



Appeal Decision

Inquiry held on 26 and 29 November, 5, 6, 9 and 10 December 2024 and 20 January 2025

Site visit made on 25 and 28 November 2024

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th January 2025

Appeal Ref: APP/M3645/W/23/3331609

Land North of Effingham Road, Keepers Corner, RH6 9RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms Charlotte James against Tandridge District Council.
 - The application Ref is 2022/299.
 - The development proposed was originally described as 'change of use of land to a gypsy and traveller caravan site'.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of land to a gypsy and traveller caravan site and erection of six day room chalets at Land North of Effingham Road, Keepers Corner, RH6 9RP, in accordance with the terms of the application, Ref: 2022/299, dated 15 February 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. An application for an award of costs was made by Ms Charlotte James against Tandridge District Council. This is the subject of a separate Decision.
3. The inquiry was originally due to open in May 2024 but was postponed pending the completion of the necessary consultations. The description of development was amended from that on the application form to incorporate reference to day rooms, this being operational development.
4. The Council, appellant and some interested parties submitted late evidence before the inquiry opened or during it. It was accepted as the information was relevant and in the main was either brief or submitted with adequate time for all parties to review it. The submission of a new Flood Risk Assessment necessitated amendments to the inquiry timetable to ensure all parties were able to review and comment on it. Some evidence was given under affirmation with the legal consequences of this explained to the relevant witnesses beforehand. The weight I have given this evidence reflects the gravity of the process.
5. Both the National Planning Policy Framework (the 'Framework') and the Planning Policy for Traveller Sites (PPTS) were revised during the Inquiry. The Council and appellant provided further comments on these documents, which I have considered in reaching my findings.

Background and Main Issues

6. The Council failed to determine the planning application within the prescribed period and therefore the appellant exercised their right to submit this appeal. The Council has confirmed through putative reasons for refusal that, had it been able to do so, it would have refused the proposal. The concerns expressed in the putative reasons for refusal have formed the basis of the main issues, albeit amended to reflect updates and altered positions.
7. Indeed, following further submissions from the appellant, and before the Inquiry opened, the Council removed its concerns relating to the effect of the proposal on bats and the appellant's access rights. The evidence indicates they were correct to do so. During the Inquiry, the Council removed its objections on flood risk and drainage following the appellant's submission of a flood risk assessment.
8. Following the publication of the latest version of the Framework the appellant altered her case to argue that the site is 'Grey Belt' land and meets the relevant tests for being 'not inappropriate' development in the Green Belt, including being in a 'sustainable location'. I have considered this as a main issue.
9. Thus, the main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would incorporate a safe and suitable highway access, with particular reference to visibility; and
 - Whether the proposal would deliver a biodiversity net gain (BNG).

Reasons

Whether the proposal would be inappropriate development

10. Inappropriate development in the Green Belt is, by definition, harmful to the Green Belt. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 Part 2 (LP) states that planning permission for any inappropriate development in the Green Belt will normally be refused. Paragraph 10.5 of the Part 2 Plan defines inappropriate development with reference to the Framework.
11. Paragraphs 154 and 155 of the Framework define what types of development would not be inappropriate. The proposal would not be any of the types of development listed in Paragraph 154. Nevertheless, Paragraph 155 of the Framework explains that the development of traveller sites in the Green Belt should not be regarded as inappropriate development where:
 - It would utilise Grey Belt land and not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - There is a demonstrable unmet need for traveller sites, with reference to the five-year supply of deliverable traveller sites as required by the PPTS; and

- The development would be in a 'sustainable location', with particular reference to Paragraphs 110 and 115 of the Framework and Paragraph 13 of the PPTS¹.
12. In respect of the last criterion, I share the Council's view that it requires an assessment of whether the *location* is sustainable for the type of development proposed, and the focus of this assessment would be access to services and facilities by sustainable transport. Indeed, Paragraph 155(c) of the Framework directs decision makers to specific Paragraphs (Paragraphs 110 and 115) which relate to promoting sustainable transport. This is different assessment to whether the *proposal* would be sustainable development, as that would require economic, social and environmental factors to be balanced. Such an approach would be unwieldy simply to ascertain whether a scheme would be inappropriate development. It must also be borne in mind that Paragraph 9 of the Framework states that the economic, social and environmental matters listed at Paragraph 8 of the Framework are not criteria against which decisions can or should be judged.
13. Paragraph 13 of the PPTS is wider in scope than Paragraphs 110 and 115 of the Framework. This is mainly because it relates to plan making and therefore covers more issues. Paragraph 13 of the PPTS is only relevant to the question of whether a proposal would inappropriate development in the Green Belt in so far as the criteria therein help answer the principal question in Paragraph 155(c) - that being whether the development would be in sustainable location. Therefore, it is the locational factors in Paragraph 13 of the PPTS that are most relevant. In addition, I see no reason why Paragraph 13 of the PPTS should not be considered in the context of Paragraph 4(j) of the PPTS. Thus, the emphasis when undertaking an assessment for the purposes of Paragraph 155(c) of the Framework is likely to be whether the proposed traveller site would be located where integration with a community can occur and services such as health and education can be accessed. In essence, the relationship of the site to settlements, communities and services.

Whether the proposal would utilise 'Grey Belt' land

14. 'Grey Belt' is defined in the glossary to the Framework as land within the Green Belt which is previously developed and/or does not strongly contribute to purposes a), b) or d) of the Green Belt. Grey Belt excludes land where the application of policies relating to the areas or assets in Footnote 7 of the Framework (other than Green Belt) provide a strong reason for refusing or restricting development. For reasons I go into, the application of policies relating to areas and assets, as set out in Footnote 7 of the Framework, would not provide a strong reason for refusing or restricting development. In this case, the relevant policies are those relating to development in areas at risk of flooding².
15. The appeal site is not previously developed land. The assessment therefore turns on the effect on Green Belt purposes. In this instance, the appeal site is a small field surrounded on three sides by residential and commercial development. For reasons I will go into, the appeal site is not in open countryside. As a result, it does not make a strong contribution to preventing neighbouring towns merging into one another (Purpose B). Again, for reasons I will go into, Keepers Corner is a small settlement, but not a large built-up area. As such, the appeal site does not make a

¹ It is not entirely clear whether Footnote 57 of the Framework states that in cases involving traveller sites, Paragraph 13 of the PPTS should be considered *instead of* Paragraphs 110 and 115 of the Framework or *in addition* to those paragraphs. I adopt the latter approach as the parties did not make the case for the former.

² I share the view of the Council that the reference to habitat sites in Footnote 7 does not encompass BNG

strong contribution to restricting the sprawl of large built-up areas (Purpose A) or preserving the setting and special character of historic market towns (Purpose D). Thus, the appeal site does not strongly contribute to the three purposes of the Green Belt referred to above. It is therefore 'Grey Belt' land.

Whether the proposal would fundamentally undermine Green Belt purposes

16. Like most sites in the Green Belt, the appeal site supports the aim of recycling derelict and urban land (Purpose E). Nevertheless, the contribution in this respect is modest given the limited size of the site. The proposal would undermine the aim of safeguarding the countryside from encroachment because the site is undeveloped and designated as countryside in the development plan. However, it is contained on three sides by existing development and the fourth is the natural boundary of Keepers Corner. Accordingly, the appeal site has the characteristics of an open area within a settlement. As such, the appeal scheme would only moderately undermine the purpose of safeguarding the countryside from encroachment (Purpose C). Thus, the development of the appeal site, which is a small parcel of land that does not perform strongly against any Green Belt purpose, would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

Whether there is a demonstrable unmet need

17. As confirmed in a statement of common ground³, the Council and appellant agree that the Council is currently unable to demonstrate a five-year supply of deliverable pitches. Thus, there is a demonstrable unmet need for the proposed development.

