
Appeal Decision

Inquiry held on 29 September and 2 to 6, 9 to 12 and 18 October and 6 November 2023

Site visits made on 11 and 16 October 2023

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th December 2023

Appeal Ref: APP/C3620/W/23/3323090

Land South of Headley Road, Leatherhead, Surrey

- 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 outline planning permission.
 - The appeal is made by Kingacre Estates Ltd against Mole Valley District Council.
 - The application Ref MO/2022/1619, is dated 13 September 2022.
 - The development proposed is an Integrated Retirement Community (IRC) comprising up to 125 Extra Care Apartments (Use Class C2), up to 54 new homes (Use Class C3) (50% affordable homes) and the formation of a new vehicular access off Headley Road, with associated landscaping, parking, open space, green and blue infrastructure, and all other associated development works.
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DECISION

1. The appeal is dismissed and planning permission is refused.

PRELIMINARY MATTERS

Documents

2. The appeal is for outline planning permission with access applied for in full and all other matters reserved. Parameters plans have been submitted regarding land use, building heights, green and blue infrastructure, and density. In addition, an illustrative masterplan has been submitted, to which I have had regard throughout my Decision whilst acknowledging its illustrative nature.
3. A number of submissions were received prior to, during and after the Inquiry, as set out in Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the revised and additional evidence.

Older Persons Accommodation

4. The proposal includes older persons accommodation in the form of an Integrated Retirement Community (IRC), a form of extra care provision that falls within use class C2. The precise nature of the proposed accommodation is a material consideration to which I return throughout my Decision as appropriate.

Policy

5. The Development Plan includes the Core Strategy 2009 (the CS) and the Local Plan 2000 (the LP). There is an emerging Local Plan, the Mole Valley Local Plan 2020-2037 (the eLP). It is common ground, and I agree, that the eLP is at an advanced stage. It has undergone its examination. Main Modifications (MM) have been proposed by the Examining Inspector (ExI), none of which relate to policies of relevance to this appeal. Although not explicitly set out by the ExI, any part of the eLP that is not the subject of a MM has been deemed to be 'sound'. This is a common sense position and is also set out in legislation, at s20(7C) of the Planning and Compulsory Purchase Act 2004 (the Act 2004), which states that the ExI must recommend modifications if required to make a plan 'sound'.
6. However, the eLP process has been paused. This is because of uncertainties regarding national planning policy, in particular around the approach to the Green Belt (GB). The Council is awaiting the revised Framework, due to be released shortly, before re-starting the eLP process. It has two eLPs running at present. The first (herein 'GB-in') is the current version of the eLP. The second (herein 'GB-out') is an alternative version of the eLP with many of the GB site allocations removed.
7. There are three potential outcomes upon release of the revised Framework. The first is that the 'GB-in' eLP can be adopted. This is the current version of the eLP and given that the MMs have already been published and the examination is concluded, this could occur quickly and there is a fair degree of certainty as to its content. The second is that the 'GB-out' eLP is taken forward. This would require new hearings to be undertaken to assess the proposed changes. It is likely that this would cause a delay of at least several months and potentially longer depending on the outcome of the further hearings. The hearings may also give rise to further modifications to the plan. The third is that the Framework changes are not as anticipated and require an as yet un-drafted version of the eLP to be produced and then consulted upon. The timetable and content for this is almost impossible to predict.
8. Paragraph 48 of the Framework states that the weight to be given to policies in emerging plans should be linked to the stage of preparation of the plan, the extent to which there are unresolved objections, and the degree of consistency with the Framework. The 'GB-in' eLP is at an advanced stage of preparation and there are no unresolved objections in relation to relevant policies for this appeal. However, because of the uncertainties regarding the Framework and therefore the version of the eLP that will eventually be progressed, there is great uncertainty as to the content and timing of the eLP. I therefore place limited weight on the eLP. I return to the eLP as appropriate throughout my Decision.

Planning Obligation

9. A s106 Planning Obligation, dated 10 November 2023 (the s106) has been submitted. It secures:
 - in relation to affordable housing:
 - 50% of the use class C3 dwellings to be affordable housing, up to a maximum of 27 dwellings;
 - an Affordable Housing Scheme, including the location, mix and distribution of affordable housing, within an identified area of land;

- the mix to be: up to 25% First Homes; up to 25% Shared Ownership; between 50 and 75% Social or Affordable Rented;
 - an Affordable Housing Marketing Plan;
 - off-street car parking of at least 1.5 spaces per 2-bed dwelling or two spaces per 3-bed dwelling; and,
 - not to occupy more than 50% of the market dwellings until all the affordable homes have reached practical completion;
 - in relation to the IRC:
 - restriction of the IRC units to be within use class C2;
 - restriction of occupation to Qualifying Persons, where either the person or the person sharing the flat are at least 65 years old, or are suffering from a permanent physical or mental illness;
 - a Care and Wellbeing Package, including at least 2 hours a week on-site care, access to care on-site 24 hours a day, and individual Care and Wellbeing Plans for each occupant;
 - communal facilities, likely to include pool, gym, restaurant, meeting rooms, hair salon, amongst others, and to be accessible to the general public; and,
 - a Health Assessment of occupants;
 - in relation to transport and highways:
 - transport mitigation measures, including a demand responsive bus service to be operated, funded or subsidised by the Council;
 - an annual contribution towards the bus service for seven years;
 - Retirement and Residential Travel Plan Statements, including details of the provision of Travel Information Packs, vouchers for e-bikes, and e-bike charging; and,
 - a contribution towards making and implementing a Traffic Regulation Order (TRO) for: speed limit reductions on Headley Road and the A24 bypass; traffic calming on Headley Road to the east of the junction with the A24; and a toucan crossing on the A24 bypass.
10. The Council's Community Infrastructure Levy (CIL) Compliance Statement sets out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 57 of the National Planning Policy Framework (the Framework), and I have taken them into account. I return to matters of weight and detail of the s106 throughout my Decision as appropriate. This is with the exception of the affordable housing late stage review, set out at Schedule 5 of the s106, which is a disputed element of the document and I return to this in my Decision below.

MAIN ISSUES

11. The Council confirmed in its Statement of Case¹ the four areas of dispute. On this basis, and having regard to all other submissions, the main issues are:
- the effect of the proposal on the character and appearance of the area;
 - whether or not the appeal site is an appropriate location for development of this type;
 - whether or not an acceptable level of affordable housing is proposed; and,

¹ See Paragraph 3.29, CD6.04.

- the extent of harm to the GB by reason of inappropriateness and any harm caused to the essential characteristics of GB and to the purposes of including land within the GB.
12. The overall planning balance is in the context of the site's location in the GB and therefore includes consideration of whether or not any harm to the GB by reason of inappropriateness and any other harm including to the purposes of including land within the GB, would be clearly outweighed by other considerations so as to amount to the 'very special circumstances' required to justify the proposal.

