



Appeal Decisions

Hearing held on 28 July 2022 and 29 November 2022

Site visit made on 28 July 2022

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08/12/2022

Appeal A Ref: APP/C3620/W/21/3272057

Land South of Coles Lane, Ockley, Dorking RH5 5HW

- 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 Inland Homes against the decision of Mole Valley District Council.
 - The application Ref MO/2020/0667/OUTMAJ, dated 6 April 2020, was refused by notice dated 8 October 2020.
 - The development proposed was originally described as 'outline planning permission for a residential scheme of up to 60 dwellings, with associated landscaping, amenity space, sustainable urban drainage system (SuDS), and associated works. All matters are reserved except for access'.
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Appeal B Ref: APP/C3620/W/21/3288318

Station Approach, Ockley RH5 5HT

- 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 Inland Homes against Mole Valley District Council.
 - The application Ref MO/2021/0732, is dated 29 March 2021.
 - The development proposed was originally described as 'extension to existing footpath at Station Approach, Ockley'.
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Decisions

1. Appeal A is allowed and planning permission is granted for a residential scheme of up to 60 dwellings, with associated landscaping, amenity space, sustainable drainage system and associated works at Land South of Coles Lane, Ockley, Dorking RH5 5HW in accordance with the terms of the application, Ref MO/2020/0667/OUTMAJ, dated 6 April 2020, and subject to the conditions set out in Schedule 1.
2. Appeal B is allowed and planning permission is granted for extension to existing footpath at Station Approach, Ockley RH5 5HT in accordance with the terms of the application, Ref MO/2021/0732, dated 29 March 2021, and subject to the conditions set out in Schedule 2.

Preliminary Matters

3. The descriptions of the proposals in the above heading are taken from the planning application forms. However, I have amended the descriptions for the formal decisions in the interests of concision.
4. The National Planning Policy Framework (Framework) was revised on 20 July 2021. The appellant and the Council have been able to comment on it during

the appeal process. Additionally, the latest Housing Delivery Test results were published on 14 January 2022. The main parties were able to comment on the test results during the hearing.

5. The application subject to Appeal A seeks outline planning permission with access to be considered at this point and with details of appearance, landscaping, layout and scale reserved for future consideration. I have taken into account the location plan, and the proposed access plan insofar as it relates to access to the site and off-site highway works¹. I have also taken the other drawings relating to off-site highway works and the associated tree protection plans into account². All other drawings in relation to the Appeal A scheme have been treated as illustrative.
6. The hearing was adjourned on 28 July 2022 to principally allow for consultation to take place in relation to the off-site highway works and tree protection drawings for Appeal A, which provide for alterations to the scheme determined by the Council. The consultation also related to an ecological impact assessment, and an arboricultural impact assessment to support the amended drawings. The highway works would include the provision of a footway along Coles Lane from the site to the A24, localised narrowing of Coles Lane, and narrowing of the A24 to single northbound and southbound lanes and alterations to its crossings. Additionally, there are proposed reductions to the speed limits along the A24 and Coles Lane to 50 and 30 miles per hour respectively.
7. An opportunity was provided for interested parties to make comments on the amended drawings and additional evidence subject to the consultation and the main parties were able to consider the responses. Furthermore, the hearing was resumed to provide an opportunity for any purported implications of the changes to the scheme to be discussed. I have therefore taken the information subject to the consultation and all the responses received into account in making a decision, as I am satisfied that no prejudice has arisen in doing so.
8. The Council has confirmed that the amended drawings for Appeal A address its third refusal reason, which relates to accessibility and highway safety matters. Additionally, the Council confirmed that its fourth and fifth refusal reasons for that appeal proposal, which relate to biodiversity net gain and affordable housing, would be addressed subject to the imposition of a planning condition, and a Unilateral Undertaking (UU) that was provided in draft form on the opening day of the hearing. A completed version of the UU was provided during the adjournment. However, this was superseded by an iteration dated 28 November 2022, which was submitted prior to the second day of sitting.
9. The hearing was closed in writing on 6 December 2022 after final versions of agreed conditions drafted by the main parties had been submitted and the latest UU had been reviewed by the Council.
10. Notwithstanding the Council's agreement to the contents of the UU before and during the first day of sitting, following the adjournment the Council contended that it is inappropriate for planning obligations in respect of affordable housing to be secured unilaterally, as such obligations typically require actions to be

¹ Drawing refs: 19109-S101A; 19237-MA-XX-XX-DR-C-0003-P07

² Drawing refs: 19237-MA-XX-XX-DR-C-0001-P10; 19237-MA-XX-XX-DR-C-0004-P02; 19237-MA-XX-XX-DR-C-0008-P02; TGA.2484.TPP.002A (Sheets 1 and 2)

taken by more than one party. The appellant was given an opportunity to respond and I have taken the correspondence received into account. The Council has otherwise agreed that the UU is effective.