Whether the development would be in a sustainable location

18. Paragraph 110 of the Framework seeks to actively manage patterns of growth to support the objectives in Paragraph 109 of the Framework. In this instance, the most relevant objective in Paragraph 109 (when considering whether the development would be in a sustainable location for the purposes of Paragraph 155 of the Framework) is pursuing opportunities to promote walking, cycling and public transport using a vision-led approach. This objective needs to be considered in the context that Paragraph 110 also states that opportunities to maximise sustainable transport will vary between urban and rural areas⁴. In other words, some allowance should be made for a site's rural location. However, that does not mean that all sites in rural areas should be considered equally. Some will be better placed for development than others when considering access to services and facilities.
19. Similarly, Paragraph 115 of the Framework states that sustainable transport modes should be *prioritised* when assessing applications, taking account of factors such as the type of development and its location. This is different from the previous version of the Framework, which only sought to promote appropriate opportunities for sustainable transport modes. This is quite a step change.
20. The development plan⁵ appears to set out what can be described as a vision-led approach to the sustainable location of development through a spatial strategy. It seeks to direct development to built-up areas with the precise location depending

³ Core Document (CD) 6.50

⁴ Paragraph 110 also seeks to focus significant development on locations which are, or can be made, sustainable. However, the appeal scheme is only for six pitches and is not, therefore, significant development.

⁵ See Paragraph 6.2 and Policy CSP1 of the CS and Policy DP5 and Paragraph 5.1 of the Part 2 Plan

on accessibility to facilities by suitable travel modes. Thus, the development plan identifies sustainable locations for development through Policy CSP1.

21. Keepers Corner is a small built-up area which only benefits from a handful of services, including allotments, a public house, a bus stop, a scout hut, a car show room, the Redehall Industrial Park and the Sussex Coachworks. As a result, it does not have a defined settlement boundary and therefore new development here seems to be at odds with the vision-led approach encapsulated in the spatial strategy in the development plan.
22. That said, Policy CSP9(f) of the CS states that *preference* will be given to gypsy and traveller sites which are accessible by non-car modes of transport. This policy does not set out a requirement that such sites must be accessible by non-car modes of transport. This seems to recognise that it can often be a challenge to find pitches in and around defined settlements⁶, and thus closer to amenities. Indeed, there are no pitches currently available in the district which would be available to the appellants and are in or around a defined settlement. Moreover, the PPTS seems to support sites outside settlements provided they are not in open countryside. This suggests they may be further from facilities and services than other forms of residential accommodation. Whether the development would be in a sustainable location needs to be considered in this context. Indeed, Paragraph 115 requires that account be taken of the type of development proposed when considering sustainable transport.
23. The facilities available in Keepers Corner are comfortably within the definition of walkable in the National Design Guide of 10 minutes (800m) and can be accessed along pavements. The pavement along the B2037 also links the appeal site with another public house and even a garden centre, which is around one mile away. Beyond this, the nearest settlements with a more comprehensive collection of everyday services and facilities, including shops and schools, are Copthorne and Smallfield. Neither are a comfortable walk away because future occupants would have to travel within the carriageway of narrow roads with high traffic volumes and fast-moving vehicles. It would therefore be unsafe to regularly walk, especially for children or those with reduced mobility. The distance also exceeds the desirable maximum as set out in relevant guidance⁷. Thus, there would be limited opportunities to walk as a means of active travel.
24. Cycling would be an option given the distance and benign gradient. However, this would be tempered by the inherent limitation that residents may not have the fitness, confidence or proficiency to cycle regularly if at all. In truth, only the most committed and experienced cyclists would choose to cycle the route regularly given the volume and speed of traffic. Evidence has not been provided to suggest cycling is a popular mode of transport among existing residents of Keepers Corner and no provision is made within the scheme for secure bicycle storage. There does not appear to be much space available to do so in any event. As such, there would be limited opportunities to cycle as a means of active travel either.
25. The bus stop at Keepers Corner is served by an hourly service from the morning into the evening. Although it could take a long time to complete a round trip to local villages and towns, it is nevertheless a good service when considering the rural

⁶ Settlements with a defined settlement boundary and/or to which development is directed

⁷ Providing for Journeys of Foot 2000, Institution of Highways and Transportation

context. As a result, future occupants would realistically be able to comfortably use public transport. However, a good bus service does not fully mitigate for the poor accessibility by active travel, which is at the top of the movement hierarchy⁸ because it accrues health benefits, independence and resilience from price rises.

26. The appellant submits that there is less imperative to locate pitches where they would be accessible by walking, cycling and public transport because the occupants would be away travelling for parts of the year. There is some force to this, but I am mindful that not all occupants may actively follow a nomadic lifestyle. Indeed, the planning definition of gypsies and travellers includes those that have ceased to travel permanently or temporarily on account of old age, health or education. It also includes those with a cultural tradition of living in a caravan. Such occupants may not go traveling regularly if at all. The witnesses at the inquiry also indicated that it was mainly the men that travelled, with the rest of their families staying put other than for a few weeks in the summer. As such, travel from the pitches could be quite frequent for much of the year.
27. However, Paragraph 13 of the PPTS explains that a settled base can reduce the need for long-distance travelling. It would also reduce the need for persistent travelling between temporary locations, which is likely to be the case in Tandridge given that the demand for pitches is greater than the supply, perhaps by some way⁹. Indeed, I heard evidence from the prospective occupants that they are constantly on the move, staying in one location for a couple of weeks before leaving. This illustrates the unsustainability of the situation. Indeed, it would be very hard to adopt any sustainable patterns of travel in such circumstances.
28. Moreover, locating pitches at settlements such as Keepers Corner can assist integration, which could reduce the need to regularly move on. There are also regular buses from Keepers Corner which will allow consistent access to health and education by sustainable transport. The prospective future occupants are unlikely to benefit from this at present as they are constantly on the move due to a longstanding lack of lawful pitches. In addition, I heard undisputed evidence during the inquiry that travellers often link trips for work, shopping and social activities. Car sharing is identified as a sustainable travel mode in the Framework. In this respect, the distances travelled by car to Copthorne, Smallfield and even Crawley would be modest. The site is also a short drive from Junction 10 of the M23, which would facilitate easy access to the motorway network as part of a travelling lifestyle.
29. In summary, the appeal site is not well placed to access a range of everyday services by walking but there are some facilities nearby that pedestrians could reach. Cycling is not a realistic option but travel by bus would be. Overall, there is a mixed picture regarding the ability of future occupants to pursue or prioritise sustainable transport in accordance with the vision in the development plan. However, when accounting for the type of development and the guidance in Paragraph 13 of the PPTS, especially the desirability of providing a settled base that aids integration and reduces the need for travelling between temporary locations, I am satisfied the appeal scheme would be in a sustainable location for the purposes of Paragraph 155 of the Framework.

⁸ See Paragraph 117 of the Framework

⁹ The Council was unable to quantify the shortfall, but it has been described by other Inspectors as significant

30. Thus, when considering all relevant factors outlined in Paragraph 155 of the Framework¹⁰, I conclude that the proposal would not be inappropriate development in the Green Belt. Accordingly, there is no need to consider the impact on the openness of the Green Belt or for very special circumstances to be demonstrated.