REASONS

Character and Appearance

Existing

13. The appeal site is 7.31 hectares. It is mostly an arable field. There is fairly extensive planting and woodland to the west, north and east of the site, some within and some outside the red line. The woodland is largely characteristic of the area and a positive feature of the site but there are also some cypress trees near Headley Road, which are an incongruous species for the area. Headley Road has a rural character because it is fairly narrow and there is significant existing vegetation to both sides.
14. The A24 bypass and Leatherhead beyond provide an immediate, urban context to the site to the west. However, the bypass forms a clear existing boundary to Leatherhead, including areas to the south such as Givons Grove. Tyrrell's Wood to the east is perceived as a separate area of development, as are the other developed areas further to the east. The appeal site provides an important area of open, agricultural land that separates the two areas. It is also part of a north-south swathe of largely open land, albeit including the golf course to the south which is, albeit largely green, still a man made intervention. In addition, whilst this land is largely absent of built development, it is not perceived as a single, continuous feature on the ground because of the hills and features within it preventing views across large amounts of this land from any one location.
15. The appeal site relates most clearly to the mixture of arable and golf course land to the south, because it is relatively prominent as viewed from the south over a fairly insubstantial hedgerow, and because to all three other sides there is relatively substantial planting, preventing meaningful inter-visibility. The prominence is partly because the southern part of the site sits on a ridge and can therefore be clearly seen rising slightly above the foreground agricultural and golf course land.
16. Public views are limited but they do exist. Views are most clear from a bridleway² to the south, but also, albeit heavily screened, from Stane Street³ to the east and south. Drivers and other road users also have glimpsed views from Headley Road, the bypass and Reigate Road. The clearest public views are from the important relationship between the appeal site and the open land to the south, and this also includes land designated as an Area of Great

² Public Right of Way 511.

³ Public Right of Way 118, and also a Scheduled Monument although this has no material bearing on consideration of the appeal proposal.

Landscape Value (AGLV). Private views are possible from some properties in Tyrrell's Wood, albeit mostly significantly screened, and more so in summer months, by the intervening vegetation.

17. The appeal site lies within several designated landscape character areas. It is on the boundary of National Character Areas 114 and 119 and reflects several of the key characteristics of both areas, although I place limited weight on this because of the scale of the areas in comparison to the appeal site. It also lies within Landscape Character Area CF3 as set out in the Surrey Landscape Character Assessment 2015. It displays some of the key characteristics of Area CF3, in particular undulating landform, arable field, hedged boundaries, small groups of mature trees. At a District level, the site is within Landscape Character Area 'Box Hill'. It displays some of the key characteristics, notably in the open views to the south and the woodland belts.
18. Headley Road continues to the west of the junction with the bypass. To that side of the bypass, the road is within the Reigate and Headley Roads Character Area, as set out in the Built Up Areas Character Appraisal Leatherhead SPD, dated February 2010. The key characteristics include mature gardens, low density, and mature trees lining the roads. This area also includes the Highlands Road/Headley Road Residential Area of Special Character (the RASC), as set out in the LP.

Proposed

19. It is proposed to develop the site for a mixed IRC and residential development. As set out on the submitted drawings, there would be associated open space, Sustainable Urban Drainage Systems, ponds, play areas, an orchard, and other hard and soft landscaping. The two existing woodland areas within the site would be retained and fairly significant additional planting is proposed including to the southern boundary. This could be secured by condition. Three development parcels are proposed along with internal access roads. Building heights would be between 1 and a half storeys to 2 and a half storeys. An illustrative masterplan has been submitted which indicates that several relatively large buildings would be required, including one particularly large building for the IRC. I acknowledge that this is illustrative, but it provides a good indication of the likely density and scale of development in the context of the proposed quantum of development and the parameters plans.
20. Access would be from two locations on Headley Road, one for vehicles, cyclists and pedestrians and the other only for pedestrians and cyclists, and a further access for pedestrians and cyclists from the bypass. Facilitating the proposed access points would involve some, but relatively limited, removal of existing vegetation.
21. Off-site highways works are proposed including the route from the new pedestrian and cyclist access from the bypass and associated crossing of the road, widening of the junction between Headley Road and the bypass, creation of a new layby, re-surfacing of the bypass and other works.

Assessment

22. The proposed development would be relatively dense. The IRC building would be larger than any existing building within the developed areas to either the

east or the west. There would be some areas of open space but built form is proposed across most of the site. I acknowledge that the taller buildings are proposed to the lower parts of the site but the submitted visualisations show that the built form would still be clearly visible as seen from public viewpoints to the south. This remains the case even after the proposed planting has matured, which, whilst significantly softening the development, would only provide partial screening of the proposed built form. There would be a significant and permanent change in character of the site from largely open arable fields to an urban development. The proposal would therefore result in a harmful change to the character and appearance of the appeal site itself.

23. The proposed density would create a more urban character than the existing low density housing to both the east and the west. It would not be possible to fully mitigate the proposed scale of development at reserved matters stages because of the quantum of development proposed. The proposal would also, therefore, fail to be in-keeping with the established character of the surrounding built form.
24. The proposal would be perceived from Stane Street and the bridleway to the south, by users of the golf course, and from some surrounding properties. This includes the most important public views from the south. From the south in particular, the proposal would result in the current, important, open gap between Leatherhead and Tyrrell's Wood being infilled. Because some of the key public views of the appeal site are from within the AGLV to the south, the proposal would also harm the setting of the AGLV. There would also be some harm to the wider green swathe from the urbanisation of the site within this open, green area, albeit this would be limited because that feature cannot be perceived as one entity.
25. I acknowledge that the built form could be set back from Headley Road and that additional planting could be secured by condition to further screen the proposal from the road. However, there would be the loss of some vegetation from Headley Road to facilitate access, which would afford some views of the proposed built form behind. This would harm, albeit only slightly, the currently rural character and appearance of this part of the road. I acknowledge that the incongruous cypress trees would be removed, which would be a benefit. However, this would not fully mitigate the wider harm to the character and appearance of the road that I have identified.
26. The proposed off-site works as secured in the s106 include trimming of vegetation and traffic calming measures along Headley Road. However, the detail of this could be controlled by a combination of conditions and discharging the relevant clauses of the s106. There are already traffic calming measures further to the west on Headley Road, within the RASC, so this is an established part of the character and appearance of the area. Because of the intervening bypass and vegetation, there would be no effect from the proposed development on the appeal site on the setting of the RASC. There would not, therefore, be any harm from the proposed development on the RASC.
27. The Surrey Hills National Landscape⁴ lies to the south of the appeal site. The boundary starts fairly far south of the site, on the opposite side of Givons Grove and other built form to the south of Leatherhead. Due to the distance

⁴ Rebranded from Surrey Hills Area of Outstanding Natural Beauty on 22 November 2023 by Government.

and the intervening features, there is no meaningful inter-visibility between the appeal site and the National Landscape. I am aware that there is an ongoing review of the boundary of the National Landscape and that it might be increased in area to include the AGLV, which lies nearer the appeal site. However, the outcome of that review is uncertain and I place very limited weight on this factor. The proposals would not, therefore, harm the setting of the National Landscape.