11. The main issues identified below for Appeal A relate to the outstanding matters in dispute between the appellant and the Council, except the planning obligation issue which is dealt with under the other considerations heading.
12. In a statement dated 23 February 2022, the Council set out the position it would have taken on the application subject to Appeal B if it had made a decision within the prescribed period. The main issues for that appeal are informed by the Council's statement. However, the Council subsequently confirmed that it does not object to the Appeal B scheme.

Main Issues

13. The main issues in respect of Appeal A are: (i) whether the site is in an appropriate location for housing with regard to the development plan's spatial strategy; and (ii) the effect of the proposal on the character and appearance of the site and the surrounding area.
14. The main issues in respect of Appeal B are: (i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and (ii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.
15. Appeal B is addressed first as this facilitates a clearer structure to this letter than would otherwise be the case.

Appeal B

16. The Appeal B site comprises predominantly carriageway at a junction between Station Approach and Coles Lane and extends along part of the boundary of the Appeal A scheme. A footway leading to Ockley Train Station is located along one side of Station Approach.
17. The proposal principally seeks to extend the footway towards the junction, create a new footway on the other side of Station Approach to Coles Lane and install pedestrian crossing points on Station Approach and from Coles Lane to the Appeal A site. The proposal also involves an amendment to the radii of the junction to reduce the crossing distance for Station Approach and the realignment of Coles Lane to accommodate the new footway. Notwithstanding part of the footway to Coles Lane and the crossing to the Appeal A site, the development is proposed in the Green Belt.
18. The Council has confirmed that it relies on the Framework when considering proposals in the Green Belt. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, the Framework also sets out exceptions to inappropriate development. In this case, the main parties agree that the development falls within the exception at paragraph 150(b) of the Framework, which is for engineering operations that preserve the openness of the Greenbelt and do not conflict with the purposes of including land within it.

19. Engineering operations tend to include works which change the physical nature of land such as the creation of roads, embankments and hardstanding. Furthermore, Section 336 of the Town and Country Planning Act 1990 defines engineering operations as including the formation or laying out of a means of access to highways. It is reasonable to describe the development as engineering operations. Moreover, no suggestions indicating otherwise have been presented.
20. The development would be adjacent to and viewed in the context of the existing hardsurfacing at the junction and along the roads. The difference in height and the appearance of the existing carriageway and the proposed footway would be negligible. Accordingly, there would be no harm to the openness of the Green Belt spatially, visually or in any other respects.
21. It was agreed at the hearing that the most relevant purpose of the Green Belt in relation to the site and the development was its role to assist in safeguarding the countryside from encroachment, which is set out at paragraph 138 of the Framework. Given that the works would be mainly within highway land, adjacent to existing hardsurfacing, and as carriageways and footways are not uncharacteristic features within the countryside, the proposal would not harm the Green Belt purpose identified. Moreover, it would not harm any of the other Green Belt purposes identified at paragraph 138 of the Framework.
22. The development would therefore preserve the openness of and the purposes of including land within the Green Belt and thus would not be inappropriate development. As such, there is no requirement for very special circumstances to exist to justify the development in the Green Belt. Furthermore, for the same reasoning as above, the proposal would not harm the character and appearance of the area.
23. No tree works are proposed. Whilst the root protection areas of several trees would be encroached, a drainage ditch is located between many of those trees and the existing carriageway, and the extent of excavation and soil compaction required to create a footway is limited. Subject to a condition to require that tree protection measures are carried out in accordance with the submitted arboricultural assessment and method statement and associated tree protection plan, harm to the trees near the development would be avoided.
24. The Highway Authority has raised no objection to the development on highway safety or road network grounds. Vehicles are likely to be turned in and out of Station Approach at limited speeds. Additionally, sight lines for drivers approaching the junction and for pedestrians from the crossings would be satisfactory, including views through an adjacent tunnel supporting a railway line and embankment. The carriageway between the crossing points would be sufficiently narrow for pedestrians to move across it safely. Furthermore, the arrangement would improve accessibility in the immediate vicinity of the junction. There is no objective evidence indicating that the arrangement would give rise to unacceptable highway safety or traffic generation impacts.
25. Interested parties have raised that the proposal should improve pedestrian and cyclist connectivity along the length of Coles Lane towards Capel and Ockley. It is also advanced that additional street lighting should be provided. However, each proposal must be considered on its own merits. The evidence submitted does not indicate that the Appeal B scheme specifically would be harmful without additional development in the vicinity of the site and thus alterations to

the proposal are unnecessary. In any case, in relation to the Appeal A scheme, the appellant has stated that street lighting would be required along Coles Lane because of the proposed reduction to Coles Lane's speed limit, which could be controlled satisfactorily by a condition in relation to that appeal.

26. The proposal therefore accords with Policy CS18 of the Council's Core Strategy³ (CS), which states that transport schemes that lead to improvements in accessibility and give priority to the needs of pedestrians, cyclists and users of public transport will be supported. It also complies with Policy MOV2 of the Mole Valley Local Plan (LP), which states that development will normally only be permitted where it can be demonstrated that it is or can be made compatible with transport infrastructure and the environmental character of the area. The proposal is also consistent with Chapter 9 of the Framework, which supports opportunities to promote walking amongst other matters.
27. I have considered whether the conditions agreed between the main parties meet the tests for conditions set out at paragraph 56 of the Framework. In order to satisfy those tests, minor editing of some of the conditions would be necessary. In addition to the condition identified above, the standard time limit condition and one to require that the development is carried out in accordance with the drawings showing the proposed arrangement would be required for certainty.