The effect on the character and appearance of the area

31. The appeal site, which was once an orchard, encompasses a small undeveloped field given over to marshy scrub grassland that is periodically cut. There are residential properties on two sides forming part of the hamlet of Keeper's Corner. Sussex Coachworks, a commercial premises, is also positioned along the boundary of the appeal site. The northern extent of the site is marked by a mature well-developed hedge which follows the alignment of a brook. Beyond this are large arable fields. As a result, the appeal site and its immediate context has a mixed character with both built up and rural influences.
32. Much debate was had at the Inquiry as to whether the appeal site is located within a settlement or open countryside. This is because the PPTS states that new traveller sites in open countryside away from existing settlements or outside areas allocated in the development plan should be strictly controlled. The proposal would be subject to 'strict control' if found to be open countryside because it is not allocated in the development plan for a new traveller site.
33. The term 'open countryside' is not defined in the PPTS. Nevertheless, I share the view of the appellants that there is a distinction between 'countryside' and 'open countryside'. To my mind, the latter is unlikely to incorporate settlements and would predominantly encompass land which is largely undeveloped and rural in character. The transition into open countryside could be abrupt or gradual. Therefore, although Keepers Corner is washed over by the countryside designation in the development plan, it is not open countryside. Indeed, Keepers Corner is a named place of a size that includes dozens of homes, is an identifiable group of buildings with clear edges and has some limited facilities. It was also described by interested parties as a community. It is therefore a small settlement.
34. The next question, therefore, is where the settlement of Keepers Corner ends and open countryside begins. When considering the pattern of development, Keepers Corner is broadly characterised by frontage development with long rear gardens. The rear gardens generally terminate at the brook/well developed hedge boundary to the north-east. The gardens become more verdant the closer they are to the brook. However, the brook marks a clear change in land use with enclosed gardens giving way to an open, expansive arable field on the other side. The change in character is therefore quite marked.
35. The appeal site is an anomaly to the general pattern of development described above, as it is a small field on the residential side of the brook. However, it is enclosed on three sides by built development and accessed from the B2037. As a result, it has the character and appearance of being within the settlement of Keepers Corner and not the open countryside beyond. Indeed, the brook is a feature that visually contains the appeal site and provides a sense of separation from the more open landscape beyond Keepers Corner. Thus, when considering the wider pattern of development, the enclosure provided by built development and

¹⁰ Paragraph 18 of the PPTS confirms that the 'Golden Rules' do not apply to applications for traveller sites

the visual containment and separation afforded by the hedge, I find that the appeal site is not within open countryside. As a result, the PPTS does not direct that the proposal be strictly controlled.

36. The appeal site and its surroundings are located within the Low Weald National Character Area (NCA). This NCA is broadly described as a wet and woody low lying clay vale. Mr Dudley's proof lists several key characteristics of the NCA and some of these are evident in and around the appeal site. For example, the clay soil, the historic and adjacent agricultural activity, the small field structure of the appeal site, the well-established hedge/riparian tree belt along the north-eastern boundary marked by a brook, the modest size of Keeper's Corner and blocks of woodland, including that to the south of the nearby allotments. Accordingly, the locality is representative of the NCA. However, this is a high-level assessment which covers a large area.
37. At a more local level, the Surrey Landscape Character Assessment (published in 2015) places the site in the Low Weald Farmland Landscape Type. This landscape type is split further into sub areas. The appeal site and its environs are within the Horley to Swaynesland Low Weald Farmland Character Type. Again, several key characteristics are evident locally such as the underlain geology, medium-large arable fields, well maintained hedges and a network of minor roads and lanes. The appeal site is also a small pastoral field that is occasionally found in the area.
38. That said, the B2037 is a busy road with traffic lights at Keepers Corner. The approach roads also appear busy. When coming from Smallfield there is a large industrial estate and other ad hoc buildings. Within Keepers Corner there is modern infilling, a car dealership and pavements with dropped kerbs. It therefore follows that Keepers Corner is a settlement which, in this instance, broadly lacks the peaceful rural tranquillity identified as a characteristic of the Horley to Swaynesland Low Weald Farmland Character Type. Indeed, Keepers Corner has the character and appearance of a small pocket of suburban development. Thus, the site and its environs are only moderately representative of the landscape character type and of medium sensitivity to change.
39. The appeal scheme would result in six mobile homes being sited at the site with the associated domestic paraphernalia this would entail, including parked vehicles, touring caravans, day rooms and hard standing. The combined effect of this would be an urbanising intrusion into an undeveloped field that would meaningfully alter the character of the appeal site resulting in the loss of undeveloped pastoral land designated as countryside.
40. That said, the urbanising effect would be softened by the enclosure provided by built development on three sides. The development would also be perceived as being contained within the settlement given the brooks function as a natural boundary. In this respect the proposal would not be a stark or discordant projection of the settlement into countryside. Indeed, the adverse effect on the landscape character of the countryside would be mainly confined to the site and thus localised. Similarly, the thick hedge along the northern boundary would screen any views into the site from the adjoining open countryside. Overall, the impact on the character and appearance of the countryside would be limited.
41. The pattern of development at Keepers Corner is broadly single plot frontage development with gardens behind. There is an example of residential backland

- development at Harts Mead where houses are arranged over two floors and visible from the street. However, this is an isolated example on the western side of the road. Accordingly, the appeal scheme, being backland development, would jar with the prevailing grain of development. Moreover, the caravans by their nature would not have the appearance of 'bricks and mortar' housing and would be sited on pitches that would be noticeably smaller than the gardens of existing nearby properties. As such, they would appear relatively cramped and out of character.
42. That said, traveller sites will often be out of character in areas characterised by bricks and mortar housing due to the use of caravans as the residence. As a result, I do not think this point alone is determinative given the aim in the PPTS to integrate the travelling and settled communities. Indeed, the proposal would be a residential use in a residential area and accordingly there would be synergy when considering the activity and nature of the use. Instead, it is more pertinent to consider the degree to which the proposal would be out of character and how apparent the effect would be, albeit mindful that it should not be hidden.
43. The Sussex Coachworks complex to the east of the site already interrupts the pattern of development in the immediate locality. Furthermore, the proposal would be accessed from an existing driveway and would be subtle on account of the low height of the caravans and day rooms, the extent of proposed landscaping and the position of the site behind the building line. Accordingly, the backland nature of the appeal scheme would not be a prominent departure from the pattern of development. Moreover, the potential for generous levels of proposed landscaping, and the retention and strengthening of boundary vegetation, would allow the site to retain a verdant character. This would respect the high level of planting in neighbouring gardens and the transition to open countryside. There are some problems with the landscaping as proposed (a point I return to when considering the effect on biodiversity), but even when accounting for this there would be space for trees, shrubs and hedges. The adverse impact on the character and appearance of Keepers Corner would be modest.
44. Private views of the proposal would be possible from the upper floor windows of adjoining properties, with the residents being sensitive receptors. However, these views could be softened by planting. The views would also be from less intensively used rooms such as bedrooms and the pitches would be set back from the common boundaries. As a result, the impact would be mitigated to a notable extent. Accordingly, the proposal would not dominate the outlook from the neighbouring properties, let alone the settled community at Keepers Corner.
45. To summarise, the appeal scheme would have a localised effect on the landscape character of the countryside given the small size of the site and its containment. The impact on the visual amenity of the area as experienced from public vantage points would be limited. The impact on views from neighbouring properties would be quite apparent but this would soften over time and the views are private. The impact on the settlement pattern of Keepers Corner would not be of a high order. Overall, the magnitude of change would not be high, being localised and contained. It would be moderate i.e. less than significant¹¹.

¹¹ Mr Dudley found a significant effect because he considered the proposal would result in a high magnitude of change to a landscape of medium sensitive. I have found a lesser magnitude of change.

