue in each case is whether the benefits of the proposals would be outweighed by additional congestion at the A264/A22 Felbridge junction.

## Reasons

9. These decisions relate to appeals by Abbey Developments Ltd (Appeal A) and Wates Developments Ltd (Appeal B) on two nearby sites in Felbridge, a settlement just to the north of the administrative boundary between Tandridge District and Surrey on one side and Mid Sussex District and West Sussex on the other. The proposals are for two access roads onto Copthorne Road and Crawley Down Road respectively which are necessary to serve two housing proposals which lie to the south in Mid Sussex. Importantly, planning permission has already been granted for these two housing schemes by Mid Sussex District Council, in the case of Appeal A, a scheme for 26 dwellings (MSDC Ref DM/16/5502) and in the case of Appeal B, 63 dwellings (MSDC Ref DM/17/2570). These decisions greatly limit the scope of the matters before the inquiry which relate to the access roads only notwithstanding the description of the Appeal B proposal.

10. Both sites in Tandridge lie within the Green Belt but there is no dispute that the construction of the access roads would be engineering operations that would preserve its openness and not conflict with its purposes. As such the proposals would not be inappropriate development in the Green Belt.

*Benefits of the proposals*

11. The Appeal A proposal is for an access road to enable the development of 26 dwellings in an estate layout in Mid Sussex just to the south. To create the access the existing property on the Copthorne Road frontage, No 17, would be demolished so the net increase in dwellings would be 25.

12. The proposal which is the subject of Appeal B is for another access road, this time to enable the development of 63 dwellings in an estate layout again in Mid Sussex to the south. In this case access would be from Crawley Down Road following demolition of the property on the frontage, No 39, which contains

three self-contained flats. A bungalow within the site, No 15, would also be demolished so the net increase in dwellings in this case would be 59.

13. The two access road proposals taken together would therefore allow delivery of a net increase of 84 dwellings. This would make an important contribution to the objective of boosting the supply of housing and represents a significant benefit which should be taken into account in determining these appeals even though the housing schemes are not dealt with directly.

14. The proposals would contribute towards housing supply in Mid Sussex rather than Tandridge. There is no dispute that there is five years deliverable housing land in Mid Sussex, but the position is only marginal with an appeal decision in May 2018 quoting 5.34 years supply[1]. This follows many years with a serious shortfall only rectified by the recent adoption of the Mid Sussex Local Plan in March 2018, which itself relies upon a stepped trajectory, the implementation of several large sites, not least a strategic site of 3,500 dwellings at Burgess Hill, and the identification of further sites through neighbourhood plans and a site allocations document. The two sites are already treated as commitments within the existing housing supply. They also have the benefit of being medium sized sites which could be built-out relatively quickly making an early contribution to housing needs.

15. The housing would also contribute to provision within the housing market area which includes Tandridge District, and thus the housing land supply position in that district is also relevant. In the absence of an up to date Core Strategy[2], local housing need in Tandridge using the standard method is 648 dwellings pa, against which the Council can only demonstrate 1.43 years supply. Although a new local plan is under preparation, this has only recently been submitted for examination, proposes significantly less than the local housing need figure, and even to achieve this proposes a 4,000 dwelling new settlement in the Green Belt which is likely to be controversial. At this early stage the plan and any housing land supply calculation based on it can only be given limited weight.

16. In addition to the overall number of dwellings provided, a further benefit would be the number of affordable dwellings which would become available to meet local needs. The Appeal A proposal would include 8 affordable dwellings whilst the Appeal B scheme would provide 19, a total of 27 in all. Three quarters of these would be affordable rented or social rented units and one quarter would be shared ownership units. Affordable housing of both types is acutely needed in both districts with the house prices to earnings ratio being 14.1 in Tandridge in 2017. The foreword of the new local plan observes young people can't afford to buy homes in the area and there are not enough affordable homes.

17. A further benefit of these proposals is that housing would be provided without the use of land subject to protective designations. In the case of Tandridge, 94% of the district is Green Belt, whilst in the case of Mid Sussex, about 60% of the district is in an area of outstanding natural beauty or national park. Given the prevalence of these designations in adjoining areas the opportunity to provide housing on unconstrained sites should be taken wherever possible.