Appeal A

Reasons

Location for housing

28. The Appeal A site is predominantly an area of undeveloped land adjacent to Coles Lane. It is in countryside beyond the Green Belt in the terms of LP Policy ENV3 and outside the settlement boundary of Capel, which is defined as a 'larger rural village' in the CS. The nearest part of the settlement to the site is around Bennetts Wood, which is located off Coles Lane and set back from the southbound carriageway of the A24.
29. CS Policy CS1 sets out a spatial strategy for the district. It directs new development primarily to previously developed land within built up areas. Additionally, it supports limited development and infilling on previously developed land within larger rural villages and infilling only on such land within smaller rural villages. In respect of the countryside, the policy states that development will be considered in the light of other CS policies, and national and regional policies that have been superseded and revoked respectively. Finally, it sets out that the Council will review the Green Belt boundary through a development plan document to ensure that there is sufficient land available to meet development requirements through the plan period.
30. LP Policy ENV3 states that the countryside will be protected for its own sake and that development adversely affecting its open character will not be permitted. However, it sets out various types of development that may be permissible in the countryside subject to certain criteria being satisfied. Although it refers to the extension and replacement of dwellings, it does not provide for new housing development in the countryside.

³ The Mole Valley Local Development Framework Core Strategy 2009

31. The main parties agree that CS Policy CS2 is also relevant even though it is not specified on the Council's decision notice. It identifies the housing requirement for the district for the period from 2006 to 2026. It also states where housing will be provided to satisfy that requirement. The countryside is not included as an appropriate location for housing.
32. It has not been identified that any CS Policies indicate that the site is an appropriate location for housing in principle. Furthermore, it is common ground that the proposal is not one of the potentially permissible development types. Accordingly, the main parties agree that the proposal conflicts with CS Policy CS1 and LP Policy ENV3. There is no substantive evidence indicating otherwise.
33. Therefore, I find that the site is an inappropriate location for development, with regard to the development plan's spatial strategy. Consequently, the proposal conflicts with LP Policy ENV3 and CS Policies CS1 and CS2.

Character and appearance

34. The site features trees and vegetation within it and along all its sides. Ancient woodland and the embankment supporting the railway line are also located near its boundaries. An open agricultural field is located on the opposite side of Coles Lane. Weare Street adjoins Coles Lane beyond the embankment. Nearby development along those roads principally comprises occasional residential properties that are in sylvan settings and are often separated by undeveloped land. The locality is otherwise generally characterised by open spaces and wooded areas. Capel mostly comprises residential properties located along The Street or roads spurring from it. Although the site would be relatively close to Capel, there is a clear difference between the primarily residential character of the settlement and the predominantly rural feel of the site and its environs.
35. The Surrey Hills Area of Outstanding Natural Beauty (AONB) is located around 2 kilometres from the site. The Surrey Hills Area of Great Landscape Value (AGLV) is a similar distance away. Additionally, the site is located within the Wooded Low Weald character area as categorised by the Surrey Landscape Character Assessment. Amongst other things, the local area's landscape characteristics include relatively low lying and undulating landform, small scale pastoral and arable fields largely enclosed by intact hedgerows and tree belts, and woodland and tree cover which encloses the area and limits long distance views except from elevated positions. It is also described as a rural, tranquil landscape, with a sense of remoteness and intimacy due to the tree cover.
36. At the hearing, the Council clarified its remaining objections to the scheme in respect of this main issue. In summary, it is advanced that the proposal would negatively impact the undeveloped and rural character and appearance of the site and its surroundings in an area of countryside that is remote from settlements. It is also put forward that the development would harm the local area's landscape character. Further, in addition to the development plan policies referred to in the refusal reason, the Council contends that the proposal conflicts with paragraph 174(b) of the Framework. Amongst other matters, it states that decisions should recognise the intrinsic character and beauty of the countryside.
37. The Council confirmed during the first sitting day that it no longer pursues the part of refusal reason 2 that refers to the erosion of a 'distinctive gap' between existing rural settlements. In the Council's Statement of Case this matter is

described as the erosion of a 'visual gap' between Capel, Weare Street and Grenehurst Park. No exact settlement boundaries for the latter two places have been identified. Additionally, intervisibility between the site and those places would be limited by the embankment and trees and vegetation within and around the site. For these reasons, I will not consider further whether there would be harm to any distinctive or visual gap between settlements specifically. However, the Council instead contends that there is a distinctive area of countryside between the A24 and the railway in particular and I will therefore consider the effects of the development in this regard.