46. Policy CSP21 of the CS states that the character and distinctiveness of the district's landscape and countryside will be protected for their own sake... [and]... new development will be required to conserve and enhance landscape character. Policy DP7 of the LP states that all new development should integrate effectively with its surroundings and reinforce local distinctiveness and landscape character. Attempts have been made to integrate the proposal with its context through landscaping, siting and scale, but there would be a moderate net adverse effect on the character and appearance of the area for the reasons already given. As such, there would be a conflict with these policies.
47. However, Policy CSP9 of the CS relates specifically to applications for windfall pitches for travellers. It is therefore an important policy of particular relevance when assessing the appeal scheme. Criteria b) in this policy states that such development should not *significantly* harm the visual amenities and character of the area. Therefore, whereas Policies CSP21 and DP7 seek to prevent development from having any adverse impact on the intrinsic character and beauty of the countryside, Policy CSP9 raises this to 'significant harm' when traveller sites are proposed. This appears to be a deliberate distinction to account for the difficulties in finding locations for this type of development. As such, it seems to me that Policy CSP9 has raised the threshold for a policy breach in this regard and therefore a conflict with Policy CSP9 would not occur, as the impact would not be at a significant level. Indeed, I do not find a conflict with the development plan taken as a whole in respect of this main issue.

Whether the proposal would provide safe and suitable access

48. The appeal scheme could necessitate around 24-48 vehicle movements a day. That said, Mr Stokes took the view at the Inquiry that around 35 daily trips would occur when accounting for the likelihood of link trips. This seems a fair analysis based on professional judgment.
49. The appeal site is currently a marshy field and is therefore unsuitable for keeping horses. Thus, it is seldom used and overgrown. For reasons I go into, little weight is attached to the appellant's suggestion the appeal site would be used to store vehicles in the event planning permission is not forthcoming. The proposal would therefore result in a notable intensification in the use of the access.
50. Effingham Road is currently subject to a 50mph speed limit although there is approval to reduce this to 40mph. This is likely to occur soon¹². Speed surveys demonstrate that with a wet weather adjustment, the 85th percentile speed of traffic is 37.4mph eastbound and 39.1mph westbound. Vehicle speeds dictate safe stopping distances, which in turn inform the distance of desirable visibility splays.
51. The Local Highway Authority is of the view that the appeal site is in a location where guidance in the Design Manual for Roads and Bridges (DMRB) should be followed when establishing the desirable visibility splays. The appellant favours Manual for Streets 1 and 2 (MfS and MfS2), which adopt a more flexible approach. In this instance, it is ultimately a judgement which guidance document should be applied as this is not a situation where one of the documents is clearly applicable when considering traffic speeds or the local context.

¹² See Mr Hurlstone's rebuttal proof of evidence, Appendix JPHR-C

52. The forward to MfS explains that the document focuses on lightly trafficked residential streets, but many of its key principles may be applicable to other types of streets, such as high streets and lightly trafficked lanes in rural areas. Effingham Road is not a High Street and nor is it a lightly trafficked residential street or lane. This is because around 10,000 vehicles pass through Keepers Corner daily. This would indicate that it is not appropriate to apply MfS. However, the same forward explains that MfS does not apply to the trunk road network and that the DMRB should be used instead. This would suggest that MfS can be applied up to the level of the trunk road network. As Effingham Road is not a trunk road, then this interpretation indicates that MfS could be used in preference to DMRB. Consequently, the forward in MfS is not determinative either way.
53. MfS provides guidance on visibility splays up to 60kph/37mph. This could be taken as an indication that MfS should only be applied when the 85th percentile speed is less than 37mph, which is not the case along Effingham Road in the vicinity of the appeal site. MfS2 also states in the visibility chapter that its guidance relates to streets where the 85th percentile speed is up to 60kph/37mph. However, there is an inconsistency in MfS2 as it states that it is only where actual speeds are above 40mph for significant periods of the day that DMRB parameters should be used¹³. Indeed, MfS2 also states that its principles can be applied widely and need not be limited to low speed or lightly trafficked routes¹⁴. On balance, MfS2 does not clearly prohibit the application of its guidance where speeds are up to 40mph. As a result, it can be applied to Effingham Road as it passes through Keepers Corner.
54. Healthy Streets for Surrey includes guidance on when DMRB should be applied. Section 4.1 of the guide states that DMRB should only be applied to the trunk road network outside towns and villages. It also states that DMRB design standards are only appropriate for trunk roads or roads outside of towns and villages (the latter is not defined). As a result, there is an internal inconsistency. Nevertheless, as I have found that Keepers Corner is a small settlement with a place function for those that live there, the relevant section of Effingham Road is not outside a town or village. As a result, the guidance indicates that DMRB should not be applied in this instance regardless of what passage of text in Healthy Streets is used.
55. Moreover, Healthy Streets for Surrey states that DMRB must not be used for streets with any component of residential or commercial activity or where you would expect people to be walking and cycling. This is because DMRB is mainly used for trunk roads where the free flow of traffic is the priority. There is both residential and commercial activity along Effingham Road as it passes through Keepers Corner. For the reasons given earlier, I would not expect cycling to be occurring regularly along Effingham Road, but people would be walking on pavements. Therefore, Healthy Streets for Surrey directs that DMRB should not be applied if the relevant section of Effingham Road is a 'street'.
56. A clear distinction can be drawn between 'streets' and 'roads'. MfS explains that the main function of roads is accommodating the movement of motor traffic. Streets are typically lined with buildings and public spaces, and while movement is still a key function, there are several others, of which the place function is the most important. As already explained, Keepers Corner is a place lined with buildings and some public spaces (pavements and allotments). It is also described by local residents

¹³ Paragraph 1.3.6

¹⁴ Paragraph 1.3.9

as a 'community'. As a result, the place function of Effingham Road as it passes through the settlement of Keepers Corner should be more important than the movement of motor traffic. The planned reduction in the speed limit from 50mph to 40mph as it passes through Keepers Corner is testament to this interpretation. Given the foregoing, MFS can be applied instead of the DMRB in this instance.

57. The principal author of MfS and MfS2 has explained that the broad approach of these documents is to look at speeds first and then undertake a detailed assessment of local context and vehicle and pedestrian collision records. If there is a safety problem, deal with it as appropriate; otherwise avoid rigorously following standards and focus on the quality of place.
58. Guidance in Manual for Streets indicates a desirable visibility splay with a Y distance of 59.13m to the right and 63.2m to the left. This cannot be achieved at the appeal site if the measurement is taken to the back edge of the kerb. This is because hedging in neighbouring front gardens blocks the line of site. However, a Y distance of 44m can be achieved to the right and this would be sufficient to see cyclists, who would likely be travelling at less than 30mph and away from the kerb.
59. The Y distance of 44m would be notably below the desirable distances, but MFS and MFS2 allow for flexibility. Mr Hurlstone explained when giving evidence that due to the curve in Effingham Road to the right of the appeal site access, vehicles, including motorcyclists, are highly likely to be inset from the kerb edge when following a natural track. I found this to be a reasonable analysis supported by photographs and my observations. The implication being that adequate visibility would be achieved if the visibility splay is taken from the access (with an X distance of 2.4m) to an approaching vehicle inset from the kerb, as opposed to the kerb edge itself. Visibility would be even better if the driver leaned forward.
60. There is also good forward visibility when approaching the appeal site access from the right. This means a motorist in Effingham Road, including bus and HGV drivers, would be able to see the vehicle wishing to exit the appeal site. In doing so, they would be able to react in plenty of time. Even if the motorists exiting the appeal site misjudges matters and pulled out a bit too far, there would be space to drive around the projecting vehicle because of the hatching. Given the foregoing, it would be safe for motorists to edge out of the access.
61. This has implications for visibility to the left, which is more constrained. Given the adequate visibility to the right, it would be possible to safely edge out into the road to improve visibility to the left. In effect, the motorist would reduce the X distance. There would be very little risk of colliding with an overtaking vehicle approaching from the left because of the hatching and traffic lights. An X distance of 2m would allow a motorist exiting the appeal site to see traffic to the left on the far side carriageway at a safe distance. MfS suggests a 2m X distance should only be used on lightly trafficked roads, but the circumstances are such that this approach would be acceptable here. The Council have not suggested that traffic volumes would be so high that motorists exiting the appeal site would have to wait for long periods and therefore be more inclined to take risks when joining Effingham Road.
62. Accordingly, the access into the appeal site would operate safely when local circumstances are taken into account. This would be the case despite the desirable visibility splay not being achievable (if taken to the nearside kerb edge).

