



Appeal Decision

Site visit made on 11 February 2025

by **J Bowyer BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 March 2025

Appeal Ref: APP/C3620/W/24/3341745

City of London Freeman's School, Park Lane, Ashted, Surrey KT21 1ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Old Freeman's Limited against the decision of Mole Valley District Council.
 - The application Ref is MO/2023/1420/PLA.
 - The development proposed is erection of a replacement memorial building with associated access, car and cycle parking and landscaping, including woodland enhancement.
-

Decision

1. The appeal is allowed and planning permission is granted for 'erection of a replacement memorial building with associated access, car and cycle parking and landscaping, including woodland enhancement' at City of London Freeman's School, Park Lane, Ashted, Surrey KT21 1ET in accordance with the terms of the application, Ref MO/2023/1420/PLA, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the description of development as it is set out in the Statement of Common Ground that was agreed between the main parties.
3. In October 2024, the Council adopted the new Mole Valley Local Plan 2020-2039 ('the Local Plan'), at which point policies of the Mole Valley Local Plan 2000 and Mole Valley Core Strategy 2009 which had been referred to within the reasons for refusal were superseded. Then, in December 2024, the Government published a revised version of the National Planning Policy Framework ('the Framework'). The main parties were given the opportunity to comment on any implications of the changes in development plan and national policy. I have determined the appeal having regard to the representations that were made and in light of the Framework and Local Plan.

Main Issues

4. The main issues are:
 - i) whether or not the proposal would be inappropriate development in the Green Belt, including with regard to the effect of the proposal on the openness and purposes of the Green Belt;
 - ii) the effect of the proposal on the character of the landscape;
 - iii) the effect of the proposal on the significance of Ashted Park Registered Park and Garden and Rookery Hill Bridge, a Grade II listed building;
 - iv) the effect of the proposal on protected species;

- v) whether or not there would be adequate provision for biodiversity net gain; and
- vi) if the proposal would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development within the Green Belt.

Reasons

Whether Inappropriate Development

5. The appeal relates to part of the site of the City of London Freeman's School as it adjoins Rookery Hill. The site is located within the Green Belt which Policy EN1 of the Local Plan sets out will be protected against inappropriate development as defined in national policy. In this respect, the Framework sets out that development is inappropriate unless specified exceptions apply.
6. These exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, and the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

Replacement Building

7. The description of development refers to a 'replacement memorial building'. However, the evidence before me indicates that while there was formerly a clubhouse within the School grounds used by the appellant, this building was demolished some years ago as part of a wider programme of redevelopment pursuant to a planning permission granted in 2018¹. The proposal would not therefore comprise a direct replacement.
8. Even if that were not the case, the information before me suggests that the building now proposed would have a slightly smaller footprint than the former clubhouse, but I have no detailed comparison of floorspace or overall scale to demonstrate that it would not be materially larger when taken as a whole. Similarly, the 2018 permission may have resulted in a cumulative reduction in the footprint of development on the wider School site, but the Council advises that there was an increase in floorspace.
9. For these reasons, I am unable to determine that the proposal would comprise a replacement building not materially larger than the one it replaces.

Facilities for Outdoor Sport and Outdoor Recreation

10. The proposal, including dedicated parking, is intended primarily to facilitate use of the School's playing fields for sports and recreation by the Old Freeman's Association ('the OFA') rugby, hockey and cricket Clubs and by members of the community. I have no firm evidence to suggest that the development would be unsuited or otherwise inappropriate for this intended use which would relate to outdoor sport and outdoor recreation. The building would also include a flexible meeting/event space with a small bar and kitchen. In my experience though, such

¹ Application ref MO/2017/1561

provision is often included in venues of this type to support club activities and while the Council refers to the facilities as extensive, it has provided no compelling evidence to show that they would be excessive or would include unnecessary elements to properly facilitate the primary use.