38. The construction of around 60 dwellings and associated works such as internal roads would result in a significant proportion of the site being developed and a marked change to its baseline characteristics. The proposal would significantly increase the number of houses in the countryside outside Capel and be much larger in scale than the development along Coles Lane, Weare Street and outside settlements more generally in the local landscape. Moreover, the appellant's Landscape and Visual Impact Assessment (LVIA) identifies that there would be a major to moderate impact to local landscape character.
39. However, the detailed design of the housing could come forward in a manner that reflects the appearance of properties in the site's vicinity. Furthermore, the scheme would be compatible with the properties along Coles Lane and Weare Street and the character of the landscape insofar as it would also constitute housing in a sylvan setting. Further landscaping within the site, which could be considered as part of the reserved matters process, would reinforce this landscape characteristic and reduce the magnitude of change and harm that would arise.
40. Views of the site would be largely limited to short distance ones from the parts of Coles Lane adjacent to the site because of the embankment and surrounding vegetation. In addition, the short distance views would be filtered due to the existing and proposed vegetation along Coles Lane, albeit less so in winter when trees are not in leaf and unrestricted views of the development would be gained from around the proposed vehicular access. Nevertheless, the development would be prominent as a result of its scale and harmful to the rural feel of the site and its surroundings when travelling along Coles Lane, particularly between the A24 and the railway.
41. The Council does not argue that the works outside the site would harm the character and appearance of the area. As set out above for the Appeal B scheme, carriageways and footways are not uncharacteristic features in the countryside. Furthermore, the A24 works would involve a reduction in hardsurfacing and an increase in verge and soft landscaping in comparison with the existing arrangement and thus appear less engineered. As set out previously, any effects from external lighting could be mitigated appropriately through a condition. The off-site works would therefore not be harmful in terms of character and appearance considerations.
42. The LVIA concludes that the impacts on the AONB and AGLV would be negligible, and the Council has no concerns in respect of those designated landscapes. The site is highly enclosed as a result of the embankment and surrounding trees and vegetation and, due to its distance from the designated landscapes, the presence of intervening land and vegetation, and subject to the mitigation identified above including the submission of appropriate reserved

matters details, those landscapes and their settings would be conserved, including the scenic beauty of the AONB.

43. Drawing the above considerations together, the proposal would cause moderate harm to the character and appearance of the site and the surrounding area, including the local landscape. Consequently, it conflicts with LP Policies ENV3, ENV4, ENV22 and ENV23, CS Policy CS14 and paragraph 174(b) of the Framework. Amongst other things, these set out general design criteria for proposals, and require that development respects and enhances the character of the area within which it is proposed and conserves and does not detract from landscapes.

Other Considerations

Housing supply and delivery

44. It is common ground that the Council can demonstrate 2.9 years of deliverable housing land supply. Additionally, the latest Housing Delivery Test results show that 70 percent of the housing required in the district was delivered in the test measurement period. Consequently, the presumption in favour of sustainable development as set out at paragraph 11(d) of the Framework is relevant to the appeal.
45. The main parties also agree that there are housing affordability issues within the district, there is currently a demand for 23 affordable homes in Capel and 11 such homes in Ockley, and that no affordable housing has been delivered in either location for the past 5 years.
46. The UU compels the developer to submit an affordable housing scheme and does not directly require actions to be taken by other parties. The Council has not provided compelling evidence which indicates that the UU is inappropriate, and I do not consider such arrangements to be uncommon.
47. I am satisfied that the UU secures the provision of 24 affordable dwellings within the site in the form of 12 social rented and 12 intermediate rented units, which accords with the affordable housing requirements of CS Policy CS4 both in terms of the provision and mix of the affordable housing.
48. The provision of the affordable housing would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. In this respect the UU accords with the statutory tests for obligations contained within Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the same tests at paragraph 57 of the Framework.

Road network, highway safety and accessibility

49. A transport statement has been submitted which indicates that the proposed highway works, including the speed limit reductions, would facilitate safe connections for all highway users between the site and Capel. It also finds that the number of vehicular trips generated by the development would have a negligible impact on Coles Lane, the A24 and the wider highway network. Adequate visibility splays would be achieved in the vicinity of the site, appropriate distances for vehicle braking would be provided and sufficient space would be provided for larger vehicles to be manoeuvred. Additionally, a Stage 1 Road Safety Audit has been undertaken. The transport statement and

the effects of the proposal in highway terms give rise to no concerns from the Highway Authority.

