Ministry of Housing, Communities & Local Government

Our ref: APP/Y3615/W/16/3151098

Claire Davies
Associate
Quod
Ingeni Building
17 Broadwick Street
London
W1F 0AX

21 March 2018

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY BERKLEY HOMES (SOUTHERN) LTD AND THE HOWARD PARTNERSHIP TRUST
LAND AT HOWARD OF EFFINGHAM SCHOOL AND LODGE FARM AND BROWN'S FIELD, BROWN'S LANE, EFFINGHAM KT24 5JR
APPLICATION REF: 14/P/02109

1. I am directed by the Secretary of State to say that consideration has been given to the report of David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC, who held a public local inquiry on 16 May to 2 June 2017 into your client's appeal against the decision of Guildford Borough Council to refuse your client's application for planning permission for a hybrid planning application for outline permission (only access to be considered) for the erection of a replacement secondary school for Howard of Effingham and up to 258 residential dwellings with means of access to Howard of Effingham School and Lodge Farm, Lower Road following demolition of all existing buildings; and full permission for the erection of 37 dwellings, with access, parking and landscape works on land at Brown's Field, Brown's Lane, Effingham, in accordance with application ref: 14/P/02109, dated 17 October 2014.

2. On 1 September 2017, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed, subject to conditions.

4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing, Communities & Local Government
Maria Stasiak, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1624
Email: PCC@communities.gsi.gov.uk

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the inquiry

6. On 25 October 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on details set out in your letter of 16 October regarding the Effingham Neighbourhood Plan. A list of representations received in response to this letter is at Annex A.

7. On 20 December 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the submission of the emerging Guildford Borough Local Plan. A list of representations received in response to this letter is at Annex A.

8. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

10. In this case the development plan comprises the saved policies of the South East Plan (2009); the Surrey Minerals and Waste Development Framework; the saved policies of the adopted Local Plan 2003; and the Effingham Neighbourhood Plan, which came into force on 22 February 2018. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR18 and IR21.

11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the material set out at IR22-23.

12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

13. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Emerging plan

14. The emerging plan comprises the Submission Local Plan (SLP), which was submitted for independent examination on 13 December 2017. The Secretary of State considers that relevant policies include S1, H1, H2, P2 and D3. As it has not yet completed its examination, objections are not yet fully resolved, and its policies are still subject to change, he considers that the SLP carries limited weight.

Main issues

Green Belt and Local Green Space

15. The Secretary of State agrees that the proposal would represent inappropriate development in the Green Belt (IR358), and considers that this carries substantial weight. In accordance with paragraph 87 of the Framework, inappropriate development should not be approved except in very special circumstances.

16. For the reasons given at IR360-373, the Secretary of State agrees with the Inspector at IR372 that when the residential development and the replacement school are taken together this would constitute a significant body of new development within the Green Belt, which would inevitably result in a very significant degree of reduction to its openness. He further agrees with the Inspector that this is in conflict with the primary expectations of paragraph 79 of the Framework and is in conflict with saved policy RE2 of the GBLP. For the reasons given at IR475, the Secretary of State agrees with the Inspector that policy RE2 is inconsistent with the Framework. He considers it is out of date and carries limited weight. Overall the Secretary of State considers that the harm to the openness of the Green Belt carries substantial weight. He has gone on to consider whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and whether very special circumstances exist to justify the development.

17. The Secretary of State notes that Brown's Field is designated in the ENP as a Local Green Space, where development affecting the openness of a Local Green Space will not be permitted unless the developer demonstrates there are very special circumstances (policy ENP-ENV1). He has gone on to consider whether very special circumstances have been demonstrated in this case.

Character or appearance of the Effingham Conservation Area

18. For the reasons given at IR374-380 and IR403, the Secretary of State agrees with the Inspector that the proposed development on Site 2 would cause a degree of harm in respect of the erosion of the open context of the historic village, a discernible and positive component of its former rural agrarian character and therefore its significance (IR380). The proposed development would therefore fail to preserve the character or appearance of the Conservation Area, in conflict with national policies and GBLP policy HE7. He further agrees that the magnitude of this harm is less than substantial, and considers that this harm carries medium weight against the proposal (IR380 and IR403). In accordance of paragraph 134 of the Framework, he has gone on to weigh the harm to heritage assets against the public benefits of the development (see paragraph 38 below).

Setting of heritage assets

19. For the reasons given at IR382-403, the Secretary of State agrees with the Inspector at IR402 that the proposed development would not have a materially harmful effect on the

setting of the Effingham Conservation Area taken as a whole, and there is no policy conflict in this respect.