18. The proposals would also have important economic and social benefits with employment and procurement of materials during the construction period and

[1] APP/D3830/W/17/3183390
[2] The Tandridge District Core Strategy was adopted more than five years ago in October 2008

expenditure on local services and facilities when the dwellings are occupied. In terms of social benefits, 84 additional households would be able to occupy a high-quality home in the area, enjoying health and wellbeing benefits from modern accommodation and making a contribution to local community life.

19. Finally, in relation to Appeal B, the proposal would provide six parking spaces adjacent to the new access road which would reduce the need for parking on Crawley Down Road during school drop off/pick up times. The scheme would also include a new public open space and play area in the south west part of the site which would benefit existing residents living nearby as well as those living on the new estate.

20. Taking all the above points combined, both proposals would have substantial benefits which weigh heavily in favour of the appeals.

*Impact on congestion at the A264/A22 Felbridge Junction*

21. The primary concern is that traffic generated by the new housing would cause unacceptable traffic congestion on the highway network, specifically additional delays at the A264/A22 junction just to the east of the proposed access roads. This T junction, where the A264 Copthorne Road from Crawley joins the north-south A22, is controlled by traffic lights which cause eastbound queuing along Copthorne Road at peak times. Traffic flows are heaviest out of East Grinstead towards Crawley in the am peak and in the reverse direction in the pm peak so these queues tend to be worse in the latter. There are no significant delays westbound along Copthorne Road once traffic has passed through the traffic lights towards Crawley.

22. Felbridge comprises housing along both sides of Copthorne Road to the west of the junction, along both sides of Crawley Down Road which joins Copthorne Road at an acute angle about 320 m from the traffic lights, along Rowplatt Lane which links these two roads and along a few other side roads. The Appeal A access road would join Copthorne Road to the west of the traffic lights but to the east of Crawley Down Road, whilst the Appeal B access would join Crawley Down Road some distance from its junction with Copthorne Road. As such, in terms of outbound traffic, only that heading east from the two housing estates towards the A22 would pass through the traffic light junction, and in the case of inbound traffic, only that from the A22 north or south turning into Copthorne Road to reach the two new estates. The relevant traffic flows are considered in paragraph 38 below.

23. In relation to the policy tests that apply, the only policy quoted by the Council is Policy DP5 of the Tandridge Local Plan Part 2: Detailed Policies 2014. This states that development will be permitted if it does not unnecessarily impede the free flow of traffic on the existing network and if it funds or contributes towards any measures required to mitigate significant impacts.

24. Policy DP5 was adopted after[3] the 2012 National Planning Policy Framework (NPPF) which in the current version is slightly reworded to state in paragraph 109 that development should only be refused on highways grounds if the 'residual cumulative impacts on the road network would be severe'. This more stringent test is an important material consideration alongside Policy DP5.

[3] not before as claimed at the inquiry, so the policy is up to date

25. Both Policy DP5 and the NPPF refer to the *impact* of a proposed development on the road network, not the existing position in absolute terms. Both refer to *residual* impact after any mitigation measures are put in place, and the NPPF makes clear it is the *cumulative* impact that is critical, that is the position when the proposal is considered together with other committed developments (and any associated mitigation) likely to proceed within three years.

26. Both planning applications were accompanied by a transport assessment which included detailed consideration of the A264/A22 junction using standard LinSig computer modelling. In both cases there were subsequent iterations of the modelling in response to queries from the Council, Felbridge Parish Council and Surrey County Council in its role as local highway authority (LHA) concerning the accuracy of the queue lengths used in the modelling and the level of committed development taken into account. This culminated in a satisfactory audit of both models by the LHA and the provision of formal advice to the Council recommending approval in both cases.

27. In relation to Appeal A, the LHA concluded that the junction was already operating over the recommended 90% capacity, and that the development would result in a 'slight deterioration' in its performance. However, this was not considered to be a severe impact due to the existing levels of congestion at the junction. In relation to Appeal B, following sensitivity testing to include the Parish Council's view of commitments, the LHA concluded that the 'existing issues at the junction would be marginally impacted', in 2022 the junction would be over-capacity in any event due to traffic growth but the contribution of the development would only be 'slight'.