50. Interested parties contend that the highway works would be unsafe. However, there is currently no footway along Coles Lane between the train station and Capel and thus the creation of a footpath would improve pedestrian safety in the vicinity of the site. Additionally, the narrowing of the effective parts of the A24's carriageway would benefit both cyclists and pedestrians as the distance to cross and thus time spent in the carriageway would likely be reduced compared to the current scenario. Concerns were raised regarding limited space for vehicles to overtake cyclists along Coles Lane, but such manoeuvres should not be attempted unless and until there is sufficient space to do so. The speed limit reductions would also be beneficial and improve the prospects of cyclists travelling along Coles Lane. Firm evidence has not been provided to robustly counter the transport statement or the Highway Authority's views.
51. The speed limit reduction would require the making of a Traffic Regulation Order (TRO), which would be subject to public consultation by the Highway Authority. However, the main parties, Highway Authority and Surrey Police support the proposed changes. The UU secures a contribution to meet the costs of making the TRO and associated signage. Based on the evidence before me, there is sufficient prospect of the TRO being made, and I am satisfied that the tests for planning obligations are met in this respect.
52. Paragraph 111 of the Framework sets out that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Subject to the obligation identified above, a condition to require that the off-site highway works including the speed limit reductions would be carried out in time for first occupation, and a condition to require the Appeal B scheme to be carried out prior to commencement of Appeal A to ensure appropriate provision is made during construction, the proposal would not conflict with the Framework in respect of highway safety or road network considerations.
53. Interested parties suggest that alternate highway works such as the installation of traffic lights should be provided instead of those proposed. However, as the development would not be unacceptable in highway safety or road network terms, alternative arrangements would not be necessary.
54. Capel is around 1.1 kilometres from the site and features a small number of services and facilities that are within reasonable walking and cycling distance. Additionally, based on the Statement of Common Ground between the appellant and the Highway Authority, the nearby train station benefits from services to destinations including Horsham and London from Monday to Saturday once or twice per hour.
55. There is no bus stop in the immediate vicinity of the site, but there are some near the junction of The Street and Laundry Way in Capel that have fairly regular services to Horsham and Dorking and occasional services elsewhere. A condition has been put forward that would move the bus stops closer to the site. There would also be improvements including raised kerbs for increased accessibility at the bus stops, new shelters and timetable information and the installation of real time passenger information. During the hearing it was raised that moving the bus stops would harm accessibility for occupiers in and near Laundry Way; however, the precise locations of the bus stops would be subject

to Council approval and an appropriate balance could be struck between accommodating the needs of existing occupiers in Capel and the occupiers of the development.

56. A condition to require the provision of an information pack to each dwelling about sustainable travel options would increase awareness and improve the likelihood of such options being used. The UU would also secure the provision of cycle vouchers for each dwelling, which would promote sustainable travel for the prospective residents and also satisfies the tests for obligations.
57. Notwithstanding the above, the future occupiers of the development would nevertheless likely rely on private motor vehicles for many journeys. However, I am mindful that paragraph 105 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In that context and subject to the conditions and obligations identified above, there would be a satisfactory range of transport options for the occupiers given the site's countryside location. Accordingly, the proposal would be adequately accessible and promote sustainable transport.

Biodiversity, trees and vegetation

58. A range of flora and fauna have been surveyed as part of the ecological impact assessment. The main parties agree that the proposal would not unacceptably affect protected species subject to mitigation and enhancements identified in the assessment. Pre-commencement conditions to require the implementation of an approved construction environmental management plan and a landscape and ecological management plan would effectively encapsulate these measures including those related to construction processes. Natural England and Surrey Wildlife Trust have raised no concerns in respect of protected species. Having regard to the views of the main parties and the consultees, and in the absence of objective evidence to the contrary, the scheme would be acceptable in terms of protected species considerations.
59. As a result of the development there would be a loss of grassland and thus biodiversity that cannot be remedied by means of on-site provision. A pre-commencement condition to secure provision off-site has been considered by the Surrey Wildlife Trust and correspondence with the Land Trust demonstrates that there is a reasonable prospect for biodiversity net gain to be delivered. Based on the evidence before me, net gain would be secured.
60. The main parties agree that 10 percent net gain should be achieved, but neither paragraph 179 of the Framework nor any development plan policies require any specific net gain threshold to be reached. In the absence of clear justification, it would be unnecessary for 10 percent net gain to be secured specifically. Nevertheless, a pre-commencement condition would be needed to make sure that the implementation of an appropriate scheme could be delivered for off-site habitat creation, protection and enhancement that secures net gain. However, the proposed condition sets out many prescribed elements for a scheme and concerns regarding its enforceability have been raised. The detail proposed would be unnecessary given that a scheme would need to be approved by the Council in any event. A condition which more broadly sets out the areas for approval would satisfy the tests for conditions.
61. Subject to an appropriate drainage scheme being implemented, Natural England has no concerns regarding any effects of the development on the

nearby Vann Lake and Ockley Woods Site of Special Scientific Interest. There is nothing compelling before me which indicates otherwise. A pre-commencement condition to require the approval of surface and waste water drainage schemes would be needed given the schemes would be partially below ground, to ensure that no adverse impacts would arise, and so adequate provision would be made in those respects more generally. A condition to require a verification report to be submitted would also be needed to ensure that the schemes would be satisfactorily implemented and managed to secure their continued operation.

62. Based on the illustrative layout and tree survey, 60 dwellings could be accommodated through the removal of limited hedgerow and a small number of moderate to low quality trees within the site. The loss of the trees could be offset by an appropriate scheme of landscaping as part of the reserved matters submissions. In addition, no development is proposed within 15 metres of the ancient woodland. The landscape and ecological management plan condition would be able to prevent encroachment of and harm to the woodland during the construction process. The off-site highway works would require no trees to be removed and limited pruning to be undertaken. However, to avoid significant impacts on some of the trees, measures including no-dig construction techniques and the use of hand tools would be needed. As such, the aforementioned condition relating to the off-site highway works would need to ensure that the arboricultural impact assessment and tree protection plans relevant to that work were followed.