Indeed, evidence in MfS2¹⁵ suggests safety is not always compromised if a visibility standard cannot be achieved due to obstructions.

63. It is therefore unsurprising that there have been no personal injury accidents recorded at the appeal site access. The personal injury record cannot factor in the effects of the appeal scheme because it has not taken place yet. However, that is invariably the case in most instances. In this instance, I afford the lack of accident records significant weight because the access is already in use regularly by Sussex Coachworks. Moreover, there have been no recorded personal injury accidents at any of the nearby accesses in Keepers Corner. Some of these serve neighbouring properties which have even more restricted visibility than the appeal site.
64. The risk of accidents involving users of the public highway can never be entirely removed as motorists, cyclists and pedestrians can be unpredictable. Accordingly, the Framework states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. That would not be the case here. As a result, the proposal would have a safe and suitable access and consequently there would be no conflict with Policies CSP9 and CSP12 of the CS, Policy DP5 of the Part 2 Plan or the Surrey Local Transport Plan LTP4, which have similar requirements to the Framework.

Whether the proposal would provide biodiversity net gain

65. Policy CSP17 of the CS states that development proposals should provide for the enhancement of biodiversity. This is consistent with the Framework, which states that planning decisions should provide net gains for biodiversity. The appeal scheme is not caught by the provisions of the Environment Act or the methodology for calculating the 10% net gain it requires. Instead, the Council and appellant agree that policy adherence would be achieved if any enhancement occurred and, in the absence of a matrix calculation, this could be determined through a qualitative judgment based on the available evidence.
66. The appeal site was subject to a Preliminary Ecological Appraisal (PEA) in February 2018, and this concluded that the site has good links with a mature hedgerow corridor and brook, includes standing water and is predominantly marshy grassland and scrub. As such, it would be suitable habitat for reptiles and amphibians. The PEA recommended further surveys. However, at some point after this survey was completed the site was stripped of its vegetation. The appellant's team suggested this happened between 2018 and 2020, but substantive evidence is not before me to demonstrate this.
67. What is clear is that the site was stripped of vegetation in 2023, as this was recorded in the Ecological Survey Report dating from June 2023¹⁶. As a result, the survey assessed the value of the site in its then 'bare earth' state. It is therefore unsurprising that the value to biodiversity had diminished as the scrub and marshy grass had been cleared. It also concluded that the proposal would have no adverse impacts on protected species¹⁷. The author of the Ecological Survey Report states that the clearance had recently occurred and therefore the bare earth

¹⁵ See Paragraphs 10.5.9 and 10.4.2

¹⁶ There is also evidence of some site clearance works occurring in May 2024 - See ID2.

¹⁷ The parties have agreed that this finding can still be relied upon. In effect, the Council do not allege that the proposal would have a direct adverse impact on protected species.

- condition should not be used as the baseline to calculate BNG. Instead, they suggest the baseline should be the site as surveyed in 2018.
68. It is understandable why they recommended this approach as the 2018 survey was the best available evidence of the value of the site prior to its clearance. However, this approach would be to ignore the impact of the site clearance, which is likely to have affected the quality of the habitat. That would be unreasonable in the circumstances as the Ecologists have not suggested the site clearance was unlawful. Moreover, the degradation provisions in the Environment Act do not apply. Therefore, the appellants would not be benefiting from an unlawful act if I were to factor the degradation of the site into the baseline. Accordingly, the baseline should not be taken from 2018. However, the baseline should not be the bare earth condition of the site as recorded in 2023 either, because that was temporary. Indeed, the marshy grassland and scrub has regenerated quickly.
69. During the latter part of the inquiry, and after the round table session on biodiversity, the appellant's team advanced a new 'baseline'. This factored in an approved planning permission dating from 1994 for the change of use of land to a light industrial/storage use. However, the Local Highway Authority (although not the Local Planning Authority) raised doubts as to whether this permission was ever implemented. Sussex Coachworks, which has been on site for some time, is a vehicle repair garage that may fall outside the use approved in 1994. Furthermore, the Council suggested that a change of use through intensification could occur if the appeal site were used to store vehicles. In any event, there is nothing of substance before me to demonstrate the current owners would use the appeal site for light industrial/storage purposes in the event the appeal was dismissed. Such a use may also be prohibited by conditions¹⁸.
70. As a result, the baseline should be taken as the site in its current condition. However, it has not been surveyed as such¹⁹, so the baseline value is unclear. Mr Hutchinson, who was the only Ecologist present at the Inquiry, confirmed that marshy grassland and scrub can be of good value to biodiversity, even in its regenerating and recovering state. Nevertheless, the value is unlikely to be the same as the site prior to the destructive clearance works.
71. The appeal scheme includes several enhancement measures. These are shown on the landscape plan and are discussed in a Landscape Design Statement. The proposals include new tree planting, native woodland buffer planting, native hedgerows, lawns and wildflower areas. The details require careful consideration.
72. Eleven trees are referred to in the LDS but only six shown on the plan. The woodland buffer planting is meant to extend to 320sqm but is very narrow in places and therefore could prove to be ineffective as a habitat. Moreover, no space is retained for management. The new hedgerow planting is intended to enclose the pitches, but it is unlikely to reach maturity as there does not appear to be space. As proposed, the hedging is likely to be regularly managed to remain low and narrow. The plan does not show any wildflower meadow. The area to the north is to be used as a communal amenity space. The lawn areas are likely to be closely mown and comprise tough grasses of little biodiversity value. As such, the indications are the value of the mitigation measures have been overstated.

¹⁸ The point is summarised in Mr Grant's Closing Submissions at page 7

¹⁹ The only survey since 2023 was a ground level tree assessment for bats.

73. The appellants submit that the details are indicative and therefore a revised landscaping scheme could be devised if a condition were imposed requiring a net gain to biodiversity. However, I am not satisfied such an approach would be reasonable as the evidence before me does not demonstrate a net gain on site is likely to be achievable. Indeed, a baseline has not been established, the value of the 'enhancement' measures is unclear, and the site would be intensively occupied. Significantly, Mr Hutchinson confirmed that in his professional opinion, the habitat value of the site in its current condition would be greater than with the proposed development regardless of any enhancement measures that could be conceived.
74. Thus, when having regard to the available evidence, especially the expert view of Mr Hutchinson, I find that the appeal scheme would likely result in a net reduction in the value of the habitat on site. The extent of the reduction is unclear. The site was found to have moderate ecological value in the 2018 PEA and a low value in its the bare ground state. The current value is probably somewhere in between. In the absence of evidence, I have taken a precautionary approach and assumed it is nearer to moderate given the value of marshy grassland and scrub.
75. For the reasons set out above, the enhancement measures would be of some biodiversity value but would have notable drawbacks. It is also unclear if hedging and woodland buffer planting would be of a comparable value as a habitat to marshy grassland. Mr Hutchinson suggested it probably is not. The hedges would also need regular management given the modest size of the pitches. Accordingly, the evidence indicates there would be a net reduction in the biodiversity value of the site should the scheme proceed.
76. In the circumstances, it is likely that offsite biodiversity enhancements would be necessary to ensure a net reduction in biodiversity does not occur. This needs to be considered with an eye to the relevant biodiversity duty²⁰. A negatively worded condition could be imposed preventing development from commencing until a scheme for offsite biodiversity enhancements has been secured. The wording of such a condition has been agreed by the Council and appellant.
77. The offsite enhancement scheme may need to be secured in the form of a legal obligation binding on the developer and some other landowner. When following the advice in the PPG²¹ I note that the proposal is not especially complex, and heads of terms have not been submitted. However, there is nothing before me to suggest off site mitigation cannot be identified and there is a pressing need for the accommodation. Accordingly, a condition would be a pragmatic and proportionate approach that, in this instance, amounts to exceptional circumstances.
78. In conclusion, the proposal would likely result in a net reduction in the value of the site to biodiversity. Offsite enhancement would be required but these have not been explored and are undefined. Nevertheless, in the circumstances I am content that a condition can be imposed given the exceptional circumstances. The proposal would therefore adhere to Policy CSP17 of the CS.