28. These conclusions are disputed by the Parish Council and local residents, primarily on the basis that the traffic modelling is flawed due to the use of inaccurate queue length surveys for model validation purposes. This is critical because LinSig modelling is based on the layout of the junction, traffic demand during the relevant peak hour (normally taken as traffic passing the stopline) and the mean length of the traffic queue for the lights at the start of green. Unfortunately, as the definitive TfL traffic modelling guidelines observe[4], the accuracy of queue surveys can be lower than other surveys as 'the definition of a queue can be ambiguous as well as difficult to identify'. This is certainly the cause of contention in the case of the A264/A22 junction.

29. From the local perspective the traffic queuing eastbound on Copthorne Road towards the traffic lights builds up at peak times and frequently reaches as far back as Rowplatt Lane, about 1 km from the junction, and sometimes even further. This was observed during the site visit about 5.30 pm on 15 May and is corroborated by a video camera survey undertaken by the Council over the three-day period 17-19 July 2018 (when the queues were even longer during the pm peak), and by google traffic data at peak times. However, with platoons of traffic moving at intervals through the traffic lights, and the queue moving up, not all of this traffic is stationary, indeed much of it is moving slowly, occasionally faster, only to slow or stop again further along. This is clearly shown by the video camera survey and was obvious on the site visit.

30. One of the Council's appendices shows a vehicle at 6 am taking 79 seconds to travel from Rowplatt Lane to the traffic lights, thus travelling about 26 mph, whilst another queuing at 5.30 pm takes nearly nine minutes to cover the same

[4] Transport for London 'Traffic Modelling Guidelines' September 2010 Paragraph 2.4.4.3

distance at about 4 mph, a delay of over 7.5 minutes. There is no reason to suppose these speeds are unusual for the times of day concerned. With vehicles moving slowly or intermittently, the number of vehicles in a queue back to Rowplatt Lane and beyond may be of the order of 150-200, many more than the appellant's September 2018 survey showing a maximum queue of 50 vehicles or 285 m, not quite as far back as Crawley Down Road.

31. The issue must be to identify the traffic held up directly by the traffic lights as opposed to other interruptions to what would be free-flowing traffic. The appellants draw a direct comparison with the delays due to congestion on the A22 through East Grinstead, recently the subject of an inquiry into a scheme for up to 200 dwellings at Hall Place Farm, Turners Hill Road[5]. In that case the Inspector observed that traffic on the A22 is brought to a halt at various points in addition to three main junctions, including pedestrian crossings and side roads, resulting in 'a constantly changing pattern of moving and stationary traffic in which gaps open and close', not a solid queue. The Inspector drew a distinction between a stationary 'Vectos' queue that is 'held up only by the junction itself', and a constantly changing 'Jubb' queue which 'comprises vehicles approaching the subject junction via a congested stretch of highway which is likely to contain one or more intermediate obstructions at any given moment'. The Inspector was clear that the former, stationary queue was the relevant one for LinSig modelling purposes.

32. The appellants consider the slowly moving queue along Copthorne Road fits the description of a 'Jubb' queue and that only the shorter stationary traffic queue is being held up by the traffic lights. However, the Inspector's observations specifically relate to the A22 in both directions through East Grinstead, a densely developed town with a series of junctions, pedestrian crossings and side roads which are indeed likely to result in intermediate obstructions leading to congestion and slowly moving traffic at peak times. Instances of such obstructions and delays to traffic flow were seen during the site visit.

33. However, Copthorne Road essentially comprises roadside development with some small cul-de-sac side roads and Crawley Down Road joining at an acute angle. There is just one signalised pedestrian crossing near the school, but no evidence this is called frequently. No 'intermediate obstructions' were seen during the site visit, and only one in three days, the delivery of a mini-digger, was noted by the appellants from their review of the Council's video camera survey. There is no apparent explanation why similar flows of westbound traffic are not held up when these are subject to the same disruption from the pedestrian crossing and side roads as eastbound traffic. Evidence of motorists using mobile phones was noted by the video camera survey but this is a symptom of slow-moving traffic, not a cause of it. The most plausible explanation is the simplest, that the queue along Copthorne Road is held up by the traffic lights. In terms of the Hill Place Farm inquiry, they are neither 'Jubb' queues nor 'Vectos' queues, but some other type.