11. I therefore find that the proposal as a whole would comprise appropriate facilities for outdoor sport and outdoor recreation which may be an exception to inappropriate development if it would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
12. In this case, the memorial building would be a fairly large structure with two levels of accommodation. It would be partly built into the sloping ground limiting appreciation of the lower ground level and the cranked form and shallow roof would help to significantly moderate the overall impression of bulk and mass. Even so, there would be some sections where the two-storey height of the building would be appreciable, and it would have a marked physical presence with an inescapable spatial impact on openness. The associated access and parking would add further built form which, while of limited height, would exacerbate the physical presence of development. In these ways, I find that the proposal would adversely affect spatial openness on this part of the site.
13. In visual terms, views of the development from the south would be likely to be very limited given the topography of the land which rises up at the rear of the site. The development would also sit within woodland and although there would be some removal of trees, generous new planting is proposed. As a result, vegetation would offer significant screening and visual containment. However, I saw at my visit during a period of limited leaf coverage that there were glimpses of the location of the proposed building from Rookery Hill and while new planting could reduce views, this would be unlikely to be complete, particularly in winter months. The proposed new access would also be clearly visible on Rookery Hill, and views along it would be likely to afford some appreciation of the building and parking.
14. Where the building would be seen, the materials of timber and a green roof would soften its appearance and would help to assimilate it sensitively with its woodland surroundings. There would further be relatively limited provision of openings or glazing to elevations facing Rookery Hill and to the sides of the building that might otherwise draw the eye. Overall, I consider it would be a discreet and unobtrusive feature on the site. The visual impact of the parking and access would also be limited by the low height above ground and the use of reinforced grass to some of the parking area, and while vehicles would be more visible, their presence would be temporary.
15. Even so, the perception of the development from outside of the site, particularly from Rookery Hill, would cause some loss of visual openness. The proposal would also introduce activity on the site and new comings and goings from Rookery Hill that would be apparent from outside of the site to the detriment of the impression of openness.
16. Views of the development would be localised and glimpsed, and appreciation of activity occurring would be similarly localised. Moreover, the development would occupy a relatively modest proportion of the appeal site, and a negligible proportion of the wider School grounds. Taking all of the above factors into account, I find that harm to the openness of the Green Belt would be limited. Nevertheless, there

would be harm, and I am accordingly unable to conclude that the proposal would preserve the openness of the Green Belt.

17. The Council's reason for refusal states that the proposal would also conflict with the purposes of including land within Green Belt, but the grounds for this are not clearly explained in its evidence.
18. The Framework identifies that Green Belt serves five purposes. Of these, I am satisfied having regard to the scale and location of the development and its relationship with surrounding buildings and defined areas of open land that there would not be conflict with the purposes to check the unrestricted sprawl of large built-up areas or to prevent neighbouring towns merging into one another. The Council has raised concerns about effects on heritage assets at Ashted Park, but I have no firm reason to find that such effects would be detrimental to the setting or special character of any historic town so as to conflict with the purpose to preserve the setting and special character of historic towns. Nor is it clear how there would be conflict with the purpose to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
19. The Framework also identifies a Green Belt purpose of safeguarding the countryside from encroachment. In this respect, the appeal site has a generally rural character, albeit that it sits within estate fencing where it is appreciated as forming part of the School site. While I have found that there would be some harm to openness, I consider the development would assimilate well with its surroundings and taken together with its limited visual impact I find that any impression of encroachment to the countryside in conflict with the purpose of Green Belt would be very slight. The Council has provided no compelling evidence to the contrary.
20. Drawing these matters together, the proposal would fail to preserve the openness of the Green Belt and would result in conflict with one of the purposes of including land within the Green Belt. In each case, the effect would be limited and very localised, but the exception specified within the Framework for provision of appropriate facilities for outdoor sport and outdoor recreation would not therefore apply.

Conclusion on Main Issue

21. I find for these reasons that exceptions specified in the Framework would not apply and the proposal would comprise inappropriate development in the Green Belt which the Framework identifies is, by definition, harmful to the Green Belt. There would also be some, albeit limited, harm to the openness and to one of the purposes of Green Belt.

Landscape Character

22. There is some ribbon development along Rookery Hill, but these are typically large dwellings on generous plots which are set within areas of woodland. This woodland and the open playing fields of the School extend up to Rookery Hill and provide for an attractive verdant quality and semi-rural character to the area which sits on the edge of the main built-up part of Ashted. The appeal site encompasses much of the woodland parcel to the south side of Rookery Hill which contributes to this character.