20. For the reasons given at IR382-397, the Secretary of State agrees with the Inspector that there is no policy conflict in respect of the impact on the settings of other heritage assets. He agrees with the Inspector at IR386 that the redevelopment of the school site represents an opportunity to re-establish the former relationship or linkage between the Little Lodge and the Lodge, and gives this benefit limited weight. He further considers that the repair and restoration of the Applestore is a benefit to which he attributes medium weight (IR390).

Character and appearance of the settlement of Effingham and its setting

21. For the reasons given at IR404-407, the Secretary of State agrees with the Inspector at IR407 that the diminution of the wider rural perspective and the striking contrast of the proposed modern institutional architecture would cause harm to this part of the wider rural context of the settlement, and would thus conflict with GBLP policies G5 and CF4. He further agrees that because of the limited extent of erosion of local character and the mitigating effects of the development, the harm is limited in extent, and carries medium weight (IR407).

The effect of the proposed development on the ecology of Thornet Wood

22. The Secretary of State agrees with the Inspector, for the reasons given at IR408-413, that sufficient mitigation can be secured by condition to overcome concerns over ecological matters in relation to the local Site of Nature Conservation Importance and protected species. He further agrees that the legitimate concerns over the efficacy of the wildlife corridor can in good measure be addressed, and that these matters are neutral in terms of weight (IR413).

The effect of the proposed development on the local highway network and safety of highway users

23. For the reasons given at IR414-416, the Secretary of State agrees with the Inspector's assessment at IR416 that the proposals are in accordance with GBLP and national policy.

The effect of the proposed development on the continued availability of playing pitches within the village.

24. For the reasons given at IR417-418, the Secretary of State agrees with the Inspector that while the use of the proposed replacement school's facilities would result in a change to the functions of the club, the benefits on offer outweigh the losses, and the proposals are in accordance with GBLP and ENP policies. He therefore agrees that this matter is neutral in terms of weight (IR418).

Howard of Effingham School

Suitability and sufficiency

25. For the reasons given at IR424-433, the Secretary of State agrees with the Inspector at IR433 that the existing school premises are not fit for the purpose of meeting modern educational and social need and that the replacement of the school in order to facilitate this carries very substantial weight.

Condition

26. For the reasons given at IR434-443, the Secretary of State agrees with the Inspector at IR443 that there are very significant issues with the fabric of the school and the ongoing funding of its repair and maintenance in the current budgetary context. He further agrees that in seeking to address condition as well as suitability and sufficiency, the least expensive option is the rebuilding of the school on the only other available identified site, and that these matters carry very substantial weight.

Need

27. For the reasons given at IR444-464, the Secretary of State agrees with the Inspector at IR464 that there is a demonstrated demographic need for additional places within the joint planning areas of the school. Government policy across the JPS and carried through in the policy of the Framework attaches great importance to ensuring a sufficient choice of school places. The Secretary of State agrees with the Inspector that this consideration carries very substantial weight.

Cullum Centre

28. For the reasons given at IR465-466 the Secretary of State agrees with the Inspector that the provision of the Centre, optimally located within the new complex to maximise its effectiveness for the students who will use it, it is a clear benefit of the scheme and to deepening the educational and community inclusivity of the school. The Secretary of State agrees with the Inspector that this carries substantial weight (IR466).

Housing Land Supply

29. The Secretary of State agrees with the Inspector's findings (IR467-IR470) that the Council has a 2.1 year housing land supply. Against this the Secretary of State considers that the delivery of 295 dwellings, 20% of which will be affordable, carries very substantial weight.

Effingham Neighbourhood Plan

30. The appeal sites lie outside the Settlement Area of Effingham, and the Secretary of State considers that the proposal is in conflict with ENP-G1 (which steers development to within this area), and SA3 (which allocates part of the Lodge Farm Site for 6 houses). Given the low level of housing land supply, the ENP does not attract the protection of the WMS on Neighbourhood Plans of 12 December 2017, and the Secretary of State considers that the conflict with these policies carries moderate weight.

Other Matters

31. For the reasons given at IR471, the Secretary of State agrees with the Inspector's conclusion that the community and highway benefits carry medium weight. For the reasons given at IR4-5 and IR472-474 the Secretary of State agrees with the Inspector that SANG mitigation matters are neutral in the planning balance.

Planning conditions

32. The Secretary of State has given consideration to the Inspector's analysis at IR4 and IR493-517, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

33. Having had regard to the Inspector's analysis at IR2-3 and IR518-523, the planning obligation dated 23 June 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State considers that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.

Planning balance and overall conclusion

34. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with development plan policies RE2, HE7, G5, CF4, ENP-G1 and SA3, and is not in accordance with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

35. As there is no 5-year housing land supply, paragraph 14 of the Framework indicates that planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework as a whole or (b) specific policies in the Framework indicate development should be restricted.

36. In this case the Secretary of State considers that the harm to the Green Belt from inappropriate development carries substantial weight, and that the harm to openness carries substantial weight. He further considers that there is 'less than substantial' harm to the Conservation Area, which carries medium weight, and harm to the rural context of the village which carries medium weight.