34. To investigate the queuing further and gain an insight into true traffic demand, one of the appellants carried out a survey well upstream of any queue near Hedgecourt Nature Reserve on the A264 to compare this with the amount of traffic passing through the lights[6]. This showed more traffic upstream than at the lights for a full two-hour period from 4.15 pm to 6.15 pm, during which a

[5] APP/D3830/W/16/3142487
[6] Proof of James Bevis Annex 4.2

queue of 104 excess vehicles would have built up. To this needs to be added the net traffic joining at Crawley Down Road/Rowplatt Lane which was omitted from the survey, about 64 in the peak hour[7]. In the am peak the excess was less pronounced, with just 29 more vehicles upstream than at the traffic lights between 7.30 am and 8.30 am, but again this excludes the net traffic joining at Crawley Down Road/Rowplatt Lane, about 103 in the peak hour[8]. Thus, whilst the survey dates are not directly comparable, contrary to the appellant's view, this evidence strongly suggests that the lights are unable to cope with true traffic demand for an extended period in the pm peak and a lesser period in the am peak. This would explain the build-up of queues.

35. Nevertheless, these conclusions about the queues along Copthorne Road relate to *existing* traffic conditions, not the impact of the proposals on which these cases turn. The LHA are fully aware of 'existing issues' of queuing and delays at the traffic lights and will have taken these factors into account when auditing the LinSig models and formulating their advice to the Council. It is clear that LinSig modelling is based on the length of the *stationary* queue at the start of green, although this includes those stopping at the back of a discharging queue which is difficult to measure accurately on the ground[9]. However, there is no evidence that either the 2017 Intelligent Data or 2018 Nationwide Data Collection queue length surveys used for model validation were incorrectly carried out; on the other hand it is apparent that any queues as far back as Rowplatt Lane include moving as well as stationary traffic and thus do not count for LinSig modelling purposes.

36. Consequently, whilst there may be local reservations regarding the LinSig modelling and its results, they are endorsed by the LHA. In the absence of any other objective means of assessment they are the only way of comparing the impact of the proposals in combination with expected traffic growth, other housing commitments in the area and future highway improvements, in this case a planned improvement to the A264/A22 traffic light junction itself.

37. The Council agree the traffic generation as a result of both schemes would be about 33 movements outbound and 14 inbound in the am peak[10], 19 outbound and 29 inbound in the pm peak[11]. The Council also agree the likely distribution of this traffic, with about 50% travelling to and from the east through the traffic lights. Thus, in the am peak about 16 additional vehicles would travel east along Copthorne Road towards the lights, one every four minutes, whilst in the pm peak the figure would be about 9, only one every seven minutes. These extra vehicles would join the eastbound queue along Copthorne Road towards the traffic lights but their impact would be barely perceptible given existing flows which are about 601 and 673 vehicles respectively in the am and pm peaks[12]. The increases would only amount to about 2.7% in the am peak and 1.3% in the pm peak.

38. The increases in traffic through the lights would be much less than those generated by the Hall Place Farm scheme referred to above which was recommended by the Inspector and approved by the Secretary of State in March 2018. Importantly, this scheme will also fund (together with some other

[7] Appeal B Transport Assessment figure 4.2 – 106 net join at Crawley Down Rd and 42 net leave at Rowplatt Lane
[8] Appeal B Transport Assessment figure 4.1 – 138 net join at Crawley Down Rd and 35 net leave at Rowplatt Lane
[9] TfL guidelines paragraph 2.4.4.3
[10] AM peak hour: Outbound Appeal A 10 + Appeal B 23; Inbound Appeal A 4 + Appeal B 10
[11] PM peak hour: Outbound Appeal A 6 + Appeal B 13; Inbound Appeal A 10 + Appeal B 19
[12] Appeal B Transport Assessment figures 4.1 and 4.2 - observed flows in 2017

sources) a significant junction improvement at the A264/A22 junction which will reduce delays there even allowing for the new housing. Since the *cumulative* impact taking account of other committed schemes is the key consideration in the determination of these appeals, this must also include the mitigation measures they deliver.