23. As part of the proposal, 7 trees and part of an understorey group would be removed. One further tree would have all branches removed and there would be pruning to 4 other retained trees. However, there would also be significant new native tree and understorey planting including 27 new trees, as well as future management of the woodland which could be secured by a planning condition. As a result, the age range and species diversity as well as the overall tree cover on the site would be increased, and I am satisfied that these measures would offer adequate compensation for the proposed tree works. Furthermore, the Council has provided no firm evidence to dispute the appellant's Arboricultural Impact Assessment and Method Statement which indicates that suitable methods of construction could be employed, ensuring the health and longevity of trees which are to be retained.
24. Given these factors, I find that the loss of trees would not in itself cause visual degradation of the wooded landscape or diminish the contribution that the appeal site makes to the sylvan character of the local area.
25. However, a larger clearing would be created in the woodland. The presence of the building, parking, store and access within this clearing as well as the regrading of land levels and increased activity and comings and goings would inevitably cause some erosion of the natural and undeveloped quality of the site which would be urbanising.
26. That said, the combination of the position of the building, parking and store set back into the site, the surrounding land levels and vegetation and the design and proposed materials to the building including the shallow green roof mean that these elements of the proposal would have a very limited visual impact outside of the site. Furthermore, I saw nearby development within a woodland setting including the closest part of the adjacent School car park such that this relationship would not be wholly out of character in the local area. I find as a result that these elements of the proposal would integrate acceptably with their woodland setting and would be unobtrusive features with very limited effect on the character of the local area.
27. The new access onto Rookery Hill would be more visible. I find no compelling evidence that the presence of an additional access to the School site would necessarily cause harm to the character of the area in principle, but it would interrupt the impression of woodland enclosure along this part of Rookery Hill and would indicate the presence of development and activity on the site. The effect would be very localised, but would cause some harm to the verdant and rural character of the area.
28. Noting the significant extent of the woodland that would be retained around the development and the distance to neighbouring buildings, I find that the impression of an open buffer between development on the School site and built form on Rookery Hill would not be undermined. However, I conclude for the reasons above that there would be some, limited, harm to the character of the landscape in conflict with requirements in Policies EN4 and EN8 of the Local Plan broadly seeking development that contributes positively to local character and that conserves and enhances local landscape character including through reinforcing the scenic quality and distinctiveness of the landscape. Similarly, there would be conflict with Policies AS-EN2 and AS-EN3 of the Ashted Neighbourhood Plan 2017 ('the NP') which seek, amongst other things, to maintain the open character of the village and have regard for the character of the area.

Heritage Assets

29. The appeal site is located within Ashted Park which is a Grade II Registered Park and Garden ('RPG'). There are listed buildings within the RPG and in the wider vicinity of the appeal site and I am therefore mindful of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special regard to be had to the desirability of preserving listed buildings and their setting. Based on my observations and the evidence before me however, I agree with the main parties that the only listed building of relevance to my assessment is the Grade II listed Rookery Hill Bridge. Having regard to the scale and nature of the development and its relationship with all other listed buildings, including in respect of the intervening features, I am satisfied that their setting and significance would be preserved.

Significance of Ashted Park

30. The Ashted Park Conservation Management Plan 2015 ('CMP') referenced by both main parties suggests that the RPG was first laid out as a deer park around a manor house in circa 1680. It comprises formal gardens and pleasure grounds around the current Ashted Park House, which are surrounded more widely by parkland, much of which is wooded. The parkland is interrupted by later residential development on the north side of Rookery Hill which sits outside of the RPG designation, and the CMP sets out that the coherence and integrity of the historic landscape has been eroded by house building, school buildings and the formation of sports pitches, as well as the demands of cars. Nevertheless, it is still a recognisable Georgian landscape with elements of Victorian formalisation. Victorian modifications include those made by building contractor Sir Thomas Lucas following his acquisition of the estate in 1880, when Rookery Hill along with its bridge and gates and lodges at either end was laid out.
31. Insofar as it relates to this appeal, I consider the RPG to derive significance from its aesthetic and illustrative value as a designed landscape providing a rural setting to Ashted Park House, including as a result of the legibility of the underlying layout and the later evolution of the Park.
32. The appeal site is part of the naturalistic parkland which provides the wider outlook from Ashted Park House. Details in the CMP suggest that the woodland currently on the site is denser than would historically have been present, but I concur with the CMP's identification of the site as part of an area that is significant to the RPG, contributing to the overall identity and evolution of place.

Significance of Rookery Hill Bridge

33. Rookery Hill Bridge sits immediately to the north east of the appeal site where it carries Rookery Hill over a dry valley. It comprises a Portland stone and cast iron structure with stock brick abutments. An electrical substation has been installed beneath much of the bridge, but its materials and the retained detailing including decorative cast iron brackets and balustraded parapets still provide for an attractive feature which reflects the alterations made to Ashted Park in the 1880s.
34. Insofar as it relates to the current appeal, I consider that much of the significance of the listed building would derive from its inherent historic and architectural interest as an ornamental feature. Its significance is enhanced by the association with the surrounding designed parkland which informs understanding of the bridge and its

historic context. As part of a woodland parcel which is itself part of the parkland setting around the bridge, I find that the appeal site contributes to the significance of the listed building.