37. The Secretary of State considers that the provision of affordable and market housing carries very substantial weight. He also considers that the provision of school buildings which meet modern educational and social need; addressing the condition of the school; and meeting need for school places each carry very substantial weight, while the provision of an Autism Centre carries substantial weight. He considers that the community and highways benefits arising from the scheme carry medium weight, while the opportunity to re-establish the linkage between the Little Lodge and the Lodge is a benefit which carries limited weight, and the restoration of the Applestore is a benefit which carries medium weight.

38. The Secretary of State has considered Paragraph 134 of the NPPF, which states that the harm to heritage assets should be weighed against the public benefits of the proposal. He considers that the public benefits of the proposal would outweigh the harm and that therefore paragraph 134 is favourable to the proposal.

39. The Secretary of State considers that the above benefits clearly outweigh harm to the Green Belt by reason of inappropriateness and any other harm, and so very special circumstances exist. He further considers that these very special circumstances justify development on a Local Green Space. The Secretary of State concludes that there are no specific policies in the Framework that indicate that this development should be restricted. He further considers that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits. Overall he considers that there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

40. The Secretary of State therefore concludes that the appeal should be allowed and planning permission be granted.

Formal decision

41. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for a hybrid planning application for outline permission (only access to be considered) for the erection of a replacement secondary school for Howard of Effingham and up to 258 residential dwellings with means of access to Howard of Effingham School and Lodge Farm, Lower Road following demolition of all existing buildings; and full permission for the erection of 37 dwellings, with access, parking and landscape works on land at Brown's Field, Brown's Lane, Effingham.

42. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

43. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

44. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

45. A copy of this letter has been sent to Guildford Borough Council and Effingham Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Maria Stasiak

Maria Stasiak
Authorised by the Secretary of State to sign in that behalf

Annex A Schedule of representations

Responses received to the Secretary of State's reference back letter issued on 25 October 2017

Date	Correspondent
6/11/2017	Liz Hogger – Effingham Parish Council
08/11/2017	John Busher – Guildford Borough Council

Responses received to the Secretary of State's reference back letter issued on 20 December 2017

Date	Correspondent
10/01/2018	Liz Hogger – Effingham Parish Council
11/01/2018	John Busher – Guildford Borough Council

Response received to the Secretary of State's letter issued on 25 January 2018

Date	Correspondent
29/01/2018	Claire Davies – Quod

Representations received since the close of the inquiry

Date	Correspondent
16/10/2017	Claire Davies - Quod
19/10/2017	Liz Hogger – Effingham Parish Council
26/02/2018	Tracey Coleman – Guildford Borough Council
26/02/2018	Liz Hogger – Effingham Parish Council

Annex B List of conditions

Conditions – Outline

1. The development hereby permitted in outline shall accord generally with the following approved parameter plans:

Land at Lower Road Land Use Parameter Plan	2176-A-1500-H
Land at Lower Road Building Heights Parameter Plan	2176-A-1501-H
Land at Lower Road Density Parameter Plan	2176-A-1502-F
Land at Lower Road Landscape and Ecology Parameter Plan	2176-A-1503-H
Land at Lower Road Movement and Access Parameter Plan	2176-A-1504-J

2. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") in relation to the Lodge Farm and existing HoE School sites shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

3. Applications for the approval of reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.

4. The development hereby permitted on the Lodge Farm site shall begin no later than two years from the date of approval of the last of the reserved matters to be approved on this site.

5. The development hereby permitted on the existing HoE School site shall begin no later than two years from the date of approval of the last of the reserved matters to be approved on this site.

6. Prior to the commencement of any development on the Lodge Farm site, details and timetable of mitigation measures to protect the Thornet Wood Site of Nature Conservation Importance (SNCI), (during the construction and operational phases, as well as occupation) shall be submitted to and approved in writing by the Local Planning Authority, implemented and subsequently maintained in accordance with a scheme to be agreed in writing with the Local Planning Authority, which is to include a minimum 15m buffer zone along the southern edge of the woodland, continuing along the eastern boundary of the appeal site, terminating at the point to the east of the attenuation pond.

7. Prior to the commencement of the development, a Great Crested Newt Precautionary Mitigation Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The development shall only be carried out in accordance with the agreed details.

8. The new HoE School shall not be occupied until a community use agreement has been submitted to and approved in writing by the Local Planning Authority. The

agreement shall include details of pricing policy, hours of use, access by non-education establishment users/non-members, management responsibilities and a mechanism for review. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

9. Development at Brown's Field shall not commence until the sport and recreation facilities provided as part of the new HoE School are completed and in operation. Prior to this time, facilities at Brown's Field must remain at least accessible and at equivalent in terms of size, usefulness, attractiveness and quality to the existing facilities.