39. The only scheme currently in the public domain, the Atkins scheme, was first proposed in 2012 and provides for two right turn lanes at the traffic lights for traffic turning from the A264 Copthorne Road towards the A22 through East Grinstead - instead of just one at present. This would reduce delays at the junction as the left-hand lane is currently only used by traffic turning left towards the A22 north which is only about 10% of the traffic turning right. Two exit lanes would be provided towards East Grinstead (shortly afterwards merging into one) which could be achieved within the highway boundary so this scheme could be delivered as soon as funding becomes available from the Hall Place Farm scheme. The Parish Council are concerned about the design of the scheme and advise that two right turn lanes were introduced in the mid-1990s but then withdrawn following a series of accidents. However, the LHA are aware of this and will need to take any lessons into account.

40. There is no direct evidence before the inquiry as to the detailed programme for the design and implementation of the scheme but both Surrey County Council as LHA and West Sussex County Council confirm in statements of common ground that they are working with WSP consultants on an appraisal of a range of options which include the Atkins scheme. This appraisal will inform the final scope of the improvements but the Councils confirm that at present the Atkins scheme is a suitable basis for assessing the appeals.

41. The 200 dwelling Hall Place Farm scheme was approved on the basis that an improvement scheme at the A264/A22 junction would go ahead. The Inspector (and subsequently the Secretary of State) were satisfied that the associated planning agreement gave sufficient certainty a scheme would be delivered and no Grampian condition was required. The present appeals, for a lesser number of dwellings, should therefore be considered on the same basis.

42. Turning to the LinSig modelling for the junction prepared for the inquiry, this was based on that agreed by the LHA in March 2018 updated to an assessment date of 2023, taking account of more recent traffic surveys in September 2018 and allowing for the impact of both schemes. The modelling also allows for committed development in the area in line with Planning Practice Guidance and the Atkins improvement scheme now secured for the A264/A22 junction.

43. In relation to the Copthorne Road approach to the traffic lights, the modelling demonstrates that with the two schemes the demand on the junction would increase from 92.9% to 95.0% of its theoretical capacity in the am peak and from 92.2% to 93.6% in the pm peak. In both cases the degree of saturation would be above the recommended 90%, and thus the junction would be under stress, but remain well under the maximum 100%. The results confirm the conclusions of the LHA that the two schemes would only result in a 'slight deterioration' in the performance of the junction, not a severe one. This is also illustrated by the LinSig model calculation that the average stationary queue at the start of green would increase by just two vehicles and there would be an increase in delay per vehicle of no more than ten seconds.

44. For these reasons, considered both in isolation and in combination with other committed development and its mitigation, and notwithstanding current traffic conditions, any additional congestion at the A264/A22 traffic light junction resulting from the two proposals would be barely perceptible. The effect of the proposals would be at most slight, and well short of a severe impact that would weigh against the proposals in the planning balance. The proposals therefore comply with Policy DP5 as they would not unnecessarily impede the free flow of traffic on the existing network and also comply with paragraph 109 of the NPPF as the residual cumulative impacts on the road network would not be severe.

*Other matters*

45. The layout of the two proposed access roads and their visibility to road users along Copthorne Road and Crawley Down Road have been fully assessed by the LHA and raise no highway safety concerns notwithstanding the proximity of one of the sites to the school. The junction layouts also allow sufficient space for landscaping alongside the new roads to provide an attractive entrance to the new housing estates and mitigate the impact on adjacent residential properties.

46. Although not directly relevant to the access roads which are the subject of these appeals, the locational and planning issues regarding the housing were fully considered by Mid Sussex District Council. Both sites are well related to Felbridge which is a sizeable settlement offering a range of services including a primary school, pre-school, village store, public house, football and tennis clubs and church, all within easy walking distance. Nearby bus stops offer public transport services and East Grinstead with its wide range of services and facilities, employment opportunities and railway station is only about two miles away. There is no evidence local services cannot accommodate the additional demand from new residents.