Conclusion

28. Overall, the proposal would result in moderate harm to the character and appearance of the area. This would primarily be from the intrinsic loss of open, agricultural land on the site itself and the consequential loss of an important gap between the current extent of built form of Leatherhead and separate development at Tyrrell's Wood, and harms to public views from the south. There would also be harms to views from some surrounding properties, to the wider green swathe, from the proposed density being greater than that of the existing built form to either side, and to the rural character and appearance of Headley Road.
29. The proposal therefore fails to comply with Policies CS13, which requires development to respect the character and distinctiveness of landscape character, and CS14 of the CS, which requires development to respect the character of built-up areas. It also fails to comply with LP policies, as follows: Policy ENV4, which requires proposals to not detract from the character of the local landscape; Policy ENV22, which requires proposals to respect the character and appearance of the locality; Policy ENV23, which requires development to respect its setting including the surrounding built environment and public views warranting protection; Policy ENV24, which requires proposed buildings to not have a cramped appearance when compared to the spaces around buildings in the locality; and, Policy ENV25, which requires high quality landscape design. However, the proposal does not conflict with Policy ENV17 of the LP, because it would not harm the character of the RASC.
30. The proposal fails to comply with Chapter 12 of the Framework, which requires high quality design. It also fails to comply with Paragraph 174 of the Framework, because there would be harm to the setting of the AGLV, which is a valued landscape. It would not, though, conflict with either this paragraph or the statutory duty⁵ to conserve or enhance National Landscapes, because there would be no harm to the setting of the Surrey Hills National Landscape.

Location

Policy

Adopted

31. Policy CS1(1) of the CS directs development towards land within the built-up areas of various towns, including Leatherhead. The appeal site is outside the built-up area of Leatherhead and therefore in the countryside as defined by this policy. The policy does not, though, explicitly restrict development outside built-up areas. Instead, part (3) states that development in the countryside will be considered in light of other policies within the CS, as well as national policy.

⁵ Section 85 of the Countryside and Rights of Way Act 1990 (as amended).

32. The other policy in relation to the location of residential development is Policy CS2. The policy gives priority to residential development on land within the built-up areas. The policy does not, though, explicitly prohibit development in other areas. Nor does any of the supporting text. The other policy in relation to the location of elderly-persons accommodation is Policy CS3. The policy states that new housing for the elderly will be encouraged in suitable locations. This is the only reference in the CS to older persons housing. 'Suitable locations' is not defined but the policy is a housing policy that sits below both Policy CS1 and CS2 and can therefore reasonably be read as adopting the same approach, perhaps with a greater emphasis on accessibility to local services.

Emerging

33. The 'GB-in' eLP does not change the built-up area boundaries. The appeal site therefore remains in the countryside as defined by policy. Part (3) of ePolicy S1 of the eLP sets out the spatial strategy for the District. It directs development, including residential development, to brownfield sites and also releases sites in the GB. The appeal site does not fall within any of the released sites. Part (4) of the policy states 'Leatherhead area' rather than 'in Leatherhead' but this part of the policy clearly should be read in the context of part (3). It also does not, therefore, support the principle of development outside the built-up area of Leatherhead. However, the policy does not explicitly preclude development outside built-up areas. Proposals outside are not, therefore, automatically in conflict with the spatial strategy and should be judged against the other policies in the eLP.
34. ePolicy EN1 is a relevant other policy. This is in relation to land within the GB and it sets out a policy position consistent with the Framework. ePolicy H1 is also relevant as it relates to housing delivery. Part (g) of the policy allows for housing to come forward on windfall sites, but this can only be read in the context of other policies in the eLP, ie ePolicy EN1 for proposals on GB land. ePolicy H6 of the eLP relates to older persons housing. It sits underneath the spatial strategy of ePolicy S1 and therefore the same conclusions apply as set out above for that policy.
35. Part (4) of Policy CS1 of the CS sets out that the Council will review the GB boundaries to ensure there is sufficient land available to meet development requirements. This acknowledges that the Council expected to need to release more land for development, including housing. This review was not undertaken. However, the eLP has, in effect, become that review. The outcome of that review remains uncertain whilst the eLP is paused and it is unknown what version will be taken forward, other than that if the GB-in version is taken forward, the appeal site remains unallocated and in the GB. If GB sites are needed to be released, and which ones if so, is therefore currently undecided. I do not view it as the place of this appeal to open up this debate, which should be undertaken in full considerations of the wider implications for the spatial strategy as part of the eLP examination process.

Accessibility

36. There are existing bus stops on Headley Road in the appeal site's immediate vicinity, providing services to Crawley, Epsom, Dorking and Leatherhead. Leatherhead train station is just under one mile to the west of the site, with services providing around six trains per hour to London. Leatherhead town

centre, which is a top-tier settlement and provides a wide range of services and facilities, is also just under one mile to the west of the site. In addition, the site is between one and two miles from several employment areas, business parks retail parks and commercial units.

37. It is proposed to provide improved pedestrian links into Leatherhead, in particular through a toucan crossing over the A24 bypass. I acknowledge that it would still be a long walk to the town centre, including up and down hills, and that the existing pavements are in places quite narrow, in addition to various other hazards as one would expect walking through a town. These factors combined with the distance would make it unlikely that many of the future residents of the IRC would regularly walk to local services and facilities. However, a demand responsive bus service, as secured in the s106, is proposed. Future IRC residents would therefore have relatively easy access to Leatherhead and a viable alternative mode of transport to the car.
38. Albeit to a lesser degree, the same factors would likely discourage the future occupants of the residential dwellings from regularly walking into Leatherhead. However, it remains an option. There are several bus services nearby and the train in Leatherhead. Therefore, future residents would have a realistic option of alternative modes of travel to the car.

Conclusion

39. Both adopted and emerging policy prioritises residential and extra care development in built-up areas. However, proposing such development in the countryside does not cause a direct in-principle conflict with either Policy CS1 of the CS or ePolicy S1 of the eLP. Implementation policies CS2 and CS3 of the CS and ePolicy EN1, H1 and H6 of the eLP do not add anything material to this strategic position. The appeal site is accessibly located, being close to a range of transport modes and relatively close to the higher order centre of Leatherhead. It is also proposed to provide meaningful mitigatory measures such as the demand responsive bus service and the toucan crossing.
40. The appeal site is, though, located in the GB. There is no evidence before me that any version of the eLP, when taken forward, plans to remove the site from the GB or otherwise allocate it for development. This is the case even in the 'GB-out' version of the eLP. This is a key difference to the recent appeal decision⁶ submitted by the appellant. Whether or not the proposal is in an acceptable location must therefore be considered in light of GB policy, as set out in the Framework and echoed in ePolicy EN1 of the eLP. I turn to this as part of the GB assessment and balance later in my Decision.