10. No development shall commence until details of the design and layout of the sports hall has been submitted to and approved in writing by the Local Planning Authority. The details shall include how the sports hall complies with the standards and methodologies set out in the relevant Sport England guidance such as 'Sports Halls Design and Layouts – Updated and Combined Guidance 2012', or any other relevant guidance which may be in force at the time. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity.

11. No development shall commence until details of the design and layout of the Multi-Use Games Area (MUGA), artificial turf pitch and natural turf pitches have been submitted to and approved in writing by the Local Planning Authority. The details shall include how the MUGA and pitches comply with the standards and methodologies set out in the relevant Sport England guidance such as 'Artificial Surfaces for Outdoor Sport Updated Guidance for 2013' and 'Comparative Sizes of Sports Pitches and Courts (OUTDOOR) September 2015 Update', or any other relevant guidance which may be in force at the time. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity.

12. No development shall commence unless and until:
    a. a detailed assessment of the ground conditions of the land proposed for the replacement playing field land shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
    b. based on the results of this assessment, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

    The development shall only be carried out in full accordance with the agreed detailed scheme, any such scheme to be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

13. Before the sports facilities are brought into use, a Management and Maintenance Scheme including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. In relation to the artificial turf pitch, this Scheme should set out measures to ensure the replacement of the artificial turf pitch surface within a specified period. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

14. Prior to first occupation of the new HoE School, an updated School Travel Plan shall be submitted for the written approval of the Local Planning Authority. The details of the submitted School Travel Plan shall include measures to promote sustainable modes of transport and provisions for the maintenance, monitoring and review of the impact of the Plan and its further development. The development shall thereafter be carried out in all respects in accordance with the approved details.

15. Prior to first occupation of the new HoE School, a Car Park Management Plan demonstrating how the quantum of agreed parking provision will be managed shall be submitted to and agreed in writing by the Local Planning Authority. Any agreed measures shall be implemented before the first occupation of the new HoE School and retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

16. The houses on the development on the land known as the Existing HoE School site and the Lodge Farm site hereby approved shall not be occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to park and for vehicles to turn within the site so that they may enter and leave the site in forward gear and thereafter the parking and turning area(s) shall be retained and maintained for their designated purpose(s).

17. The residential development hereby approved on land known as the HoE School shall not be first occupied unless and until any existing redundant highway accesses from the site to Lower Road have been permanently closed and any kerbs, verge, footway fully reinstated and any existing redundant school related markings have been removed, in accordance with a scheme to be agreed in writing with the local planning authority.

18. The residential development hereby approved on the land known as Lodge Farm shall not be first occupied unless and until any existing redundant highway accesses from the site to Lower Road and Effingham Common Road have been permanently closed any kerbs, verge, footway fully reinstated, in accordance with a scheme to be agreed in writing with the local planning authority.

19. The education development hereby approved on the land known as Lodge Farm shall not be first occupied unless and until any existing redundant highway accesses from the site to Lower Road have been permanently closed and any kerbs, verges, footway fully reinstated, in accordance with a scheme to be agreed in writing with the local planning authority.

Conditions – Full

20. The development hereby permitted on Browns Field shall be begun before the expiration of seven years from the date of this permission.

21. The development hereby permitted shall be carried out in accordance with the following approved plans:

Browns Field Site Plan	2176-C-1108-J
Browns Field Location Plan	2176-A-1001-A

Browns Field Site Sections A-A and B-B	2176-A-1530.1-A
Browns Field Site Sections A-A and B-B	2176-A-1530-A
Browns Field Site Sections C-C and D-D	2176-A-1535.1-A
Browns Field Site Sections C-C and D-D	2176-A-1535-A
Browns Field Plots 1-3 House Types 3H9(G).1 & 3H1(B).1 Plans and Elevations	2176-A-3000-E
Browns Field Plot 4 House Type 4H11 Plans and Elevations	2176-A-3005-D
Browns Field Plots 28 House Type 4H5 – Render Plans and Elevations	2176-A-3010-F
Browns Field Plots 32 House Type 4H5 – Render Plans and Elevations	2176-A-3011-F
Browns Field Plots 5, 34 House Type 4H5 – Tile Hanging Plans and Elevations	2176-A-3013-C
Browns Field Plot 6 House Type 2BFOG Plans and Elevations	2176-A-3015-F
Browns Field Plot 7-10 House Types 3H9(G).1 & 2H2 Plans and Elevations	2176-A-3020-D
Browns Field Plots 11-16 Affordable Flats Plans and Elevations	2176-A-3025-D
Browns Field Plots 17-19 House Types 3BH-R2.1+ & 2BHA Plans and Elevations	2176-A-3030-D
Browns Field Plots 20122 House Types 3H6.1, 3H9(G).1 and 3H9(G).2 Plans and Elevations	2176-A-3035-D
Browns Field Plot 23 House Type 3H10(G) Plans and Elevations	2176-A-3040-F
Browns Field Plot 27 House Type 3H10(G) Plans and Elevations	2176-A-3041-F
Browns Field Plots 24 & 25 House Types 3H6.1 Plans and Elevations	2176-A-3045-D
Browns Field Plots 29-31 House Types 3H1(B).1 and 3H6.2 Plans and Elevations	2176-A-3050-E
Browns Field Type 4H7 – Plot 33 Plans and Elevations	2176-A-3055-D
Browns Field Type 4H7 – Plot 26 Plans and Elevations	2176-A-3056-B
Browns Field Plot 35 House Type 5BH1 Plans and Elevations	2176-A-3060-D
Browns Field Plot 37 House Type 5BH1 Plans and Elevations	2176-A-3061-D