Further matters

63. The UU also requires that play area land and equipment is provided within the site in accordance with a scheme to be submitted. It also includes provisions relating to the maintenance and management of the play area. This complies with CS Policy CS16 which requires that appropriate facilities are provided on site for schemes comprising 50 or more dwellings. The equipment would serve the needs of the occupiers of the development and thus satisfies the tests for obligations.
64. Parts of the proposed footway along Coles Lane between the A24 and the site and the A24 works north of the northbound exit to Coles Lane would be within the Green Belt. However, the main parties agree that the works would be an exception to inappropriate development in the Green Belt as with the Appeal B scheme. For the reasons identified in respect of the character and appearance matter and for the Appeal B scheme, the development would not be inappropriate in the Green Belt in the terms of the Framework.
65. No concerns have been raised regarding any impacts on nearby heritage assets or their settings, such as the Capel conservation area and properties at the train station which are grade II listed. The significance of the nearby heritage assets would be preserved due to the separation distances and intervening vegetation.
66. Interested parties have raised concerns regarding the quality of the proposed housing and the effect of the development on local house prices. However, I have no reason to conclude that housing of appropriate sizes and standards would fail to be delivered. Furthermore, the construction of the housing would be subject to Building Regulations control. The effect of development on house prices is not a planning matter.

67. Concerns regarding pollution have also been raised, but there is no objective evidence that there would be any significant issues in these regards. It has also been put forward that the development would add to pressure to local infrastructure and services such as healthcare. However, the Council has stated that it has adopted a Community Infrastructure Levy Charging Schedule and infrastructure matters would be addressed through contributions arising from that. Issues have also been raised regarding the potential length of the construction process, but this would be temporary. Furthermore, a pre-commencement condition to require that an approved construction transport management plan is adhered to while work is underway would address highway safety concerns during construction.
68. The Council's emerging Local Plan is currently undergoing examination. However, the main parties agree that its policies should attract limited weight in the determination of the appeals. I have no compelling reasons to disagree with their views regarding this matter.

Conditions

69. As with the Appeal B scheme, I have considered whether the conditions agreed by the main parties satisfy the tests at paragraph 56 of the Framework and identified that some minor editing would be necessary. The appellant has agreed to the wording of pre-commencement conditions.
70. Further to the conditions already identified, ones relating to the submission and timing of the reserved matters and the commencement of development would be required for certainty. For the same reason a condition would also be needed to require that the development is carried out in accordance with the location plan and the proposed access plan insofar as relevant to matters of access to the site.
71. A pre-commencement condition would be necessary to secure the implementation of a programme of archaeological work so that any archaeological remains of interest would be identified before and during construction. In order to ensure that the living conditions of the future occupiers of the housing would be satisfactory having regard to the site's proximity to Coles Lane and the railway line, a condition would be needed to require an approved scheme of noise and vibration attenuation and ventilation to be carried out. Additionally, a condition to require the submission of details pertaining to the materials to be used for the proposed vehicular access would be required in the interests of highway safety.
72. The main parties agree that the aforementioned condition to secure the off-site highway and associated tree protection should enable further iterations of the drawings to be submitted for approval. However, such an approach could enable significant modifications to be made without further consultation and potentially result in prejudice to interested parties alongside altered impacts including to land in the Green Belt. As such, it would be inappropriate to enable alterations to the off-site works through the process of the approval of details reserved by conditions. A similar approach has been recommended in respect of drainage but this would also fail to satisfy the tests for conditions. Modifications to those draft conditions would thus be needed for precision.
73. Finally, a draft condition to require the approval of boundary treatments within the scheme has been put forward by the main parties; however, such details

can be addressed through the reserved matters process and would be unnecessary.