47. The sites lie within 7 km of the Ashdown Forest Special Protection Area/Special Area of Conservation and as such the additional residents and traffic generated may have adverse impacts on its integrity as a result of recreational pressure and nitrogen deposition from traffic. However, Mid Sussex District Council as competent authority for the housing schemes have secured the necessary mitigation for likely recreational impacts and the effects of additional traffic have been taken into account in the transport modelling carried out for its local plan. The Appeal A scheme was specifically included in the modelling and the Appeal B scheme falls within an allowance for the construction of windfall sites. There is no evidence this has been exceeded to date in the relevant 7 km area.

48. In January 2017 an Inspector dismissed an appeal[13] for up to 30 dwellings on land at Gibbshaven Farm to the west of Felbridge partly on the basis that the cumulative impact on the highway network would be severe. However, this decision was made without the benefit of detailed traffic evidence and before confirmation that the A264/A22 junction would be improved.

*Conditions and Unilateral Undertaking*

49. The Council and appellant have agreed a set of conditions in each case should the appeals be allowed and these have been assessed against the relevant tests, making minor amendments as necessary. In the case of Appeal A the standard implementation time limit is necessary, in the case of Appeal B as an

[13] APP/D3830/W/16/3156544

outline application two conditions need to be attached to require the approval of the reserved matters and the commencement of the development within the standard time limits. In both cases it is necessary to define the plans which have been approved in the interests of certainty.

50. In both cases it is necessary to preclude the burning of materials and to control the hours of working to protect the amenity of nearby residents and to require a construction transport management plan to protect the amenity of nearby residents and in the interests of highway safety. Visibility splays are necessary in the interests of highway safety in both cases. In the case of Appeal A it is necessary for Copthorne Road to be realigned as the first stage of the development and in the case of Appeal B for access to be solely from Crawley Down Road and parking to be monitored; all for highway safety reasons.

51. In the case of Appeal A it is necessary to control boundary treatment to ensure the development has a satisfactory appearance and to control tree/shrub removal to protect nature conservation interests. In the case of Appeal B a condition to require the provision and maintenance of a surface water drainage scheme is necessary to prevent flooding and a landscaping scheme to ensure the development has a satisfactory appearance.

52. In the case of Appeal A three pre-commencement conditions are required as these are fundamental to a successful scheme. The appellant agreed in writing to the wording of these conditions.

53. In the case of Appeal B, a completed unilateral undertaking was submitted at the inquiry to provide for a parking survey after completion of the development to ascertain whether a traffic regulation order was necessary to control parking during school drop-off and pick-up times. If found to be necessary the cost of any order would be funded by the developer. The Council confirmed that this undertaking was satisfactory in legal terms. This obligation is necessary in case parking problems arise as a result of the new access, is directly related to the development and fairly and reasonably related in scale and kind. It therefore meets the three tests in paragraph 65 of the NPPF.

**Conclusion**

54. Whilst the considerable inconvenience experienced by local residents due to existing delays along Copthorne Road leading to the A264/A22 junction during peak times is fully appreciated, even taking account of other commitments the additional delays caused by the two proposals would be barely perceptible and at most slight. The junction is due to be improved and there are no significant delays outside peak hours. When balanced against the substantial benefits of the proposals set out in paragraphs 11 to 20 and the pressing need for more housing in the area the benefits of the proposals greatly outweigh any additional congestion at the A264/A22 Felbridge junction.

55. Having regard to the above both appeals should be allowed to enable the respective housing developments to go ahead without further delay.

*David Reed*

INSPECTOR

## SCHEDULES OF CONDITIONS

### Appeal A Ref: APP/M3645/W/18/3198090
### 17 Copthorne Road, Felbridge, East Grinstead RH19 2NR
### Abbey Developments Ltd

1. The development hereby permitted shall not commence later than the expiration of 3 years from the date of this permission.