Browns Field Plot 36 House Type 5BH2 Plans and Elevations	2176-A-3065-C
Browns Field Combined Hard and Soft General Arrangement Plan (Sheet 1 of 3)	D2184_L120
Browns Field Combined Hard and Soft General Arrangement Plan (Sheet 2 of 3)	D2184_L121
Browns Field Combined Hard and Soft General Arrangement Plan (Sheet 3 of 3)	D2184_L122
Browns Field Detailed Hard Landscape General Arrangement Plan (Sheet 1 of 3)	D2184_L200
Browns Field Detailed Hard Landscape General Arrangement Plan (Sheet 2 of 3)	D2184_L201
Browns Field Detailed Hard Landscape General Arrangement Plan (Sheet 3 of 3)	D2184_L202
Browns Field Detailed Soft Landscape General Arrangement Plan (Sheet 1 of 3)	D2184_L300
Browns Field Detailed Soft Landscape General Arrangement Plan (Sheet 2 of 3)	D2184_L301
Browns Field Detailed Soft Landscape General Arrangement Plan (Sheet 3 of 3)	D2184_L302

22. Notwithstanding the parking arrangement shown in the approved plans, the final parking layout shall be submitted and agreed in writing with the local planning authority. The approved parking layout shall be implemented in accordance with the approved details prior to the occupation of the final unit.

23. Prior to the first occupation of the Browns Field development, details of a lighting strategy 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.

24. Prior to the commencement of above ground development at Browns Field, details and samples of the proposed hardstanding, external facing and roofing materials (including bond for the former and means of fixing for the latter), including colour and finish 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.

25. Prior to the occupation of the dwellings on the Browns Field site detailed drawings and/or samples of all external windows (depth of reveal, method of opening, details of heads, cills and lintels) bargeboards, eaves and soffit details and doors have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

26. Prior to the occupation of the dwellings on the Browns Field site, details of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

27. All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the Local Planning Authority, shall be replaced in the next available planting sooner with others of similar size, species and number, unless otherwise agreed in writing by the Local Planning Authority.

28. Prior to the occupation of the dwellings on the Browns Field site, details of all boundary treatments (both within and around the site) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of Browns Field and shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

29. The homes on the development on the land known as Browns Field hereby approved shall not be occupied unless and until the path link between the site and The Street shown on the approved application plans has been constructed in accordance with details submitted to and approved in writing by the local planning authority. The link path shall be retained for that purpose thereafter.

30. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 2015, no additional access points from the Browns Field site shall be created and the means of vehicular access to the development on the land known as Brown Field hereby approved shall be from Browns Lane only.

Conditions – General

31. Prior to the commencement of any development, a phasing plan shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the agreed details.

32. The development hereby approved shall not be commenced until a full scheme for the provision of a Sustainable Urban Drainage System (SuDS) for each phase has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied in that phase until the SuDS has been constructed in accordance with the approved scheme. The scheme shall include the following details:

a) a full geotechnical report to ascertain if infiltration devices (in part) may be acceptable
b) full details of the proposed system including pipe positions, dimensions and levels, manhole levels and details of flow control devices
c) full details of the balancing pond including levels, gradients of banks, flow controls for discharge and full details of any other attenuation proposed
d) calculations demonstrating a reduction in surface water runoff rates and volumes up to the 1 in 100 plus climate change storm events
e) demonstration that there will be no on site flooding up to the 1 in 30 storm event and any on site flooding between the 1 in 30 and 1 in 100 storm events will be safely contained on site with mitigation of the residual risk / overland flows

f) details of how the Sustainable Drainage System will be protected and maintained during the construction of the development shall be submitted
g) a detailed maintenance schedule for the SUDS drainage system including ownership responsibilities demonstrating that the future maintenance of the SUDS has been secured

33. No residential development shall take place until written confirmation has been obtained from the local planning authority that Suitable Alternative Natural Green Space (SANGS) has been secured and no dwelling shall be occupied before written confirmation has been obtained from the local planning authority that the works required to bring the land up to acceptable SANGS standard have been completed.