The effect of the Proposal

35. Subject to replacement planting, I have found above that the removal of trees from the appeal site would not in itself cause visual degradation of the wooded landscape. In addition, the building, access and store would be unobtrusive features that would integrate well with their woodland setting.
36. However, screening by vegetation would be unlikely to be complete, particularly in winter months, and there would be some appreciation of the presence of the development and regrading of the land from outside of the site, including from Rookery Hill Bridge. The new access would also be a clear new feature on Rookery Hill. Together with the activity and more intense use of this area of the park, there would consequently be a degree of urbanisation and erosion of the historic naturalistic woodland character of this part of the designed landscape. The contribution that the site makes to the significance of Rookery Hill Bridge as part of its setting would also be diminished.
37. That said, the Council's heritage consultee considers the design of the building to be of a high quality and the sort of structure which could be constructed in the grounds of Ashted Park. I have no firm reason to take a different view.
38. Having regard to its scale, the spacing that would be maintained to other development, the retained tree cover and its limited visibility, I find that the impression would be of development sitting within a clearing in the woodland and the existing visual division of the park into two parts occasioned by the residential development on the north of Rookery Hill would not be meaningfully exacerbated. I am further satisfied that the proposal would not obscure any existing views towards Ashted Park House and it is unlikely to be readily, if at all, appreciable in outward views from the House and its immediate environs, or conspicuous in any other significant views around the park. Nor would it be unduly prominent in views to or from the bridge.
39. Despite the sensitivity of the site, I find given these factors that the presence of the development would not undermine the generally naturalistic and picturesque quality of this part of the designed landscape and there would be only limited detriment to how the RPG is experienced and to its significance as a whole.
40. Similarly and noting that setting is only one aspect contributing to the significance of Rookery Hill Bridge, that the appeal site is only a part of that setting, and the limited degree of change that would be experienced, I also agree with the main parties that harm to the significance of the listed building would be at a low level.

Conclusion on Main Issue

41. The proposal would cause some harm to the significance of Rookery Hill Bridge and the RPG which are designated heritage assets, but the harm in each case would be limited and certainly less than substantial in the terms of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal and I return to this matter in my planning balance below.

Protected Species

42. Great crested newts ('GCN') are a protected species. The appeal site currently comprises an undeveloped and well-wooded area which falls within an 'amber impact risk zone', indicating suitable habitat and a high likelihood of GCN presence.
43. The Council's Naturespace consultee commented on the application that the site and nearby waterbodies have not been assessed for their suitability for GCN. However, I have been provided with a copy of a Preliminary Ecological Appraisal dated October 2021 ('the PEA') which, although prepared in relation to a previous application made on the appeal site, does recognise that the site contained good quality terrestrial habitat for GCN and noted a number of waterbodies within a 500m radius of the site. Referring to use of the closest waterbodies as fishery lakes, the distance to the waterbodies further afield, the nature of the intervening habitat and that GCN would be unlikely to cross Rookery Hill, the PEA considered it highly unlikely that the appeal site would be constrained by GCN.
44. I acknowledge guidance² indicating that if the age of ecological data is between 18 months and 3 years, an updated survey and report will be required and that for anything more than 3 years old, the report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated.
45. At the time the planning application was submitted, the PEA would have been over 18 months old, and it is now over 3 years old. However, while it does not specifically refer to review in respect of GCN, I note that the 'Ecological Technical Note – Ecological Summary and BNG' ('ETN') submitted with the application which was prepared by the same company as the PEA does refer to an updated site survey in September 2022. Moreover, signage indicates that the closest waterbodies remain fishery lakes. The intervening habitat to waterbodies also appears to remain either unsuitable roads, pathways and the School campus or high quality habitat in closer proximity as described in the PEA such that GCN are unlikely to commute to the appeal site. Despite the lack of specific updated field data, I consider in this case that the conclusion of the PEA that GCN are highly unlikely to be present or affected by development on the site would remain reasonable. In such circumstances, Office of the Deputy Prime Minister Circular 06/2005³ indicates that surveys should not be required.
46. Furthermore, a Construction Environmental Management Plan could require details of measures to avoid and reduce impacts during construction and harm to biodiversity features, which would include protected species, before any development takes place. This would offer additional protection, and I note that Naturespace also refer to a District Licencing scheme for GCN that could apply.
47. In addition, Surrey Wildlife Trust are satisfied that subject to conditions, protected species, including GCN, should not present a constraint to development. From the evidence before me, I agree and I am satisfied in the specific circumstances of this case that there is a sufficient basis to determine that protected species would not be harmed by the proposal. As a consequence, a condition suggested by the Council to require surveys or details of mitigation in respect of GCN would also be unnecessary and unreasonable.

² CIEEM Guidelines for Ecological Report Writing

³ Biodiversity and geological conservation – statutory obligations and their impact within the planning system

48. I therefore conclude that the proposal would not cause harm to protected species and I find no conflict with Policy EN9 of the Local Plan insofar as it requires assessment of impacts on protected species and that species are conserved and enhanced. Similarly, the proposal would not conflict with the requirement in the Framework to minimise impacts on biodiversity.