²⁰ s40 of the Natural Environment and Rural Communities Act 2006 (as amended)

²¹ Paragraph 010 Reference ID: 21a-010-20190723

Other Matters

The appropriateness of the location with reference to flood risk policies

79. Despite the rather opaque discussion in the appellant's flood risk assessment (FRA)²², the Council and appellant agreed at the Inquiry that around 10-15% of the site is at high risk of surface water flooding. Other parts are at medium risk and the rest at low risk. Parts of the site are also at medium risk of ground water flooding. This concession confirmed the position of the Lead Local Flood Authority, the mapping provided by the Environment Agency and the lived experience of local residents that have provided representations and spoke at the Inquiry.
80. The area at high risk of surface water flooding encompasses locations where caravans would be sited, and day rooms constructed. Therefore, any planning judgment as to whether a sequential test is required must be informed by the meaningful risk to people and property from a source of flooding. This is not, for example, a case where only peripheral areas of the site such as landscaping would be at risk. Indeed, Paragraph 175 of the Framework confirms this approach. As such, the sequential test must be applied.
81. The appellant belatedly undertook a sequential test on a precautionary basis. The sequential test area was based on the boundary of the district, which seems logical in the circumstances. It only considered sites with planning permission. This seems reasonable as there has been no 'call for sites' or other assessment looking at the potential location of pitches. The sequential test undertaken by the appellant was unable to identify any other reasonably available sites at a lower risk of flooding. There is common ground between the Council and appellant that the sequential test is passed, and I have no reason to disagree.
82. There was discussion at the Inquiry as to where my assessment should go from here. Paragraph 177 of the Framework explains that once the sequential test has been applied, and it has been demonstrated that it is not possible to locate the development in an area at a lower risk of flooding, then the exception test may have to be applied. It goes on to confirm that the need for the exception test will depend on the potential vulnerability of the site and proposed development in line with Flood Risk Vulnerability Classifications. This seems to suggest that a planning judgment is required when considering whether to apply the Exceptions Test.
83. In this case, the proposal would be a highly vulnerable development at a site with a medium to high risk of surface and ground water flooding. Indeed, living on the site in its current condition would be miserable and impractical given the extent of standing water pooling across it²³. It would therefore seem sensible to apply the exceptions test to ensure residential occupation of the site can be properly justified and mitigated as appropriate.
84. However, the Planning Practice Guide²⁴ states that the Exception Test should only be applied *as set out in Table 2*. Table 2 provides guidance on when to apply the Exception Test with reference to flood zones and states that an exception test is not required when a site is in Flood Zone 1. The Council and appellant are

²² CD6.47 - Flood Risk Assessment, Flume Consulting Engineers. Mr Quigley disingenuously sought to initially downplay the risk of flooding by suggesting the site is 'largely' at a low risk of surface water flooding.

²³ During my second site visit I observed pooling across large parts of the site the day after heavy rain.

²⁴ Paragraph: 032 Reference ID: 7-030-20220825

therefore of the view that the exception test should not be applied in this instance, because the site is in Flood Zone 1 i.e. at a low flood risk from rivers and the sea.

85. Given the foregoing, there appears to be a lack of clarity in respect of this point. The Framework is concerned with all sources of flooding and indicates Flood Risk Vulnerability Classification be used to inform a judgment on when to apply the Exceptions Test. Alternatively, the PPG, which is an older document, only refers to flood zones and therefore seems concerned with particular types of flooding as opposed to all sources. The former approach would seem more logical, but it is not necessary for me to resolve this question. This is because the proposal would pass the Exception Test were it to be applied.
86. Indeed, the provision of pitches in this instance would help address an acknowledged shortfall. This would reduce the likelihood that unauthorised encampments would occur, with the associated environmental damage this can cause. A settled base could also reduce travel distances and provide homes for a minority that experience disadvantages due to a lack of secure accommodation. These are social and environmental sustainability benefits to the wider community that outweigh the flood risk in this case. Sustainability benefits can be reasonably wide in scope and are not restricted to the examples set out in the PPG²⁵.
87. Moreover, there is no dispute between the Council and appellant that the flood risk can be mitigated through a Sustainable Drainage System and that the matters outlined in Paragraph 181 of the Framework have been properly addressed²⁶. Indeed, the methods explored in the submissions, including the FRA, incorporate infiltration and/or storage of water on site underground, which is then discharged to a water course at the existing greenfield rate. This would make the site safe and habitable and ensure there was no increased risk of flooding elsewhere. A condition has been drafted to this end. The Lead Local Flood Authority removed its objection on account of this. I afford substantial weight to this expert view.
88. In the circumstances, I conclude that the proposal would adhere to policies concerned with development in areas at risk of flooding. In particular, Policy DP21 of the LP and those in the Framework already referred to.

The other concerns of interested parties

89. Several interested parties raised concerns during the Council's consideration of the application regarding the capacity of the foul sewer to take the flows from the appeal scheme. The submissions from interested parties are anecdotal but consistent. They suggest that surface water flows into the foul system and this results in toilets backing up. Surface water would not flow from the appeal scheme into the foul system, but the application form proposes a connection to the foul sewer. Therefore, the proposal would increase foul water flows into a system that could be struggling to cope with existing flows.
90. Neither the Council nor the appellant addressed these concerns until I sought their views. This was despite them being raised in public representations well before the appeal was even submitted. No evidence has been provided that the relevant water company was consulted and there is nothing before me confirming there is

²⁵ Paragraph: 036 Reference ID: 7-036-20220825

²⁶ Given the limited size of the site, there is no apparent scope to place the most vulnerable development outside the areas at medium to high risk of flooding. Even if there were, the layout as proposed is the most optimal as it allows for a gap with neighbours and space for generous levels of planting to soften the scheme.

adequate capacity in the foul system. Nevertheless, a condition has been proposed that would require details of foul drainage to be approved prior to occupation. This would be prudent in the circumstances. The condition would also need to ensure that, in the event discharge to a public sewer is proposed, and that sewer needs to be upgraded to ensure there is adequate capacity, no occupation takes place until the upgrade is completed.