34. The development hereby approved shall not be commenced until a foul water drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved drainage works have been completed in full.

35. Prior to the commencement of development on each relevant phase, a Construction Method Statement relating to that phase shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
a) the parking of vehicles of site operatives and visitors, including measures for traffic management
b) details of the routing of construction and delivery vehicles to the sites
c) loading and unloading of plant and materials
d) storage of plant and materials used in constructing the development
e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
f) wheel washing facilities
g) measures to control the emission of dust and dirt, and plant exhaust fumes, during construction
h) a scheme for recycling/disposing of waste resulting from demolition and construction works
i) precautions to be taken in order to control noise emissions from any fixed plant, including generators, on-site demolition/construction activities, and any piling works (to be in accordance with BS 5228 parts 1 & 4) if necessary
j) The avoidance of the movement of and by heavy goods vehicles, plant and equipment on Lower Road Effingham during the weekday periods when pupils arrive and depart from the schools in Effingham Village.

36. Prior to the occupation of above ground development on each relevant phase, a Landscape Management and Maintenance Plan for each phase of development shall been submitted to and approved in writing by the Local Planning Authority. This shall include commitment to the maintenance of landscaping 5 years from completion of the development.

37. Prior to the commencement of the development on each relevant phase, an Arboricultural Method Statement and Tree Protection Plan for each phase of development shall been submitted to and approved in writing by the Local Planning Authority. At all times until the completion of each of the phases of development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.

38. Prior to commencement of the residential development a Residential Travel Plan shall be submitted for the written approval of the Local Planning Authority. The approved Travel Plan shall be implemented prior to first occupation an each and every subsequent occupation of the development, thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

39. Prior to the commencement of above ground development on any relevant phase, a Land Contamination Assessment and Remediation Strategy for each phase of development shall be submitted to and approved in writing by the Local Planning Authority.

40. Any remediation scheme submitted in accordance with Condition 39 (above) shall be carried out as approved. Prior to the first occupation of the approved building, documentary proof shall be provided to and in approved in writing by the Local Planning Authority together with a quality assurance certificate to show that the works have been carried out in full accordance with the approved remediation strategy. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site.

41. Demolition and/or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank or National Holidays, unless otherwise agreed in writing with the local planning authority.

42. Prior to the commencement of the development on each relevant phase, a full survey drawing to show existing and proposed ground levels across the development sites, together with details of the slab levels of the proposed buildings, shall be submitted to, and approved in writing by, the Local Planning Authority. The constructed development shall not vary from the approved levels.

43. Prior to the commencement of the development on each relevant phase, a refuse strategy shall have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

44. The residential development hereby permitted shall not be occupied unless and until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for vehicles to park and for vehicles to turn within the site so that they may enter and leave the site in forward gear and thereafter the parking and turning area(s) shall be retained and maintained for their designated purpose(s).

45. No development in each phase shall take place until the applicants or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with an Archaeological Written Scheme of Investigation for each phase of development, which has been submitted to and approved in writing by the Local Planning Authority.

46. Prior to the commencement of the development, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP shall set out the measures to be included in the development for biodiversity enhancement, a timetable for the implementation of the measures, and

details of the future management of the sites in the interest of securing areas of long term biodiversity value. The approved scheme shall be implemented in accordance with the approved details unless previously agreed in writing by the Local Planning Authority.

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Date: 1 September 2017

TOWN AND COUNTRY PLANNING ACT 1990

GUILDFORD BOROUGH COUNCIL

APPEAL BY

BERKLEY HOMES (SOUTHERN) LTD AND THE HOWARD PARTNERSHIP TRUST

Inquiry held on 16 May 2017 to the 2 June 2017

Howard of Effingham School (HoE) and Lodge Farm and Brown's Field, Browne's Lane, Effingham KT24 5JR

File Ref(s): APP/Y3615/W/16/3151098

File Ref: APP/Y3615/W/16/3151098
Howard of Effingham School and Lodge Farm and Brown's Field, Browne's Lane, Effingham KT24 5JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant part outline and part full planning permission.
- The appeal is made by Berkley Homes (Southern) Ltd and The Howard Partnership Trust against the decision of Guildford Borough Council.
- The application Ref 14/P/02109, dated 17 October 2014, was refused by notice dated 9 March 2016.
- The development proposed is hybrid planning application for outline permission (only access to be considered) for the erection of a replacement secondary school for Howard of Effingham and up to 258 residential dwellings with means of access to Howard of Effingham School and Lodge Farm, Lower Road following demolition of all existing buildings; and full permission for the erection of 37 dwellings, with access, parking and landscape works on land at Brown's Field, Brown's Field Lane, Effingham.