Biodiversity Net Gain

49. Policy EN9 of the Local Plan includes a requirement for applications to be accompanied by a Biodiversity Statement containing information including a plan demonstrating a biodiversity net gain ('BNG') of at least 20%. However, such information is not required for exempt applications as specified in regulations relating to mandatory BNG under the Town and Country Planning Act 1990 (as amended). In this case, the appeal application pre-dates mandatory BNG requirements coming into force, and transitional provisions mean that it would not be subject to the requirement. Nevertheless, there remains a requirement in the Framework for provision of net gains for biodiversity.
50. The appellant advises that it is intended that retained woodland on the site would be enhanced and there would be new areas of higher quality grassland created. However, the ETN indicates that the proposal would result in a net loss of around 12% habitat units on the site. The appellant therefore refers to an off-site strategy to achieve BNG.
51. There are no details of any such strategy before me and Surrey Wildlife Trust have recommended that further details of the likelihood of a suitable off-site strategy are sought prior to determination. I agree that this would be preferable, but the appellant advises that there are discussions ongoing with Ashted Park and having regard to the extensive landholdings in close proximity to the appeal site, including within the same ownership as the appeal site, and the evidence before me, this is not a case where I consider there would be no prospect of an adequate off-site strategy coming forwards. Accordingly, I am satisfied in the specific circumstances here that a planning condition could reasonably require further details of how BNG would be achieved prior to development commencing, and would offer adequate certainty of delivery before development could take place. Indeed, Surrey Wildlife Trust have also identified this as a potential route in their advice.
52. With the imposition of a planning condition, I therefore conclude that the proposal would make adequate provision for BNG as sought by Policy EN9 of the Local Plan and the Framework.

Other Considerations

53. The Framework advises that once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as to provide access and opportunities for outdoor sport and recreation. Although I have found above that the proposal would comprise inappropriate development in the Green Belt, it would undoubtedly support such opportunities.
54. In this respect, the appellant advises that the development will host a wide range of sports clubs, enabling them to make use of the sports facilities at the School which are not currently accessible to them. They indicate that there is no offsite facility that could support such use and that there is a pressing need for re-provision of the demolished former facility, with the OFA sporting activities likely to cease without a

new home. Furthermore, they indicate that as with the former clubhouse, the facility would be made available to the wider local community, for use by both sport and other groups. In my assessment, the resulting opportunities for sport, recreation and community use would offer considerable health and social benefits to the community and I attach significant weight to this as a public benefit of the proposal.

55. Comments in the CMP highlight the importance of the OFA to the ethos, running and community of the School and I have no reason to doubt the value of its presence and the relationship. The proposal is also intended to commemorate pupils and staff of the School who died during the World Wars. In these ways, I consider the proposal would offer additional support to community cohesion and social well-being attracting some, albeit limited, weight as further public benefits.
56. Support to the economy through spending and employment associated with both the construction and operational phases of the development would be a public benefit, but this is likely to be relatively limited in magnitude given the scale of the proposal and construction stage benefits would further be short term. I give moderate weight to the economic benefits of the development.
57. Some trees would be removed but the proposal includes new planting and would secure future management of woodland on the appeal site which could enhance its health and the diversity of species and habitats. A planning condition would also ensure that there would be provision for BNG. Whether or not this is a policy requirement, the proposal would still deliver improvements which would support environmental objectives and I give these factors moderate weight as a public benefit of the proposal.
58. In considering these benefits, I note that the CMP had identified the former clubhouse as causing harm to the RPG, and suggested its relocation with four potential locations identified. Of these, the Council has not disputed that alternative locations 3 and 4 relating to an extension to the cricket pavilion and the former swimming pool would be unsuitable given their relationship with School premises and safeguarding concerns.
59. Alternative location 1 is to the south east of the appeal site. I saw that the topography here would offer limited opportunity to work with the land levels to provide any building partially within the ground. As a result, a greater physical extent of any similar facility would be likely to be appreciable. Moreover, there is far less existing vegetation to offer screening. The Council raises the possibility of new planting, but vegetation could not realistically be relied on to completely conceal development and based on my observations, it would be likely to be at least partially visible from Ashted Park House, Rookery Hill Bridge and in views towards the House from Rookery Hill. In these views, it would be appreciated sitting close to the existing parking, exacerbating the prominence of built form and the intrusion into this part of the site. Development in this location may not require a new access from Rookery Hill, but it seems to me that effects on the Green Belt, landscape or heritage assets would not be improved relative to the appeal scheme overall.
60. Alternative location 2 is to the eastern side of the playing fields close to an existing service road. It might be possible to upgrade the service road, but this would not allow full autonomy from the School in the interests of safeguarding. Moreover, there would again be limited potential to work with the land levels in this location to reduce the physical extent of any building. Vegetation coverage between this

location and Rookery Hill is also limited and so would offer little screening until any new planting established, and even then, significant screening may be difficult to achieve without encroaching onto the playing field areas. There would be greater separation to Rookery Hill Bridge and no requirement for a new vehicular access, but I am not persuaded that overall effects on the Green Belt, landscape or heritage assets would be improved relative to the appeal proposal.