Affordable Housing

Provision

41. Policy CS4(2)(c) of the CS requires 40% of dwellings to be affordable. ePolicy H3(2) of the eLP also requires 40% of dwellings to be affordable. 27 affordable residential (class C3) dwellings are proposed. This would equate to 50% of the proposed residential homes, which is in excess of both the adopted and emerging policy requirement and therefore complies with both.

⁶ Ref APP/C3620/W/23/3324631, dated 28 November 2023.

42. The IRC element of the proposal is also liable for affordable housing, as set out at Paragraph 6.1.41 of the CS. The appellant has submitted a Financial Viability Appraisal⁷ which considers the whole scheme including the IRC. This concludes that the proposal cannot viably support affordable housing within the IRC, either on-site or via a financial contribution. The Council has reviewed the appraisal and, despite some concerns with some of the data inputs, agrees with the conclusion. I see no reason to disagree. Policy CS4(2) of the CS is clear that affordable housing is only required where viable. The supporting text⁸ to ePolicy H3 of the eLP makes it clear that the Council can agree to lower levels of affordable housing due to viability. The proposed provision of zero affordable housing for the IRC element of the proposal also therefore complies with both policies.

Review mechanism

43. Paragraph 65 of the Framework sets a minimum expectation of at least 10% of dwellings to be affordable. As set out above, the Council's target is 40% in both adopted and emerging policy, which is consistent with the Framework because paragraph 65 merely sets a minimum expectation for affordable housing provision, not an upper limit. I do not, therefore, discount any weight from the affordable housing policies with regard to paragraph 65.
44. Policy CS4 of the CS does not refer to review mechanisms. The supporting text⁹ states that viability negotiations will ensure an alternative level of provision is secured. This neither explicitly supports nor rules out review mechanisms. ePolicy H3 of the eLP does not mention review mechanisms. However, the supporting text¹⁰ states that the Council can reassess viability at later phases in the development, thereby supporting the principle of late-stage review mechanisms.
45. Late stage reviews help to ensure that the level of affordable housing secured accurately reflects the true financial viability of the proposal at the time of development. Given the importance of securing suitable levels of affordable housing, and that although there is limited direct support there is also no restriction set out in adopted or emerging policy, I therefore conclude that a late stage review is necessary and acceptable. The review must, though, only relate to the IRC element of the proposal because the affordable housing provision for the class C3 element would be above policy requirements. This is what has been secured in the s106.
46. Whether or not any such late stage review would lead to the requirement for a contribution towards affordable housing would be borne out through the review. It is not, therefore, necessary for me to consider the likelihood of the review resulting in a requirement for affordable housing at this stage. In addition, whether or not the inclusion of a late stage review would create problems for funding the IRC element of the proposal does not affect the policy position set out above. In any event, no specific evidence has been provided that any funders have raised concerns regarding a late-stage review. This, therefore, whilst a material consideration, only carries limited weight.

⁷ See Appendix G to Richard Garside's Proof of Evidence, CD8.17.

⁸ See paragraphs 4.16 to 4.18.

⁹ See paragraph 6.1.37.

¹⁰ See paragraphs 4.17 and 4.18.

47. I acknowledge that a late stage review mechanism was not required for the 5 Central Avenue¹¹, Clive House¹² or 8-14 Oatlands Drive¹³ appeal decisions. However, Central Avenue and Oatlands Drive were in a different District with a different policy backdrop, and all were for smaller developments of a different nature. These do not, therefore, provide precedent.

Conclusion

48. For the reasons set out above, an acceptable level of affordable housing is proposed, both with regard to the proposed class C3 and IRC accommodation, subject to the late stage review mechanism secured in the s106. The proposal therefore complies with Policy CS4 of the CS and ePolicy H3 of the eLP, and the CIL Regulations 2010 (as amended).

Green Belt

Inappropriate development

49. It is common ground, and I agree, that the proposed construction of several buildings on an undeveloped field would be inappropriate development in the GB, as defined by Paragraph 149 of the Framework.

Essential characteristics

50. As set out at Paragraph 137 of the Framework, the essential characteristics of green belts are their openness and their permanence.

Permanence

51. The proposal is for a mixed residential and IRC scheme including a number of buildings and other infrastructure and built form. It is the clear intention that the proposed development would remain indefinitely. Therefore, any harm that I identify to the GB would be, to all intents and purposes, permanent.

Openness

Spatial

52. Spatial openness means the absence of built development. At present, the appeal site is an open field and some woodland. The proposal would be for substantial built form across the majority of the site. There would be some areas of open space and there would be gaps between buildings even in the 'developed' areas of the site. However, the areas of open space would be relatively limited and the amount of built form significant even allowing for gaps. The proposal would also result in the change from a very low activity site to one with significant ongoing movements, including by car. There would therefore be a significant loss of spatial openness. Whether or not this could be perceived from outside the appeal site is not a relevant consideration with regard to spatial openness.

¹¹ Ref APP/K3605/W/22/3309746, dated 18 July 2023.

¹² Ref APP/K3605/W/19/3233523, dated 28 July 2020.

¹³ Ref APP/K3650/W/20/3261529, dated 16 June 2021.

Visual

53. The loss of spatial openness that I have identified above would be appreciated within the appeal site. This is not currently public land but the intrinsic loss of visual openness is still a relevant consideration.
54. Planting is proposed to the southern boundary. The taller buildings would be towards the centre of the site. These factors help to reduce the visual effect on openness. However, the proposed built form would be visible, even once the proposed landscaping has matured. For example, in glimpsed views from Headley Road, particularly in winter and also where the new vehicular entrance is proposed. It may even be visible, albeit to a lesser extent, through the existing and any proposed boundary vegetation from the A24 bypass. Further views would be afforded from some neighbours in Tyrrell's Wood, and from users of Stane Street and the public right of way to the south. Although to an extent concentrating on their game, golfers do often stand up and appreciate their surroundings whilst playing, and the proposed built form would also be visible to players on the course to the south.
55. The GB is a spatial designation, not a landscape designation, so it is also important to consider that the proposed planting itself would also harm visual openness, by foreshortening and interrupting current views over open land.
56. The views from the south would mostly be of the proposal in the context of the existing dwellings within Leatherhead and/or Tyrrell's Wood. However, the appeal site itself is highly open and this context only partially mitigates the proposed significant loss of visual openness on the site.

Overall

57. There would therefore be a significant loss of openness as a result of the proposal and this loss would be permanent, causing significant harm to the essential characteristics of the GB.

Green Belt purposes

58. The GB serves five purposes, as set out at Paragraph 138 of the Framework. I assess the proposal against these purposes below.