Planning Balance

74. The proposal is contrary to the development plan as a result of its conflicts with the policies specified in relation to the main issues identified above. However, the appellant and the Council agree that those policies are out-of-date due to the Council's housing supply and delivery positions.
75. LP Policies ENV3, ENV4, ENV22 and ENV23 and CS Policy CS14 are consistent with the Framework in relation to the approach to the design of development, the protection of local character and landscape considerations. Nonetheless, and although the proposal also conflicts with paragraph 174(b) of the Framework as identified, I have already set out that the harm to the character and appearance of the site and the surrounding area, including the local landscape, would be moderate.
76. Additionally, although LP Policy ENV3 accords with the Framework insofar as it recognises the intrinsic character and beauty of the countryside, it does not provide for new housing in the countryside and thus is more prohibitive than the Framework, which sets out at paragraph 79 that housing should be located where it will enhance or maintain the vitality of rural communities. Policy ENV3 is therefore only partially consistent with the Framework in this respect.
77. CS Policies CS1 and CS2 are also partially consistent with the Framework in that they direct development to previously developed land and larger settlements which are typically accessible locations. However, Policy CS2 suggests that the Council's housing requirement from 2006 to 2026 can only be met without the use of Green Belt or greenfield land until around 2016 or 2017. In addition, as previously identified, Policy CS1 states that the extent of the Green Belt will be reviewed to ensure that sufficient land is available to meet development requirements. Although the Council reports that the emerging Local Plan proposes the allocation of land for housing outside settlements, an up-to-date adopted strategy for meeting current housing needs is not in place.
78. It is clear that a rigorous application of LP Policy ENV3 and CS Policies CS1, CS2 and CS3 would further frustrate housing supply and delivery in the district. Having regard to the consistency of these policies with the Framework and the Council's housing issues, and considering that the site would be within walking and cycling distance of public transport options and Capel and thus support the community there through the occupiers using its services and facilities, the proposal's harm to the Council's spatial strategy and conflict with its policies in this respect attract limited weight overall.
79. I have found no conflict with the Framework in respect of the protection of areas or assets of particular importance⁴. Accordingly, planning permission should be granted for the development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
80. The proposal would make a significant contribution to housing supply in the context of the Council's housing issues, including the extent of the supply

⁴ Listed at footnote 7 of the Framework

shortfall. Furthermore, the affordable housing would be a significant benefit having regard to the lack of delivery of such housing in recent years. The off-site highway works would also provide benefits for residents in Capel and the immediate vicinity of the site through highway safety improvements and thus enhanced connectivity to and from the train station for pedestrians and cyclists. The biodiversity net gain would also be beneficial, as would the economic benefits from the construction of the development and the occupiers spending on services and facilities in Capel.

81. Taken together, the benefits of the development are considerable. Conversely, its adverse impacts would be moderate overall. Therefore, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of the development. Accordingly, the proposal benefits from the presumption in favour of sustainable development, and thus the Framework indicates in favour of the scheme.

Conclusions

82. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise.
83. In the case of Appeal A, the proposal conflicts with the development plan as a whole. However, the presumption in favour of sustainable development is a material consideration which outweighs that conflict. Material considerations therefore indicate that a decision should be taken which is not in accordance with the development plan.
84. The Appeal B scheme accords with the development plan. Material considerations do not indicate that a decision should be made which is contrary to the development plan.
85. For the reasons given above, both appeals should be allowed and planning permission granted.

Mark Philpott

INSPECTOR

Schedule 1 – Planning Conditions for Appeal A

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters"), shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the location plan (ref: 19109-S101A), and the proposed access plan (ref: 19237-MA-XX-XX-DR-C-0003-P07) insofar as it relates to matters of access to the site.
- 5) No development shall take place until the implementation of a programme of archaeological work has been secured and carried out in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 6) No development shall take place until details of surface and waste water drainage schemes have been submitted to and approved in writing by the local planning authority. The schemes shall thereafter be carried out in accordance with the approved details.
- 7) No development shall take place until a construction transport management plan has been submitted to and approved in writing by the local planning authority. The plan shall thereafter be adhered to throughout the construction period.
- 8) No development shall take place until the extension and improvements to the existing footway around the junction of Coles Lane and Station Approach have been constructed in accordance with the terms of the permission given reference MO/2021/0732.
- 9) No development shall take place until a scheme for off-site habitat protection, creation and enhancement has been submitted to and approved in writing by the local planning authority. The scheme shall secure an overall net gain in biodiversity having taken into account the losses within the site resulting from the development, include a timetable for delivery and include details for the management of and monitoring arrangements for the off-site habitat. The scheme shall thereafter be carried out, managed and monitored in accordance with the approved details.
- 10) No development shall take place until a landscape and ecological management plan has been submitted to and approved in writing by the local planning authority. The plan shall include measures to prevent any development, construction work or vehicles within 15 metres of the ancient woodland adjacent to the site. The development shall thereafter be carried out in accordance with the approved details.