2. The development shall be carried out and completed only in accordance with the following approved drawings:
Location Plan 1533-100
Soft Landscape Proposals ABBEY19946 11a Sheet 2 rev A
Site Layout 1533-101 rev A
Access/S278 layout 15400_C1008 rev C1

3. No burning of demolition/construction waste materials shall take place on site.

4. No development shall take place, including any works of demolition, until a Construction Transport Management Plan has been submitted to and approved in writing by the District Planning Authority. Thereafter the approved Construction Transport Management Plan shall be implemented and adhered to throughout the entire construction period.
Details of the following matters shall be submitted:
• parking and turning for vehicles of site personnel, operatives and visitors
• loading and unloading of plant and materials
• storage of plant and materials
• programme of works (including measures for traffic management)
• provision of boundary hoarding behind any visibility zones
• HGV deliveries and hours of operation
• vehicle routing
• measures to prevent the deposit of materials on the highway
• before and after construction conditions surveys of the highway and a commitment to fund the repair of any damage caused
• on site turning for construction vehicles
• a scheme to minimise dust emissions from the site

5. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to between the following times: Monday - Friday 08:00 - 18:00 Hours; Saturday 09:00 - 13:00 Hours; Sundays and Bank/Public Holidays - no work permitted.

6. Prior to commencement of the development approved by Mid Sussex District Council under reference DM/16/5502 and before any other works including the construction of the access road, the A264 Copthorne Road shall be re-aligned in accordance with the approved plans and in accordance with the planning drawing no. Proposed Access Arrangement Figure 3, within the Transport Statement and S278 layout.

7. Upon completion of the realignment of the A264 Copthorne Road, the proposed vehicular access from the site to the A264 Copthorne Road, and the proposed modifications to the existing access serving Nos 19, 21 and 23 Copthorne Road, shall be constructed and provided with visibility splays of 2.4m x 75m in each direction, in accordance with the approved plans, and the visibility splays shall thereafter be kept permanently clear of any obstruction.

8. A pedestrian visibility splay of 2m by 2m shall also be provided on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. No fence wall or other obstruction to visibility between 0.6m and 2m in height above ground level shall thereafter be erected within the area of such splays.

9. No development shall take place until there has been submitted to and approved in writing by the District Planning Authority a plan indicating the positions, design, materials, finishes and type of boundary treatment to be erected. The boundary treatment shall then be completed in accordance with a timetable to be agreed in writing by the District Planning Authority. The development shall then be carried out in accordance with the approved details.

10. No removal of trees or shrubs shall be carried out on site between March and August inclusive in any year, unless otherwise approved in writing by the District Planning Authority. Where vegetation must be cleared during the bird breeding season a check for nesting birds by a suitably qualified ecologist will be required. Any vegetation containing occupied nests will be retained until the young have fledged. Prior to the occupation of any property the location and type details of woodecrete type bird nest boxes shall be supplied to the District Planning Authority for approval and erection prior to occupation.

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**15 and 39 Crawley Down Road, Felbridge, East Grinstead RH19 2PP**
**Wates Development Ltd**

1. The development hereby permitted shall not commence later than the expiration of 3 years from the date of this permission or 2 years from the date of approval of the last of "the reserved matters" to be approved, whichever is the later.

2. The development hereby permitted shall not commence until details of the appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") have been submitted to and approved in writing by the District Planning Authority. Detailed plans and particulars of "the reserved matters" shall be submitted in writing not later than 3 years from the date of this permission and shall be carried out as approved.

3. The development hereby permitted shall be carried out and completed only in accordance with the following approved drawings:
Proposed Site Access and Swept Path Analysis ITB12432-GA-001 Revision B
Site Location Plan 16385/S101/C

4. No burning of demolition/construction waste materials shall take place on site.

5. No development shall take place until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the District Planning Authority and no dwelling shall be first occupied until all drainage works have been carried out in accordance with such details as approved by the District Planning Authority. The details shall include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by a public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Maintenance and

management of the works during the lifetime of the development shall thereafter be in accordance with the approved details.