61. The Council has also queried whether access could be provided using the existing 'exit' route of the School one way system to the east of the site. However, even if it were possible to resolve safeguarding concerns to share part of this access and to design an acceptable arrangement in highway terms, I note that the building and parking have been carefully positioned within the appeal site to respond to the land levels and existing trees. It seems to me that providing connection from the parking to the existing School exit route would realistically require removal of a greater number of trees than the appeal scheme. There would also be a longer driveway which would significantly increase the overall extent of hardstanding, including running close to Rookery Hill and Rookery Hill Bridge with little existing screening from these features. In my view, these factors would offset the potential benefit of omitting a new access to Rookery Hill.
62. Given the above, I find that potential alternatives to the development that is before me would not be preferable overall and on that basis, they do not offer a compelling case to reduce the weight that I afford to the benefits of the appeal scheme.

Other Matters

63. Drawing on Natural England's response to a previous application on the site, Surrey Wildlife Trust are satisfied that subject to conditions, the proposal would not adversely affect sites including the Epsom and Ashted Commons Site of Special Scientific Interest ('SSSI'). I have no firm reason to find differently. Nor is there evidence to indicate that development of the scale and nature proposed here could have a likely significant effect on the Mole Gap to Reigate Escarpment SSSI and Special Area of Conservation requiring further assessment.
64. The development would be close to a scheduled monument, 'Earthworks near St Giles' Church' which comprises earthworks with indications of Iron Age activity and subsequent Roman occupation. However, the appellant indicates that no works are proposed within the monument area and intervening woodland would be retained providing for screening. Historic England have not objected to the proposal, commenting that it is unlikely to harm the significance of the monument, and I agree.
65. The Council indicates that the proposal includes sufficient on-site parking for patrons of the development. Even if that were not the case, there is no firm evidence of existing parking pressure in the local area that would be harmfully exacerbated by the proposal. Nor is there firm evidence to show that the surrounding roads would be unable to cope with additional traffic, or that the new access would harm the safety of pedestrians, cyclists or other highway users. The Highway Authority has raised no concerns in these regards and as the relevant statutory consultee, I give significant weight to its position and find no compelling reason to disagree with its views.

66. I am satisfied that no other matters, including those raised by Ashtead Residents Association, would result in a level of harm that would justify dismissal of the appeal and they do not alter my findings on the main issues.

Planning Balance

67. The proposal would be inappropriate development in the Green Belt and would cause some, albeit limited, harm to the openness of the Green Belt and to one of its purposes. There would also be limited harm to the character of the landscape, and less than substantial harm to the significance of Ashtead Park RPG and Rookery Hill Bridge as designated heritage assets.

Heritage Balance

68. The Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. It goes on to advise that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
69. I give considerable importance and weight to the less than substantial harm that the proposal would cause to Ashtead Park RPG and Rookery Hill Bridge. Nevertheless, the degree of harm would in each case be limited. In my judgement, the cumulative public benefits of the proposal noted above, including particularly those associated with the opportunities for sport, recreation and community use, would be sufficient to outweigh the harm to the significance of each of the designated heritage assets.
70. Accordingly, I find that there is a clear and convincing justification for the proposal in accordance with the Framework. The development would also comply with broadly similar provisions set out in Policy EN6 of the Local Plan.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development within the Green Belt

71. In accordance with the Framework, I give substantial weight to the harm that the proposal would cause to the Green Belt by reason of inappropriateness and the harm, albeit limited and localised, to the openness and to one of the purposes of including land within the Green Belt.
72. In addition, I have found that harm to the significance of two designated heritage assets would be outweighed by the public benefits of the proposal, but it is nevertheless harm to be weighed in the overall green belt balance. I have also found some harm to the character of the landscape, although this would again be limited and localised.
73. The Framework identifies that inappropriate development should not be approved except in very special circumstances. It sets out that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, I consider that the totality of the other considerations in favour of the proposal are of sufficient importance and magnitude to clearly outweigh the cumulative weight of the harm to the Green Belt and other harm that would be caused.

74. Accordingly, I conclude that there are very special circumstances which would justify the development within the Green Belt. On that basis, the proposal would comply with policy EN1 of the Local Plan which states that inappropriate development will not be permitted in the Green Belt, unless very special circumstances are demonstrated.