Summary of Recommendation: That the appeal be allowed, subject to conditions.

TABLE OF CONTENTS

Procedural Matters

The proposals

1. The planning application was presented in hybrid form with outline permission (only access to be considered) for the erection of a replacement secondary school for HoE and up to 258 residential dwellings with means of access at HoE School and Lodge Farm, following demolition of all existing buildings and full permission sought for the erection of 37 dwellings, with access, parking and landscaping works on land at Brown's Field. The appeal has been considered and the report drafted on the same basis.

Section 106 agreement

2. After the close of the Inquiry a signed and dated section 106 agreement was submitted by the appellants (a draft had been discussed at length during the Inquiry) facilitating financial contributions to pedestrian and cycle infrastructure improvements and required Traffic Regulation Orders totalling £300,000. A contribution is also offered for the provision Suitable Alternative Natural Green Space and Strategic Access Management and Monitoring (SANG and SAMM) (as set out by Natural England / the Council's adopted Thames Basin Heaths Special Protection Area Avoidance Strategy) to mitigate the effects of the development on that European Site.

3. Financial contributions are also offered in respect of education (£1,022,873) and improvements to King George V Hall (KGV), a community facility (£2,645,000) also to mitigate the effects of development in these respects. The agreement also facilitates the provision of 25 early-years learning spaces within the new HoE School, as part of the new premises. The agreement also facilitates the provision of 35 affordable dwellings on the greater site (mix of 26 affordable rent and 11 shared ownership dwellings). In addition, 24 discount market sale dwellings would be provided. The spread of the above dwellings will be agreed in consultation with the Council at reserved matters stage in the event the appeal is allowed. The report will consider these matters in more detail below [para 508-513].

4. The signed and dated Statement of Common Ground (SoCG) (CD8.3) submitted by the appellants also agrees that the SANG mitigation may be secured through a suitable negatively worded Grampian condition requiring written confirmation of such. The condition will also state that no dwelling is to be occupied until such time as the formal notification of the satisfactory provision of the SANG has been confirmed.

5. The Appellants have identified the proposed SANG site as being on land with frontage to Long Reach, Silkmore Lane and Green Lane West, Long Reach, West Horsley ,Surrey. This proposal, in the form of a planning permission for a change of use of the land for this purpose was submitted to Guildford Borough Council (GBC), was subsequently refused by them and was the subject of a separate appeal now allowed through a decision issued on the 20 July this year (2017)[1]. In their supplementary statement *Securing the SANG* (ID doc 17 and CD 21.15) the appellants confirm that they and Green Reach Ltd (the appellants in the Long Reach case) have reached an agreement that should the HoE appeal succeed the

[1] Appeal Ref: APP/Y3615/W/16/3165858.

attendant housing will be granted the ability to utilise the SANG mitigation at Long Reach. Green Reach have also confirmed they have exchanged an unconditional contract for the sale of the land at Long Reach to Berkley Homes (Southern) Ltd.

6. Given the materiality of these considerations to the determination of this appeal they are considered in the relevant reasoning below [paras 462-464].

The Sites and their Surroundings

The Sites

7. The HoE site (Site 1) accommodates an Academy secondary school of currently approximately 1,600 pupils. It is located to the south of Lower Road and is bounded to the south by the King George V playing field and to the west by Effingham Place, a modern residential development. The land immediately to the east of the application site is within the administrative boundary of Mole Valley District Council (MVDC), which is currently occupied by open space, a school and dwellings. The site has an area of approximately 3.75 hectares and comprises a range of single and two storey school buildings on the western part of the site and playing fields, a multi-use games area (MUGA) and parking to the east.

8. These buildings vary in age, architectural style and condition, ranging from the older core of two storey structures, later full height sports and assembly halls to prefabricated single storey structures. The site is generally level and has vehicular ingress and egress points on Lower Road. There is a public footpath running along the eastern boundary of the site, as well as one which skirts the southern boundary. The site is outside of, but adjoining Effingham Conservation Area (to the south) and neighbouring the site to the west is Effingham Place, with the main dwelling within being the Grade II listed The Lodge. To the east of the site and within Mole Valley District Council though not actually abutting it is the Little Bookham Conservation Area. Within, and also to the east, are the Church of All Saints which is Grade II* listed and The Manor School House which is Grade II listed.

9. Brown's Field (Site 2) is the most southerly of the three sites and is bounded by the A246 Guildford Road to the south, Brown's Lane and King George V playing fields to the east and The Street to the west. To the north, the site is bounded by detached residential dwellings which face Brown's Lane. The site has an area of approximately 1.7 hectares and is currently open and laid to grass. The field is occasionally used, mainly at weekends, by local rugby teams for matches and training. The site is relatively open to Brown's Lane (being enclosed by a modern chain-link fence), but stands a little above the highway by approximately one metre. The A246 and The Street boundaries consist of mature tree planting, which is relatively dense in places and by low local flint walling, identified as locally listed.