- 11) No development shall take place until a construction environmental management plan has been submitted to and approved in writing by the local planning authority. The plan shall set out mitigation measures for all protected species and include provisions for updated ecological surveying as identified in the ecological impact assessment (ref: INL22601, dated: 15 April 2021). The development shall thereafter be carried out in accordance with the approved details.
- 12) Prior to the commencement of above ground works, excluding demolition, details of the materials to be used for the access to the site including kerbs, edges, unit paving, steps and if applicable any synthetic surfaces shall be submitted to and approved in writing by the local planning authority and thereafter installed in accordance with the approved details.
- 13) Prior to the first occupation of any dwelling, a scheme for noise and vibration attenuation and ventilation of the properties shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any dwelling.
- 14) Prior to the first occupation of any dwelling, the off-site highway works including speed limit reductions and tree works shall be carried out in accordance with the following plans and document: A24 lane reduction (ref: 19237-MA-XX-XX-DR-C-0001-P10); proposed access (ref: 19237-MA-XX-XX-DR-C-0003-P07); forward visibility splays (ref: 19237-MA-XX-XX-DR-C-0004-P02); no dig footway areas (ref: 19237-MA-XX-XX-DR-C-0008-P02); tree protection plans (refs: TGA.2484.TPP.002A (Sheet 1) and TGA.2484.TPP.002A (Sheet 2)); arboricultural impact assessment (ref: TGA.2484.ArbImpactAssessment; dated: 6 July 2022).
- 15) Prior to the first occupation of any dwelling, a drainage verification report must be submitted to and approved in writing by the local planning authority. The report shall demonstrate that the surface and waste water drainage schemes required by condition 6 have been constructed in accordance with the approved details, provide details of any management arrangements and state the national grid reference of any key drainage elements such as surface water attenuation devices and areas, flow restriction devices and outfalls and confirm that any defects in the scheme have been rectified.
- 16) Prior to the first occupation of any dwelling, details of an information pack which sets out the availability and whereabouts of sustainable travel options for the occupiers including walking and cycling opportunities and public transport facilities shall be submitted to and approved in writing by the local planning authority. An information pack shall thereafter be provided to each property prior to first occupation in accordance with the approved details.
- 17) Prior to the first occupation of any dwelling, a scheme for the relocation and improvement of the two bus stops near to the junction between The Street and Laundry Way in Capel shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the provision of new bus shelters, raised kerbing to ensure level access onto and off buses for persons with restricted mobility, timetable information displays, real time passenger information displays, and a

clearway with a 23 metre bus cage to protect each bus stop. The scheme shall thereafter be carried out in accordance with the approved details.

- 18) No external lighting equipment, including streetlights, shall be installed on any part of the site or in connection with the off-site highway works referenced in condition 14 until a lighting scheme has been submitted to and approved in writing by the local planning authority. The external lighting shall thereafter be installed and maintained in accordance with the approved details.

Schedule 2 – Planning Conditions for Appeal B

- 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 plans: 19237-MA-XX-XX-DR-C-0101-P02; 19237-MA-XX-XX-DR-C-0006-P01.
- 3) The development hereby permitted shall be carried out in accordance with the Arboricultural Assessment and Method Statement (ref: MW.19.0803.SK02.AIA) including the Tree Protection Plan (ref: MW.19.0802.SK02.TPP).

APPEARANCES

FOR THE APPELLANT:

M Gilpin	Inland Homes
D Manley KC	Counsel for Inland Homes
C Parry	Agent, Planning Potential
S Slatter	Agent, Planning Potential
E Josey	Transport, Markides Associates
J Seymour	Landscape, ACD Environmental
D Wood	Ecology, ACD Environmental

FOR THE LOCAL PLANNING AUTHORITY:

A Gardner	Senior Planning Officer, Mole Valley District Council
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INTERESTED PARTIES:

A Grealey	Highway Authority, Surrey County Council
H Clack	Mole Valley Ward Councillor and Surrey County Councillor
D Thomas	Ockley Parish Council
N Helme	Counsel for Capel Parish Council
P Garber	Capel Parish Council
P Uttley	Capel Parish Council
D Doney	Local resident
R Gould	Local resident
J Harrington	Local resident
G Haynes	Local resident

DRAWINGS and DOCUMENTS submitted after the hearing opened

1. Appeal A drawings, received 11 August 2022: 19237-MA-XX-XX-DR-C-0001-P10; 19237-MA-XX-XX-DR-C-0003-P07; 19237-MA-XX-XX-DR-C-0004-P02; 19237-MA-XX-XX-DR-C-0008-P02; TGA.2484.TPP.002A (Sheet 1); TGA.2484.TPP.002A (Sheet 2)
2. Updated Appeal A Statement of Common Ground (Version 6) with planning conditions updated and agreed, received 11 August 2022
3. Updated Appeal B Statement of Common Ground (dated 11 August 2022) with planning conditions updated and agreed, received 11 August 2022
4. Unilateral undertaking completed in counterpart (dated 22 August 2022), received 22 August 2022
5. Copy of post adjournment consultation letter and a list of those consulted, received 24 August 2022
6. Email from the appellant explaining the Traffic Regulation Order costs figure within the unilateral undertaking, received 24 August 2022
7. Emails from the Council and appellant regarding the Council's concerns about completed unilateral undertaking, received 24 and 30 August 2022
8. Nine response letters to the post event consultation from interested parties and response emails from the Highway Authority, provided by the Council on 15 September 2022
9. Appellant's response to the post adjournment consultation, received 27 September 2022
10. Council's response to the post adjournment consultation, received 3 October 2022
11. Letter from the appellant confirming that no material changes in circumstances occurred prior to the hearing being resumed, received 11 November 2022
12. Letter from the Council confirming that no material changes in circumstances occurred prior to the hearing being resumed, received 15 November 2022
13. Copy of hearing resumption notification letter and a list of those consulted, received 17 November 2022
14. Updated Appeal A Statement of Common Ground (Version 7) with planning conditions updated and agreed, received 17 November 2022
15. Unilateral undertaking completed in counterpart (dated 28 November 2022), received 28 November 2022
16. Updated Appeal A Statement of Common Ground (Version 8) with planning conditions updated and agreed, received 1 December 2022