Overall Balance

75. Applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise.
76. I have concluded that the proposal would not adversely affect protected species and would make adequate provision for BNG such that it would comply with Policy EN9 of the Local Plan. I have further found that there are very special circumstances which would justify the development within the Green Belt and that harm to heritage assets would be outweighed by the public benefits of the proposal. On that basis, the proposal would comply with Policies EN1 and EN6 of the Local Plan.
77. There would be limited harm to the character of the landscape. This would result in conflict with Policies EN4 and EN8 of the Local Plan and Policies AS-EN2 and AS-EN3 of the NP and the proposal would not accord with the development plan when it is read as a whole. In my judgement however, the benefits of the proposal would also be sufficient to outweigh the limited harm to landscape character and the resulting conflict with the development plan.
78. Consequently, I conclude that there are material considerations to warrant a decision other than in accordance with the development plan in this case.

Conditions

79. I have considered suggested conditions against the tests set out in the Framework. I have made amendments where necessary to ensure compliance with these tests; for clarity, brevity or consistency; or to omit unnecessary prescription of details that would be a matter for the assessment of submissions.
80. In addition to the standard time limit condition (1), condition 2 is imposed for the avoidance of doubt and in the interest of certainty.
81. Condition 3 is necessary to safeguard heritage assets of archaeological interest, and combines the Council's suggested conditions to reduce duplication. Condition 4 is necessary to ensure adequate provision and that flood risk would not be increased. Condition 5, which I have amended to include specific details suggested by Surrey Wildlife Trust, and condition 6 are necessary in the interests of biodiversity. Although not suggested by the Council, I consider that condition 7 would be necessary in the interests of highway safety and convenience and neighbouring occupiers' living conditions having particular regard to the lack of existing direct vehicular access and tree constraints on the site.
82. Conditions 3-7 each require matters to be approved before development commences as measures would need to be in place to address effects arising during construction and/or to ensure that adequate provision can be made as part of the development. The appellant has agreed to these pre-commencement conditions.

83. Conditions 8, 9 and 10 are necessary to ensure a satisfactory appearance and in the interests of flood risk. While I have omitted reference to biodiversity enhancements from condition 10 as this would duplicate details required under condition 6, I have included specific reference to tree planting which would be necessary to secure adequate mitigation for the effects of the proposal. I have also imposed condition 11 which is necessary to ensure the long-term contribution of landscaping on the site and woodland management which I have taken into account as mitigation and a benefit of the proposal respectively.
84. Condition 12 is necessary in the interests of biodiversity and the living conditions of nearby occupiers, but it is unclear why details would be necessary prior to any development taking place and I have therefore amended the condition to require details before works above ground level.
85. Condition 13 is necessary in the interests of mitigating and adapting to climate change, but the reason for the condition given by the Council does not refer to any specific policy or other requirement for on-site installation and implementation of decentralised and renewable or low carbon energy sources, and I have not therefore included this as a requirement within the condition.
86. Conditions 14 and 15 are necessary in the interests of highway safety and convenience. Given however that the vehicular access and visibility splays would be part of the scheme, the Council's suggested condition 14 requiring provision of these elements prior to commencement of development would be unworkable and I have instead required provision prior to occupation of the development.
87. Conditions 16 and 17 are necessary to support sustainable travel choices. However, I have not been directed to any policy or other requirement that would justify the level of electric vehicle provision specified in the Council's suggested condition 16. I am not therefore clear that this would be necessary or reasonable and I have instead just required the submission of a scheme. Furthermore, while condition 17 would require details of existing pedestrian and cycle routes, I am not persuaded from the information before me that it would be necessary or reasonable to require new or upgraded routes as part of this development and I have therefore omitted a reference which would seem to require this.
88. Although not suggested by the Council, I consider that condition 18 is necessary to safeguard trees, ecology and the character of the site. Finally, conditions 19 and 20 are necessary in the interests of the living conditions of nearby occupiers.

Conclusion

89. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 1802(0)001 Rev A, 1802(0)100 Rev C, 1802(0)101 Rev F, 1802(0)102 Rev D, 1802(0)110 Rev E, 1802(0)111 Rev E, 1802(0)112 Rev E, 1802(0)250 Rev D, 1802(0)350 Rev C, 1802(0)351 Rev D and 18-635-TPP-D.
- 3) No development shall take place until an archaeological Written Scheme of Investigation ('WSI') to include a programme of investigation to determine the extent of the former ice house and to provide a programme of archaeological monitoring on the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details within the WSI.
- 4) No development shall take place until details of surface water drainage, including an assessment of the potential for the disposal of surface water by means of a sustainable drainage system, have been submitted to and approved in writing by the Local Planning Authority.

The assessment shall provide details of the design storm period and intensity (typically a 1 in 100 year storm of 30 minutes duration with an allowance for climate change), the method employed to delay and control the surface water discharged from the site and the means to prevent pollution of the receiving groundwater and/or surface water. Where applicable, the details shall include infiltration tests, calculations and controlled discharge rates and, if the development is to discharge water into the ground in any form, a full BRE Digest 365 infiltration test (or falling head test for deep bore soakaways) and verification of the suitability of infiltration methods.