6. No development shall take place, including any works of demolition, until a Construction Transport Management Plan has been submitted to and approved in writing by the District Planning Authority. Thereafter the approved Construction Transport Management Plan shall be implemented and adhered to throughout the entire construction period.
Details of the following matters shall be submitted:
• parking and turning for vehicles of site personnel, operatives and visitors
• loading and unloading of plant and materials
• storage of plant and materials
• programme of works (including measures for traffic management)
• provision of boundary hoarding behind any visibility zones
• HGV deliveries and hours of operation
• vehicle routing
• measures to prevent the deposit of materials on the highway
• before and after construction conditions surveys of the highway and a commitment to fund the repair of any damage caused
• no HGV movements to or from the site shall take place between the hours of 8.30am – 9.15am and 3pm-4pm nor shall the contractor permit any HGVs associated with the development at the site to be laid up, waiting, in Crawley Down Road, Rowplatt Lane, McIver Close or Copthorne Road during these times
• on site turning for construction vehicles
• a scheme to minimise dust emissions from the site

7. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to between the following times: Monday - Friday 08:00 - 18:00 Hours; Saturday 09:00 - 13:00 Hours; Sundays and Bank/Public Holidays - no work permitted

8. The proposed vehicular-pedestrian access to Crawley Down Road and 45 metres of the new access road, along with the visibility splays shall be constructed in accordance with the approved plans (Dwg No ITB12432-GA-001 Revision B) prior to any other part of the development approved by Mid Sussex District Council and thereafter the access visibility splays shall be kept permanently clear of any obstruction over 0.6m high.

9. The means of vehicular access to and from the development hereby permitted shall only be from Crawley Down Road (formerly 39 St Johns House) otherwise known as the main access. There shall be no other means of vehicular access to and from the development.

10. The applicant shall monitor parking along Crawley Down Road which is associated with the proposed development and Felbridge Primary School in accordance with a methodology to be agreed by the Local Highway Authority. If subsequently required by the Local Highway Authority, the applicant will fund a Traffic Regulation Order scheme. The monitoring results shall be made available to the Local Highway Authority within one year of the development being completed and fully occupied. If a Traffic Regulation Order Scheme is required, it shall be submitted to and approved in writing by the Local Highway Authority and implemented in accordance with a timetable agreed in writing by the Local Highway Authority.

11. Hard and soft landscape works shall be carried out in accordance with the approved details. The landscape works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing by the District Planning Authority. Any trees or plants which within a period of 5 years from the implementation of the landscaping die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the District Planning Authority gives written consent to any variation.

## APPEARANCES

FOR ABBEY DEVELOPMENTS LTD:

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| Matthew Reed QC | Queens Counsel, instructed by Impact Planning Services |

He called

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| Dominic de Mattos BSc CEng MICE IMaPS | Managing Director, BdR |
| Robert Gillespie BA MRTPI | Managing Director, Impact Planning Services |

FOR WATES DEVELOPMENTS LTD:

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| Sasha White QC | Queens Counsel, instructed by Genesis Town Planning |

He called

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| James Bevis MEng CMILT MCIHT | Partner, i-Transport |
| Jeremy Farrelly BA(UPS) DUPI MRTPI | Planning Associate, Genesis Town Planning |

FOR THE LOCAL PLANNING AUTHORITY:

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| Lisa Busch QC | Queens Counsel, instructed by James Hitchcock, Tandridge District Council |

INTERESTED PERSONS:

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| Jeremy Clarke | Chairman, Felbridge Parish Council |
| Ken Harwood | District councillor and local resident |

## DOCUMENTS SUBMITTED AT THE INQUIRY

Wates Developments Ltd – Opening Submissions

Abbey Developments Ltd – Opening Submissions

Email and enclosures from Paul Tucker handed in by Jeremy Clarke

Deed of Undertaking dated 14 May 2019 relating to Appeal B

Deed of Undertaking – note re compliance with paragraph 56 of NPPF

Felbridge Parish Council - Closing Submissions

Wates Developments Ltd – Closing Submissions

Abbey Developments Ltd – Closing Submissions

Wates Developments Ltd – Application for Costs

Abbey Developments Ltd – Application for Costs

Tandridge District Council – Response to Costs Application

Attendance Lists