To check the unrestricted sprawl of large built-up areas

59. The appeal site is open land directly to the east of Leatherhead. This is part of an unbroken area of open land that wraps around the east and south sides of Leatherhead. The proposal would introduce relatively dense built form across the majority of the site and would extend the built development of Leatherhead eastwards beyond an existing clear boundary created by the A24 bypass. I acknowledge that Leatherhead extends further south. However, this is all contained within the boundary created by the A24 bypass. The proposal is a clear extension beyond this.
60. There is also existing built form further to the east, in the form of Tyrrell's Wood. However, Tyrrell's Wood is historic sprawl which is well established and low density, with significant green boundaries. Leatherhead is the large built-up area, not Tyrrell's Wood. The clear restriction on sprawl is the existing eastern edge of Leatherhead which is particularly robust and well defined by

the A24 bypass. The proposal would therefore result in the unrestricted sprawl of a large built-up area and would conflict significantly with this purpose.

To prevent neighbouring towns merging into one another

61. The appeal site is to the south and east of Leatherhead. The nearest towns either to the south or east are Dorking to the south and Tadworth to the east. Both are several miles from Leatherhead. The proposal would not result in any material merging of the towns and it is common ground, and I agree, that there would be no conflict with this purpose.

To assist in safeguarding the countryside from encroachment

62. The appeal site is very clearly the countryside because it is an agricultural field with some areas of woodland. The proposal would significantly urbanise the site through its extensive built form. This would be a clear case of the encroachment of urban development and built form in the countryside. I acknowledge there are some existing urbanising features surrounding the site. However, these areas, primarily Tyrrell's Wood, Givons Grove and the eastern edge of Leatherhead, are relatively low density with significant greenery and are relatively well screened. In addition, this does not mitigate the proposed encroachment onto the countryside of the appeal site itself. The proposal would therefore conflict significantly with this purpose.

To preserve the setting and special character of historic towns

63. Leatherhead contains conservation areas and listed buildings. However, the historic elements of the town are largely to its centre. It has been enveloped by more modern development. In places, this is also a special character, including the suburb around Reigate and Headley Roads which is close to the appeal site and has been found to be a Residential Area of Special Character¹⁴. However, even these areas are not historic and are, in any event, clearly separated from the appeal site by the A24 bypass. The proposal would not, therefore, conflict with this purpose.

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

64. This is a policy position and not a site specific consideration. With regard to the proposed IRC, the appellant has submitted an Alternative Sites Assessment – Integrated Retirement Community, dated September 2023 (ASA). The ASA makes a number of assumptions. These stem from the methodological decision to focus the search on countryside-setting IRCs. I agree with this approach because the proposed IRC is a particular type of product that is developed in a countryside setting because of the amount of land required to provide the communal facilities and associated landscaping. That other types of IRC or other elderly persons accommodation could be provided on derelict and urban land is not, therefore, a relevant consideration. I therefore adopt the conclusion of the ASA, which is that there are no alternative non-GB sites for IRC developments of the type proposed.
65. With regard to the proposed residential element of the development, there are a number of alternative sites suitable for housing in non-GB locations, including several site allocations in both adopted and emerging policy. There

¹⁴ See the Built Up Areas Character Appraisal Leatherhead, adopted February 2010 – CD2.05.

are also likely to be further windfall sites that come forward. However, the Council is not currently meeting its housing need and the housing need will significantly rise on adoption of the eLP. Even in the 'GB-in' version of the eLP, it is only proposed to meet 77% of the objectively assessed need for the District. This would fall to 60% if the 'GB-out' eLP were to come forward and be adopted. Therefore, there is likely to be ongoing pressure for development for housing on greenfield sites and also in the GB, whatever version of the eLP is eventually adopted. Nevertheless, this does not mean that all GB sites are suitable for development. They must be looked at on their own merits and the appeal site is quite patently neither derelict nor other urban land, which is not always the case within the GB. There is, therefore, a moderate conflict with this purpose, from the residential element of the proposed development.

Conclusion

66. The proposed inappropriate development would be permanent and result in the significant loss of openness, causing significant harm to the essential characteristics of the GB. The proposal would also cause significant conflict with two of the five purposes of the GB, and moderate conflict with a further purpose. The proposal therefore conflicts with Paragraphs 137 and 138 of the Framework and also ePolicy EN1 of the eLP, which reflects the Framework.

OTHER MATTERS

Objections

67. A number of letters of objection have been submitted, including from the Headley Residents Action Group, the Tyrrells Wood Estate Association, Headley Parish Council, Councillor Slater and the Leatherhead Residents Association. Several persons also appeared at the Inquiry, as set out in Annex A. I have addressed the objections throughout my Decision. In addition, the letters of objection particularly highlighted concerns with highway safety, the free-flow of traffic, harm to air quality and noise pollution. I address these issues below.

Highway safety

68. Local residents' concerns are particularly with regard to the safety of existing footpaths leading from the appeal site into Leatherhead, the proposed toucan crossing, and visibility at the proposed access points.
69. The footpath into Leatherhead, although narrow in places, is always of a useable width. It is an existing footpath with a relatively high footfall and I have seen no substantiated evidence regarding it being unsafe. A Road Safety Audit has been submitted and has found no concerns. The toucan crossing would be on a relatively straight piece of road with good visibility in all directions. The crossing time could be set at a level to be appropriate for use by elderly people. The land required for the proposed access points and visibility splays along Headley Road is either in the ownership of the appellant or the HA and I can therefore be confident that adequate visibility could be provided and maintained.
70. The Highways Authority (HA) does not object to the proposal, subject to traffic calming measures. The full detail of this is not before me. However, I see no reason why these measures could not be implemented, in discussion

with the HA, in a manner which sustains and possibly enhances highway safety.

Free-flow of traffic

71. The submitted highways and transport evidence demonstrates that the level of trip generation resulting from the proposed development would not materially affect local traffic flows and is acceptable in these terms. The HA agrees and does not object to the proposal. I have seen no substantiated evidence that would lead me to a different conclusion.

Air quality

72. There is no Air Quality Management Area at or near to the appeal site. The Air Quality Assessment, dated July 2022, by Air Quality Consultants¹⁵ concludes that the traffic that would be generated by the proposal would not have a significant effect on air quality. I have seen no substantiated evidence that would lead me to a different conclusion.

Noise

73. The main source of noise is the A24 bypass. Significant existing and proposed vegetation would be along this boundary, helping to screen this noise. The proposed dwellings could be controlled by condition to provide suitable glazing and other measures to provide some mitigation against noise pollution. With regard to the effect of the proposal on existing occupiers, the limited traffic that would be generated by the proposal would not have a significant effect on noise. I have seen no substantiated evidence that would lead me to conclude that any increase in noise would be to such a degree that it would materially harm the living conditions of neighbouring occupiers.

PLANNING BALANCE

74. As set out at Paragraph 147 of the Framework, inappropriate development should not be approved except in 'very special circumstances' (VSC). Paragraph 148 confirms that VSC will not exist unless the potential harm to the GB and any other harms resulting from the proposal are clearly outweighed by other considerations. I conduct this assessment below.

Harm

To the Green Belt

75. The proposed inappropriate development would be permanent and result in the significant loss of openness, causing significant harm to the essential characteristics of the GB. The proposal would also cause significant conflict with two of the five purposes of the GB, and moderate conflict with a further purpose. I place substantial weight on this harm, as directed by Paragraph 148 of the Framework.