91. Interested parties have raised concerns that there would be insufficient space within the proposal for outdoor play and recreation. This is a legitimate point, as the pitches are quite small and there is no local park. Each plot would have a day room, but this would not compensate for a lack of outdoor play space. Nor do I consider it appropriate to rely on future occupants having other land they can go to, such a paddock to where horses are kept. The driveway should not double up as a play area, as this would be a symptom of overdevelopment were it necessary.
92. In rebutting the concerns of interested parties, a statement was made at the inquiry that travellers do not garden, but that is missing the point. Outdoor amenity space is required for children to play, exercise and congregate. The PPTS explains at Paragraph 27 that this is part of a healthy lifestyle. The pitches as designed would provide limited opportunities for this on account of their size. Nevertheless, there is space at the north-eastern end of the site for a communal open space. This would, of course, mean that the area could not be used for extensive biodiversity enhancements, but the appellants will likely need to rely on offsite measures in any case for the reasons already set out above. Thus, a condition has been imposed requiring provision of a communal amenity space before occupation.
93. The access into the site would pass along the flanks of Kenham Cottage and Hawthorn Cottage. As a result, the occupants of these properties would likely be aware of vehicles passing and repassing their properties. However, Hawthorn Cottage is set back from the boundary and Kenham Cottage has double glazed windows. This would soften the impacts of noise. Both are screened by fencing which would prevent direct glare from headlights.
94. In addition, vehicle movements over a twelve-hour daytime period could average about one every 15-20 minutes, which is not excessive. In reality, there is likely to be a morning and evening peak which would be balanced by long periods during the day and night with little to no movement of vehicles. I am also mindful that the access drive is already in use by the operators of Sussex Coachworks. As a result, the activity would not be taking place in a location where there is none currently. A similar access arrangement exists at Harts Mead and there is nothing before me to demonstrate this has been prejudicial to living conditions. A condition can be imposed requiring details of any gates along the access drive to be approved. Therefore, vehicles would not be left idling while a gate is opened or closed. Due to the combination of factors outlined above, the proposal would not have an adverse impact on the living conditions of neighbours.
95. It has also been suggested that the neighbouring business (Sussex Coachworks) would be affected, but the access need not be blocked on account of the appeal scheme and there are already residential properties nearby which act as a constraint. As a result, neither the access to, nor the activity at, the business would be hampered. There is space for gates within the curtilage of Sussex Coachwork should the owners consider these are necessary. Evidence submitted by the appellant demonstrates that it would be possible to manoeuvre a caravan onto the

site, both large mobile homes and touring caravans. The Council, as advised by the LHA, does not dispute this. Bin storage can be secured by condition.

Conditions

96. I have considered the advice in the Planning Practice Guide and the conditions suggested by the Council and appellant. I have made some amendments where I consider it necessary in the interests of precision.
97. In addition to the standard commencement condition, it is necessary to impose a plans condition in the interests of certainty. I have not included reference to the Landscape Design Statement, as it includes a different version of TDA.2340.03.
98. It is necessary to secure occupation by those meeting the PPTS definition as this goes to the heart of the principle of development. It is necessary, in the interests of safeguarding the character and appearance of the area and living conditions, to limit the number of pitches to six as well as the number of caravans and vehicles within them. For similar reasons it is necessary to prevent commercial activity, control external lighting, secure a hard and soft landscaping scheme and remove permitted development rights for fences and walls.
99. Controlling the number of caravans and vehicles and requiring certain areas to be landscaped with planting, will ensure the proposal does not become over developed. It would also, in all likelihood, limit the size of mobile homes to the single berths shown on the drawings. To promote travel by sustainable transport, it is necessary to secure the provision of fast charge sockets.
100. For the reasons already explained, it is necessary to secure details of surface water drainage with a verification report that it has been installed as approved. It is also necessary to secure a scheme of biodiversity enhancements. These details are secured by pre commencement condition because they are so fundamental to the development permitted that it would have been otherwise necessary to refuse the appeal. The appellant has agreed to the use of pre commencement conditions.
101. It is necessary to secure details of foul drainage and for any necessary upgrades to the public sewer to be undertaken prior to occupation²⁷. To protect living conditions, it is necessary to secure details of any gates and for an onsite amenity area to be provided. In the interests of highway safety and living conditions, it is necessary to secure the provision of parking and turning space. To protect living conditions, it is necessary to secure the mitigation recommended in the Noise Assessment. Despite the occupants of the proposal being sensitive end users, the Council has not recommended a condition relating to land contamination. Given the long-standing undeveloped nature of the appeal site I see no reason to disagree.

Conclusion

102. The appeal scheme would adhere to the development plan taken as a whole. There are no other considerations which outweigh this finding. Accordingly, the appeal has been allowed.

Graham Chamberlain
INSPECTOR

²⁷ See Planning Practice Guide - Paragraph: 020 Reference ID: 34-020-20140306

APPEARANCES

FOR THE APPELLANT:

Alan Masters, Counsel for the appellant
instructed by Brian Wood of WSP Planning and Architecture

Called:

Robert Petrow,	Petrow Harley Landscape Architects
Jeremy Hurlstone BSc (Hons) CMILT MCIHT	Managing Director, The Hurlstone Partnership
Callum Wooding, Luke James, Abraham James and Casey Wooding	Prospective occupants
Charlotte James	Appellant
Tom Quigg, BSc MSc CEng MICE	Flume Consulting Engineers
Brian Woods BA MRTPI	WSP Planning and Architecture
Peter Brownjohn	WSP Planning and Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Edward Grant, Counsel for the Local Planning Authority
Instructed by the Solicitor to Tandridge District Council

Called:

Ian Dudley BSc (Hons) MICFor CEnv CMLI	Head of Landscape Architecture, Nicholsons
Robert Hutchinson BSc (Hons) MSc CEnv MCIEEM	Manager of Planning Advice Service, Surrey Wildlife Trust
Steve Jarman BSc DipTP PGCert Susts Leadership	Head of Traveller Assessments, Opinion Research Services Ltd
Andy Stokes MCIHT	Local Highway Authority, SCC
Laura Moyano MSc	Lead Local Flood Authority, SCC
Cliff Thurlow BA (Hons Dip TD MRTPI)	Planning Advisor, TDC

INTERESTED PERSONS

Sarah Murty, Liz Cutter, Richard Mathers and Pamela and Raymond Potter

INQUIRY DOCUMENTS

The following is a list of documents submitted at the Inquiry

ID1	Local Planning Authority's list of appearances
ID2	Written submissions and photographs from interested parties
ID3	Mr Grant's opening on behalf of the LPA
ID4	Layout drawing of the previous scheme on the site
ID5	'The Huts' appeal decisions – Ref. APP/P0240/W/22/3291001, APP/P0240/C/24/3346787 and APP/P0240/C/24/3346788
ID6	Updates from the appellant's regarding personal circumstances
ID7	Lead Local Flood Authority's response to the Flood Risk Assessment removing its objection
ID8	Summary of qualifications and experience of Andy Stokes
ID9	Deans Lane appeal decision – Ref. APP/M3645/C/23/3327448
ID10	High Court Judgement – Guildford Borough Council v Cooper
ID11	High Court Judgment - Marie Hughes v The Secretary of State for Communities and Local Government v Sedgemoor District Council
ID12	Appellants response to the oral submissions of interested parties
ID13	Statement of Common Ground on bus timetables and map
ID14	Draft planning conditions
ID15	Summary of qualifications and experience of Laura Moyano
ID16	Mr Thurlow's note on the emerging Local Plan
ID17	Local Planning Authority's submissions following the publication of the revised Framework
ID18	Appellant's submissions for the publication of the revised Framework

ID19	Final list of suggested planning conditions
ID20	Closing submissions of Mr Grant
ID21	Closing submissions of Mr Masters
ID22	Receipt for the gates erected by the appellant along the access drive

Schedule of Conditions

1. The development hereby permitted shall start before the expiration of 3 years from the date of this permission.
2. This decision refers to the following drawings:
 - Drawing no. TDA.2340.01 – Site Location Plan
 - Drawing no. TDA.2340.02 – As Existing Site Layout
 - Drawing no. TDA.2340.03 – As Proposed Site Layout & Detailed Landscape Scheme
 - Drawing no. TDA.2340.04 Rev A – Proposed Day Room 1
 - Drawing no. TDA.2340.05 Rev A – Proposed Day Room 2

The development shall be carried out in accordance with these approved drawings and, subject to the other conditions hereby imposed, there shall be no variations from these approved drawings without the prior approval in writing of the local planning authority.