The drainage scheme shall be implemented in accordance with the approved details before the development is first occupied.

- 5) No development shall take place until a Construction Environment Management Plan ('CEMP') has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but is not limited to:
 - i) a map showing the location of all ecological features;
 - ii) a risk assessment of potentially damaging construction activities;
 - iii) practical measures to avoid and reduce impacts during construction, including on protected species;
 - iv) location and timing of works to avoid harm to biodiversity features;
 - v) responsible persons and lines of communication; and
 - vi) use of protective fences, exclusion barriers and warning signs.

The development shall be carried out in full accordance with the approved details within the CEMP.

- 6) No development shall take place until an Ecological Enhancement and Management Plan ('EEMP') has been submitted to and approved in writing by the

Local Planning Authority. The EEMP shall include full details of a strategy including calculations and a phasing strategy to demonstrate how biodiversity net gain will be achieved and details of how the identified measures will be maintained, monitored and managed. The development shall be carried out and thereafter maintained, monitored and managed in full accordance with the approved details within the EEMP.

- 7) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include details of:

- i) means of access to the site for construction traffic;
- ii) the parking of vehicles of site operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials used in constructing the development;
- v) measures to control the emission of dust and dirt during construction; and
- vi) delivery and construction working hours.

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

- 8) Before any works above proposed ground level commence, details of the materials to be used in the construction of the external surfaces of the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9) Before any works above proposed ground level commence, details of the hard surfacing to be used within the site, including details to indicate either porous material or how run-off from the surface will be managed, shall be submitted to and approved in writing by the Local Planning Authority. All hard surfacing shall be provided in accordance with the approved details before the development is first occupied and shall be permanently retained as such thereafter.
- 10) Before any works above proposed ground level commence, details of a landscaping scheme including a programme for implementation shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a full specification of proposed tree planting including the quantity, size, species, and positions or density of all trees to be planted, how they will be planted and protected and the proposed time of planting. The landscaping and tree planting shall be carried out in accordance with the approved details and programme for implementation.

If within a period of 5 years from the date of planting, any tree or plant (or any tree or plant planted in replacement for it) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or plant unless the local planning authority gives its written consent to any variation.

- 11) Before any works above proposed ground level commence, a landscape and woodland management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape and woodland areas, shall be submitted to and approved in writing by the Local Planning Authority. All landscaping shall be managed in accordance with the approved landscape management plan.
- 12) Before any works above proposed ground level commence, details of any proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - i) hours of operation;
 - ii) electronic automated means by which the lighting will be controlled and turned off when the site is not in use;
 - iii) height, design, location and intensity of lighting; and
 - iv) an assessment of the effect of lighting on ecological features sensitive to lighting.

Lighting shall be provided in accordance with the approved details before the development is first occupied and shall be permanently retained as such thereafter.

- 13) Before any works above proposed ground level commence, details of measures to reduce the carbon emissions of the predicted energy use of the development hereby permitted by at least 10% shall be submitted to and approved in writing by the Local Planning Authority. All measures shall be provided in accordance with the approved details before the development is first occupied and shall be permanently retained as such thereafter.
- 14) The development hereby permitted shall not be first occupied until the proposed vehicular access to Rookery Hill has been constructed and provided with visibility splays in accordance with Plan No. 2018-3245-001 of the Transport Statement prepared by ttp consulting and dated February 2022 and the visibility splays shall thereafter be kept permanently clear of any obstruction over 1.05m high.
- 15) The development hereby permitted shall not be first occupied unless and until space has been laid out within the site for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear in accordance with the approved plans (Plan No. 1802(0)102 Rev D). The parking and turning areas shall thereafter be retained and maintained for their designated purposes.
- 16) The development hereby permitted shall not be first occupied until a scheme for the provision of electric vehicle charging points and cabling for the future provision of charging points has been submitted to and approved in writing by the Local Planning Authority. All measures shall be provided in accordance with the approved details before the development is first occupied and shall be permanently retained as such thereafter.
- 17) The development hereby permitted shall not be first occupied until details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) secure parking for bicycles;
 - ii) facilities for cyclists to change and shower;

- iii) facilities for cyclists to store cycling equipment; and
- iv) Information to be provided to visitors regarding the availability of and whereabouts of local public transport, walking and cycling routes.

All measures shall be provided in accordance with the approved details before the development is first occupied and shall be permanently retained as such thereafter.

- 18) The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement Revision D prepared by Canopy Consultancy and dated July 2023, and all trees shown to be retained shall be protected in accordance with the Tree Protection Plan, plan No. 18-635-TTP-D, before development commences.
- 19) There shall be no playing of live or amplified music on the premises at any time.
- 20) The development hereby permitted shall only be used between the hours of 0800 and 2230.

End of Schedule