Non-Green Belt harm

76. There would be moderate harm to the character and appearance of the area as a result of the proposal. I place significant weight on this harm because of the importance of achieving good design and appropriately located

¹⁵ CD1.20.

development, as set out throughout the Framework, particularly in Chapter 12.

Other Considerations

IRC - Need

Type of accommodation

77. There are various types of older persons accommodation. 'Housing with care' and/or extra care is for self-contained flats with significant communal facilities and care provided on-site. Sheltered housing is for self-contained flats with limited communal facilities and either no, or very limited, on-site care¹⁶. The key distinction is the availability or not of on-site care. The proposed IRC would be for self-contained units with extensive communal facilities and with care to be provided on-site. It is therefore common ground, and I agree, that the IRC would fall under the definition of 'Housing with care' and/or extra care but not sheltered housing. The provision of care is also what firmly places the proposed IRC in use class C2, because the definition¹⁷ states that it is for residential accommodation for people in need of care. Enhanced sheltered housing (ESH) falls between the two, which I assess below.
78. The Elderly Accommodation Counsel (EAC)¹⁸ specifically defines ESH as including additional shared facilities over and above sheltered housing, but not on-site registered care provision. The Associated Retirement Community Operators (ARCO)¹⁹ does not provide a definition for ESH but it does re-iterate the key distinction between sheltered housing and extra-care housing as being the availability or not of on-site care. Housing LIN does not specifically mention on-site care in its definitions²⁰. More Choice Greater Voice, February 2008 allows for care for residents of ESH but does not specify that it must be provided on-site. A subsequent paper²¹ suggests merging ESH with 'Housing with care'/extra care. However, this does not affect the original document and is only a discussion paper, not adopted policy.
79. Overall, the key distinction between either ESH or sheltered housing and 'Housing with care'/extra care accommodation is the availability or otherwise of on-site care. I acknowledge that in some instances ESH may provide on-site care, but it is not a requirement. The amount of facilities provided is also a relevant factor but is not determinative to the same degree. I therefore view ESH, which does not require on-site provision of care, as being a subset of sheltered housing. It should not, therefore, be included in any quantitative calculation of need for the proposed IRC.
80. However, the differences between ESH and IRC accommodation are relatively small. Part of the offer of an IRC is the ability to move in whilst only requiring limited care but knowing that this care can be increased over time without needing to move. It is therefore possible that some persons either currently

¹⁶ See PPG Paragraph 010 Reference ID 63-010-20190626, More Choice Greater Voice, dated February 2008 (CD5.137), EAC Data Products Guide, dated August 2020 (CD5.138), and An IRC in Every Town ARCO's Manifesto for Older People's Housing, dated June 2023 (CD5.130).

¹⁷ See Article 2 of the Use Classes Order 1987 (as amended)

¹⁸ See EAC Data Products Guide, dated August 2020 – CD5.138.

¹⁹ See An IRC in Every Town ARCO's Manifesto for Older People's Housing, dated June 2023 – CD5.130.

²⁰ See Housing LIN Factsheet 1 (CD5.132) and Housing in later life planning ahead for specialist housing for older people', dated December 2012.

²¹ Housing LIN and Elderly Accommodation Counsel – shop@ Analysis Tool Review – CD5.136.

living in ESH or considering whether or not to do so, might also consider living in an IRC. This is an important qualitative consideration.

Prevalence rate

81. There is a critical need for older persons accommodation, as set out in PPG²². However, nowhere is it set out in government or local policy what 'critical' means in terms of prevalence rates or otherwise in the quantitative calculation of need. Therefore, the prevalence rate should be the most accurate reflection of true need possible. To do anything else in response to PPG would be to adopt a 'policy on' approach which is an unsound methodological approach to the quantitative calculation of need.
82. At the Inquiry, two principal toolkits for the calculation of a prevalence rate (PR) were discussed. The first is Strategic Housing for Older People (SHOP@). This is recommended by PPG. It has a PR for extra care of 25 per 1,000 persons aged 75 or over²³. The second is the Housing in Later Life (HILL) toolkit²⁴. It has a PR for extra care housing of 45 per 1,000 persons aged 75 or over. Both toolkits have a separate PR for ESH, which I have not used in my calculations below for the reasons set out above.
83. SHOP@ is based on data from Wokingham. However, it also includes figures based on 'norms', which attempt to consider future need and applicability beyond Wokingham. I acknowledge that the data SHOP@ is based upon is getting fairly old now. However, the HILL figures are based on Bury Metropolitan District Council and no evidence has been provided to me of what the differences might be between the prevalence rate for Bury compared to Mole Valley. I cannot therefore be confident that the HILL toolkit is either accurate or applicable to this appeal. Therefore, whilst both the toolkits have limitations, I adopt the SHOP@ PR of 25 per 1,000 people aged 75 or over as the basis of a quantitative calculation of older persons housing need.
84. I acknowledge that previous appeal decisions have adopted the HILL PR²⁵. However, I am not aware of the detail of the evidence that was submitted in relation to that topic for those appeal decisions. I have made my conclusion on the basis of the evidence before me for this appeal.

Tenure

85. SHOP@'s PR of 25 per 1,000 is based on rented and for sale accommodation combined. In Surrey, the proportion of home owners is 73%/27% affordable/rented accommodation. The proposed IRC would be entirely private. Therefore, the relevant PR for the appeal proposal is 73% of 25 which equates to 18.25, or 1.83% of the population over 75 years of age.

Need calculation

86. The population of persons aged 75 or older in the District was 12,016 in the 2011 Census and 11,811 in the 2021 Census. I see no reason not to use the

²² PPG Paragraph: 001 Reference ID: 63-001-20190626.

²³ See Table 23, More Choice Greater Voice, dated February 2008 (CD5.137).

²⁴ See Table 19, Housing in later life planning ahead for specialist housing for older people, dated December 2012 – CD5.134.

²⁵ For example: Ref App/F0114/W/21/3268794, dated 2 September 2021 (CD4.24); Ref APP/Q3115/W/20/3265861, dated 25 June 2021 (CD4.10); and, Ref APP/D3830/W/19/3241644, dated 11 September 2020 (CD4.26).

most up-to-date Census figures, and the difference is negligible in any event. 1.83% of the 2021 Census population equals a need for 216 dwellings.

Supply

87. There are no existing private sector extra care or IRC developments in the District. There is only one scheme in the pipeline for a similar type of IRC and with the potential to be delivered either before, at the same time, or soon after the appeal proposal, ie in or around 2026. This is Headley Court, for 112 dwellings.

Quantitative residual need calculation

88. The residual need in the District for 'Housing with care'/extra care of a type similar to that proposed is therefore 216 minus 112 equals 104 dwellings. This is a relatively large, but not excessive, net need. The proposed 125 dwellings of IRC would be in excess, but only slightly, of this residual need.