3. The land edged red on the Site Location Plan drawing number TDA.2340.01 shall not be occupied by anyone other than persons meeting the definition of gypsies and travellers set out in Annex 1: Glossary to the Planning Policy for Traveller Sites of 12th December 2024 or any subsequent amendment.
4. No more than six pitches for gypsy/traveller accommodation shall be created on the land edged red on the Site Location Plan drawing number TDA.2340.01, laid out as shown on Proposed Site Layout & Detailed Landscape Scheme drawing no. TDA.2340.03, with each pitch containing no more than one mobile home and one touring caravan at any one time as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.
5. No commercial activities shall take place on the site, including the storage of materials, plant and equipment.
6. No vehicles over 3.5 tonnes shall be stored or parked on the site at any time.
7. No external lighting shall be put in place or used on the site other than in accordance with a scheme of external lighting that shall have first been submitted to and approved in writing by the local planning authority.
8. Prior to the occupation of the site those areas of permeable hard surfacing shown on Proposed Site Layout & Detailed Landscape Scheme drawing no. TDA.2340.03 shall have been laid and be capable of use for the parking and turning of vehicles.
9. Notwithstanding the submitted details and prior to the occupation of the site, a scheme of hard and soft landscaping of the site shall be submitted for the approval of the local planning authority in writing. The scheme shall include details setting out:

- Means of enclosure;
- Hard surfacing materials;
- Areas to store and present refuse bins;
- Hedgerow planting;
- The species, number and spacing of trees and shrubs;
- Any earthworks and grassed areas;
- A timetable for undertaking all of the proposed works of hard and soft landscaping.

Details of soft landscaping works shall include all retained or proposed trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting schedules shall include details of species, plant sizes and proposed numbers/densities.

All new hard and soft landscaping shall be undertaken in accordance with the approved scheme and timetable that forms part of the details required to be submitted and approved.

10. Any trees or plants (including those retained as part of the development) which within a period of 5 years from the completion of the development die, are removed, or, in the opinion of the local planning authority, become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
11. Prior to the residential occupation of the site a fast charge socket shall be installed on each pitch to a minimum requirement of 7kw Mode 3 with a Type 2 connector, with a 230 volts AC 32 Amps single phase dedicated supply, in accordance with scheme of for electric vehicle charging that shall have been submitted to and approved in writing by the local planning authority.
12. The development shall not be occupied until a communal amenity and play area has been laid out in accordance with details that have first been submitted to and approved in writing by the local planning authority. The communal amenity and play area shall thereafter only be maintained and used as such and for no other purpose.
13. No development shall take place until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with NPPF and the accompanying PPG. It is required that a suitably qualified Drainage Consultant produce a viable surface water drainage scheme capable of dealing with surface water run-off from the increase in impermeable area. The required drainage details shall include:
 - a) The results of infiltration testing completed in accordance with BRE Digest: 365 Confirmation of groundwater levels. Where infiltration is proposed confirmation is required of a 1m unsaturated zone from the base of any

- proposed infiltration feature to the seasonal high groundwater level and confirmation of half-drain times.
- b) A topographical survey that demonstrates that offsite drainage of surface water towards and onto the site can be captured and dealt with in addition to surface water arising on the site.
 - c) Evidence that the receiving watercourse has onward connectivity and capacity to receive flows from the site, if infiltration is deemed unfeasible.
 - d) Evidence that the proposed final solution will effectively manage the 1 in 30 (+35% allowance for climate change) & 1 in 100 (+40 allowance for climate change) storm events and 10% allowance for urban creep during all stages of the development taking into account groundwater and soil conditions. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate equivalent to the pre-development Greenfield run-off including multifunctional sustainable drainage systems.
 - e) Details of drainage management responsibilities and maintenance regimes for all drainage elements. Surrey County Council Lead Local Flood Authority Proof of Evidence Land North of Effingham Road, Horley.
 - f) An exceedance flow routing plan demonstrating no increase in surface water flood risk on or off site. The plan must include proposed levels and flow directions.
 - g) Construction drawings for all drainage elements including cross sections and detailed drainage layout plan including permeable and impermeable areas of the proposal.

When the details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved prior to the occupation of the development.

14. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the surface water drainage system has been constructed in accordance with the approved surface water drainage scheme, confirming any defects have been rectified. The verification report should provide the details of any management company or otherwise give details of who will be responsible for managing and maintaining the surface water drainage scheme for the lifetime of the development hereby approved. The verification report should also include details of the 'As-Built' drainage layout and state the national grid references of key drainage elements.
15. No development shall take place until a Biodiversity Net Gain Plan that details how an overall biodiversity net gain will be achieved has been submitted to an approved in writing by the Local Planning Authority: The Biodiversity Net Gain Plan shall include the following;
 - a) An assessment of the pre-development biodiversity value of the onsite habitat at the point development was approved (i.e. the site as regenerated after the last site clearance);

- b) Details of the retention and creation of wildlife habitats on the site including steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat,.
- c) Details of the location and design of species-specific enhancement measures and the purpose and conservation objectives for any measures;
- d) The management and maintenance of the retained and created habitats for a period of 30 years from the date they are completed;
- e) Monitoring of the retained and created habitats for a period of 30 years, including details of the frequency of monitoring; and
- f) The persons responsible for implementing, monitoring and maintaining the on-site Biodiversity Net Gain Plan.
- g) A timetable for implementation.

In the event it is reasonably demonstrated that a Biodiversity Net Gain cannot be achieved on site with the approved development in situ, then a scheme of off-site enhancement measures to provide biodiversity net gain shall be included in the Plan and secured. This may include:

- any registered offsite biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development
- any biodiversity credits purchased for the development

The Biodiversity Net Gain Plan shall then be implemented as approved.

16. No gates shall be installed along the entire length of the access drive between Kenham Cottage and Hawthorn Cottage without the prior written approval of the Local Planning Authority following the submission of details. Any gates shall be installed in accordance with the approved details.
17. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates, walls or other means of enclosure shall be erected within the site without the grant of further specific planning permission from the Local Planning Authority or the details of means of enclosure approved under Condition 3 of this permission.
18. The development hereby approved shall only be occupied in accordance with the mitigation and recommendations relating to noise insulation and double glazing as set out in the Noise Assessment by LFAcoustics Consulting Engineers dated September 2019.
19. No development shall take place until a detailed foul drainage assessment and scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - a) a fully detailed foul drainage drawing showing all connections, capacity, controls and storage, as well as details of any collection or discharge arrangements, and details of the management and maintenance arrangements for the foul drainage system; and

- b) a connection to the public foul sewer unless it is demonstrated to the satisfaction of the Local Planning Authority that it is not feasible to connect to the public sewer.

If works to the public foul sewer need to be undertaken to ensure there is capacity for the proposed development, then the development shall not be occupied until the necessary improvements to the public sewage system have been carried out.

If a connection to the public foul sewer is not achievable the scheme shall include details of a non-mains alternative solution applying the following hierarchy, and details of the management and maintenance arrangements for the foul drainage system.

- i) package sewage treatment plants (which may be offered to the sewerage undertaker for adoption);
- j) septic tanks;
- k) cesspool(s);

The development shall be implemented in accordance with the approved details.

End of Schedule