Qualitative considerations

89. The quantitative need figure is important. However, it is arrived at through a series of methodological decisions, and on the basis of data and predictions that necessarily contain a series of nested assumptions. It is also, therefore, important to consider the qualitative need for private IRC accommodation.
90. The appellant has provided data both for a seven mile catchment to the appeal site and for the District as a whole. The important quantitative calculation is that relating to the District. This is because this relates to the wider spatial strategy of the Council, and allows for direct comparison between supply and demand and therefore a more accurate understanding of need. I do, though, acknowledge that the fact there is identified need in the catchment of the proposed IRC is a material, qualitative consideration.
91. The s106 defines a Qualifying Person for the IRC homes to be aged 65 or over. It is therefore necessary to also consider the need from persons aged 65 to 74. I have not been provided with a robust methodology to calculate the need within this age range but the appellant has estimated that this age range would generate a need for a further 60 dwellings, based on the 2021 census figures, which provides a helpful yardstick to understand the approximate scale of this likely need. This is an important qualitative consideration.
92. There are several sites coming forward that are likely to provide at least some relevant supply, if not by the time the appeal proposal would likely be delivered, then at least in the near future. These are currently either at pre-application, application, or draft allocation stage. These are material considerations, however I place limited weight on them because the delivery, timing and nature of these sites is uncertain.
93. The following are also important material considerations: the critical nature of the need for older persons accommodation; residual demand from persons either currently in or desiring ESH; that when a person develops a need for IRC accommodation it can often be fairly sudden and it is important that it is met quickly; and the importance of providing a range of types of elderly persons accommodation.

Overall

94. Taking all the above into account, I place significant positive weight on the proposed IRC accommodation.

IRC – other

95. The IRC accommodation would result in some existing housing, likely mostly family-sized, being released into the market when the occupants move into the IRC. Not all the future residents of the IRC would likely come from within the District, but it is likely that a large number would. The predicted number used in the Inquiry, as common ground, is that 78 dwellings would be released. This is an important benefit that would help to meet the housing need in the District. I place significant positive weight on this factor.
96. The appellant has provided an uncontested figure that the proposal would result in a £570,000 annual saving for the National Health Service (NHS) because of the improvements to the health and wellbeing of residents within the IRC compared to if they had stayed within their existing homes. I see no reason to disagree with this assessment and I place moderate positive weight on the health benefits of the IRC and the wider savings to the NHS.
97. The proposed communal facilities would allow, at least in part, public access. I place limited positive weight on this factor.

Market housing

98. The Council's position is that they have a 2.9 years supply of housing land, based on a 'standard method' calculation. The Council set out various other scenarios. These either adjust the population projections and/or census data underpinning the housing need calculation or consider either the 'GB-in' eLP or 'GB-out' eLP.
99. However, Paragraph 74 and footnote 39 of the Framework and PPG²⁶ confirm that the 'standard method' should be used to calculate housing need for the purposes of assessing whether or not there is a five year supply of housing land. This includes using the 2014 based household projections²⁷, which PPG²⁸ makes clear are to be used not just for stability but also to reflect the Government's objective to significantly boost the supply of homes. Whether or not a more recent population projection is more accurate is not, therefore, a reason to deviate from the 2014 projections, which are an explicitly political position and integral to the 'standard method'.
100. With regard to relying on the eLP, exceptional circumstances would need to be demonstrated, as set out at Paragraph 61 of the Framework. Given the uncertainties regarding the eLP that I have set out above, and the uncertainties regarding the content and timing of its adoption, exceptional circumstances are not demonstrated.
101. I therefore place limited weight on the alternative scenarios and adopt the 'standard method' calculation of 2.9 years. Whether or not this should be lower because some sites relied upon by the Council are undeliverable and/or by the introduction of a lapse rate was discussed at the Inquiry. However,

²⁶ See PPG Paragraph 005 Reference ID 68-005-20190722.

²⁷ See PPG Paragraph 004 Reference ID 2a-004-20201216.

²⁸ See PPG Paragraph 005 Reference ID 2a-005-20190220.

even the appellant's 'low point' calculation is 2.6 years²⁹. This is not a difference that would materially affect the weight I apply to the proposed market housing, so I do not consider these factors further.

102. In the context of the above, I place substantial positive weight on the proposed provision of market housing.

Affordable housing

Need for affordable housing

103. It is common ground, and I agree, that the net affordable housing need is 143 dwellings per annum (dpa), that the current shortfall is 248 homes, and that it is increasing. It is difficult to ascertain the specific need for Leatherhead. It is even more difficult to focus in further on the Leatherhead South Ward. For example, individuals on the housing register who have expressed a preference for this ward might also have expressed preferences for other areas both in Leatherhead and other towns. However, at a District level there is a clear and increasing shortfall of affordable housing and there is no substantiated evidence before me that the need within Leatherhead is materially lower or higher than the District as a whole.

Delivery

104. Only 66 affordable homes have been delivered over the past three years. The Annual Monitoring Report 2020/21³⁰ shows that only 42 affordable homes have been delivered per annum in the Core Strategy period, which equates to 21% of total provision. This does not meet the CS identified need of 47.5 dpa and is even less when considered versus the actual real world need. There has therefore been a persistent under-delivery of affordable housing in the District when compared against both theoretical and actual need.
105. The eLP contains a policy requiring 40% affordable housing provision and a tightening up of the approach to viability. It also allocates several sites including an expectation of affordable housing. It is likely that delivery of affordable housing will therefore improve upon adoption of the eLP. However, as set out above, the timing and nature of this adoption is uncertain. Even if it were to proceed, then there would be a shortfall of anticipated affordable housing delivery of 625 homes throughout the eLP period. This is on adoption. Even the 'GB-in' scenario would still lead to a significant shortfall of 125 homes. This approach may or may not be consistent with the Framework due to other considerations but that does not stop the effect this likely shortfall in delivery will have on real world affordable housing need.

Indicators

106. Approximately 42 households are in either temporary or interim accommodation. It might be slightly lower if there is double counting with the housing register or higher depending on households moving since the count was made. As of March 2022, there were 670 households on the housing register, a 15% increase year on year. Lower quartile private sector rents in the District are higher than the south east region average, at £950 per month versus £775 per month. The affordability ratio, which is a ratio of annual

²⁹ Conceded under cross-examination.

³⁰ CD3.10.

income versus house prices, was 13.85 in 2022, representing an increase from 9.62 in 2012 and above the south east average of 10.75.

107. I acknowledge that the supply of affordable housing is only one of several macroeconomic and other considerations that feed into these indicators. However, it is an important part of the consideration. The contribution towards affordable housing could only improve the indicators, or at least slow down any worsening, and would provide real accommodation for those in need.

Overall

108. The proposed affordable housing would be 50% of dwellings, exceeding the policy requirement by 10%. Both because it would be above policy requirement and because of the affordable housing failings of the District I set out above, I place substantial positive weight on the proposed provision of affordable housing.

Biodiversity

109. The proposal would achieve Biodiversity Net Gain (BNG) of 21% for habitats and circa 50% for hedgerow units respectively, equating to an overall BNG of 53% based on the Natural England Metric 4.0. This is from a low baseline because the appeal site is largely a field. However, it would still be a significant enhancement and the existing woodland, which is the most biodiverse part of the existing site, would largely be retained and also enhanced, providing new and improved habitats and connectivity. It also represents an increase in excess of even the eLP's potential requirement of a 20% BNG, and the forthcoming national requirement of 10. I place significant positive weight on this factor.

Economic

110. The proposal would create jobs during construction. In operation, the future residents would spend money on local goods and services. The IRC would also create permanent jobs. The appellant has estimated that the proposal would result in 141 full time equivalent jobs being created and further jobs indirectly. I have no reason to disagree with this assessment. I place significant positive weight on this factor.

Accessibility

111. The appeal site is accessibly located, being close to a range of transport modes and relatively close to the higher order centre of Leatherhead. It is also proposed to provide meaningful mitigatory measures such as the demand responsive bus service and the toucan crossing. I place moderate positive weight on these factors.

Community Infrastructure Levy

112. CIL payments of approximately £1m pounds would be generated by the proposal. Although the majority of these would be in mitigation of the effects of the proposal, there would still be some indirect benefits to the wider community from the projects and other measures that the payments would go towards. I place limited positive weight on this factor.

Green Belt Balance

113. The proposal would provide market and affordable housing, both of which attract substantial positive weight. There would also be significant benefits from the proposed IRC, BNG, release of family-sized housing, and economic factors. That the site is accessible and the benefits to the NHS are moderate benefits. There would also be limited benefits from the CIL payments and public access to the communal facilities in the IRC. This is a relatively large and weighty basket of positive other considerations.
114. However, the proposal would cause moderate harm to the character and appearance of the area, including to the setting of an AGLV, to which I attach significant weight. Importantly, it would cause significant harm to the essential characteristics of the GB, and result in significant conflict with two of the five purposes of the GB, and moderate conflict with a further purpose. I place substantial weight on these harms.
115. I therefore find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the VSC necessary to justify the development do not exist and the proposal fails to comply with Paragraph 147 of the Framework. The proposal therefore also conflicts with Policies CS1, CS2 and CS3 of the CS and ePolicies S1, EN1, H1 and H6 of the eLP, and by extension with the spatial strategy of both the adopted and emerging Development Plan.

Planning Balance

116. As set out above, the Council cannot demonstrate a five year supply of housing land. However, as also set out above, policies relating to the GB provide a clear reason for refusing the development proposed. The 'tilted balance' is not, therefore, engaged, and I must determine the appeal on the basis of s38(6) of the Act 2004. In this regard, the proposal fails to comply with the Development Plan when considered as a whole and there are no material considerations that would lead me to make a decision otherwise.

APPROPRIATE ASSESSMENT

117. The site falls outside the buffer zone for the Mole Gap to Reigate Escarpment Special Area of Conservation (the SAC). However, the scale of the proposal would likely attract lots of residents and increase pressure from recreation on the SAC. Therefore, had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, so I have therefore not undertaken an AA.

CONCLUSION

118. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward
INSPECTOR

ANNEX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Henderson, of Counsel. He called:

Duncan Clarke MRTPI	Planning Policy Manager, Mole Valley District Council (MVDC)
Nick Harper CMLI	Partner, Harper Landscape Architecture LLP
Kirsty Jones	Housing Services Manager, MVDC
Sherelle Munnis MRTPI	Deputy Development Manager, MVDC
Nicholas Molyneux CIHCM	Senior Consultant, Dixon Searle Partnership
John Woodroffe	Senior Commissioning Manager, Surrey County Council
Melissa Clarke	Deputy Development Manager and Solicitor, MVDC

FOR THE APPELLANT:

Matthew Reed KC. He called:

Stuart Crickett MRTPI	Director, Boyer
Colin McKay CEng MICE CMILT	Technical Director, WSP
Dr Ben Marner MEnvSc MIAQM CSci	Director, Air Quality Consultants Ltd
Daniel Gresswell-Nunn MRTPI	Senior Planner, Boyer
Christine Marsh CMLI	Associate, Hankinson Duckett Associates
Martin Court MIOA MCIEH	Senior Acoustic Consultant, Sharps Redmore Partnership
Dr Duncan Painter MCIEEM CEnv	Managing Director, Applied Ecology Ltd
Peter Hadfield MCIEEM	Senior Director, Ecology Solutions
Jessamy Venables MRICS	Director, Carterwood
Robert Belcher Retd FRICS	Consultant, Carterwood
Richard Garside MRICS	Director and Head of Development Consultancy, Newsteer
Robert Waite	Partner, Gateley PLC

INTERESTED PERSONS:

Hashi Mohamed, of Counsel	Representing the Tyrrells Wood Estate Residents Association
Sir Christopher Snowden	Local resident and representing local residents from Headley Road (west), Reigate Road, Highlands Road, St Nicholas Hill and Highlands Park
Nick Gordon	Local resident and representing residents from The Drive, Headley
Martyn Williams	Local resident and representing Leatherhead Residents Association

Dr Bernard Fisher
Selcuk Mustafa

Local resident
Local resident

ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

- 1 Appearances on behalf of the appellant
- 2 Appearances on behalf of the Local Planning Authority
- 3 Opening statement on behalf of the appellant
- 4 Opening statement on behalf of the Local Planning Authority
- 5 Tyrells Wood Estate Residents Association opening statement
- 6 Opening statement on behalf of residents of Headley Road (west),
Reigate Road, Highlands Road and Highlands Park
- 7 Letter dated 19 September 2023, from Alan C Scott to Mrs Nihal
Mustafa
- 8 Residents of The Drive opening statement
- 9 Statement by Martyn Williams of Leatherhead Residents' Association
- 10 Appeal decision, dated 25 June 2020, Ref APP/Y0435/W/17/3169314
- 11 Appeal decision, dated 22 March 2021, Ref APP/H2265/W/20/3256877
- 12 Statement of Common Ground – Housing Land Supply
- 13 Statement of Common Ground – Financial Viability, dated 4 October
2023
- 14 Email from Mrs Nihal Mustafa to Mr Alan Scott
- 15 S106 Planning Obligation DRAFT, dated 28 September 2023
- 16a Leatherhead South Ward Boundary Map
- 16b Parish Ward Map
- 17 Collated statutory consultee responses
- 18 Note on Council's Delegated Powers
- 19 Closing submissions on behalf of Mole Valley District Council
- 20 Closing submissions on behalf of the appellant
- 21 S106 Planning Obligation, dated 10 November 2023
- 22 Appeal Decision Ref APP/C3620/W/23/3324631, dated 28 November
2023
- 23 Post-Hearing Submissions on behalf of Mole Valley District Council,
dated 13 December 2023, by Matthew Henderson