10. This site lies within the Effingham Conservation Area and also accommodates a timber framed, apparently relocated, apple store also identified as a locally listed building. To the west of the site on the other side of The Street is The Cottage, which is also locally listed and Vine Cottage which is Grade II listed. On the opposite side of Guildford Road are Crosslands and Effingham House, both dominating the junction, which are both Grade II listed. A portion of the site is also identified as being within an area of high archaeological potential (AHAP).

11. Lodge Farm (Site 3) is the largest of the three sites (19.7 hectares), located opposite the HoE School on the north side of Lower Road. The site is bordered to the east by The Vineries Garden Centre, (also forming the eastern boundary of GBC). To the west along Lower Road are a number of residential dwellings, including the Grade II listed Red House (now apartments) a church, Our Lady of Sorrows and its Lych gate, both locally listed, a former Royal British Legion club and St Lawrence Primary School.

12. The western boundary of the site is formed by the playing fields for St Lawrence School and six detached dwellings which extend along Effingham Common Road to the north. To the north and north-east lies Thornet Wood (a Site of Nature Conservation Importance (SNCI) and ancient woodland), as well as open unimproved pasture. Whilst the greater part of the site comprises fallow agricultural land, there are a number of large semi-derelict glass houses and single storey former agricultural/small industrial buildings also present, unified by extensive areas of concrete hard-standing and access tracks. All of the buildings on the site, as well as the greenhouses, are currently vacant. Century Court, another single storey brick built building within the site and fronting Lower Road, remains in use as a children's day nursery. The site is outside of but partly adjoins Effingham Conservation Area to the west.

The surroundings

13. The three sites skirt the periphery of the historic settlement of Effingham from the south to the east and north. Whilst Brown's Field lies within the designated conservation area, the two other elements immediately and partly abut it. The Medieval origins of the village are well understood from within the conservation area with its focus around the church and a coterie of substantial vernacular and later buildings at its centre. The former rurality of the settlement is also evident still in the presence of substantial former farmsteads on the western side of the Street, notably Home Farm, where the immediate connection with the arable land to the west may readily be perceived.

14. The conservation area extends to the east of the village to incorporate the KGV playing fields. Although these have the characteristics of attentively managed recreational space, the visual imprint of the former parkland once associated with The Lodge is unmistakably apparent, with its gently undulating grass and specimen trees dotted across it. This easterly prospect also adds to the open context of the core historic settlement when viewed from this standpoint.

15. The land north of Lower Road is generally enclosed to the west where it boarders the Primary School, the Red House and Effingham Common Road. However, there are glimpses of the field beyond the Church of Our Lady of Sorrows to the north and further to the east views of the open, rising land to the north are discernible between the Lodge Farm complex and that of the Vineries Nursery again further to the east. As described above, Lodge Farm, comprises an extensive range of single storey brick built structures, glass houses and expanses of concrete hard standings and tracks. There are also stands of coniferous planting that screen the complex from Lower Road. Beyond, the rising open ground framed by Thornet Wood consolidates the sense of rurality at this point forming the northerly context of the village.

16. This sense of rurality or historic integrity is however not all pervasive. In fact, whilst a good number of historic buildings survive within the conservation area,

these are supplemented by a good number of mostly C20 date. These are in turn supplemented by further incursions of quite substantial modern development, including that at Yew Tree Walk and Middle Farm Place off The Street, and also that at Effingham Place and Barns Wallace Close in the north and east of the conservation area. Modern development is at its most evident immediately outside the historic core of the village north of the Guildford Road. Here the tripartite enclaves of residential development off Manor Gardens, Norwood Road and Woodlands Road, form an extensive modern adjunct to the older settlement. To the north of the historic village the enclave of Leewood Way also extends the envelope of the village perceptibly in this area.

17. To the east of the school site the playing pitches adjoining the site along Lower Road extend east to manor House Lane, running to the north of the Church of All Saints. These fields join with those west of Rectory Lane to form an area of open land before the urban expanse of Little and Great Bookham and Fetcham to the east. This again sustains the sense of rurality here as Effingham is approached from the east along Lower Road.

Planning Policy

The Development Plan

18. The Statutory Development Plan for GBC comprises the 'saved' policy of the South East Plan (2009) in respect of the Thames Basin Heaths Special Protection Area[2]; Surrey Minerals and Waste Development Framework (Surrey Waste Plan 2008 and Surrey Minerals Plan Core Strategy 2010), and the 'saved' policies of the adopted Local Plan (2003). The policies most relevant in this respect are Policy RE2 (Green Belt), PolicyNE3 (ecology and nature conservation), Policies HE4, HE7 and HE10 (built heritage), Policies G5 and CF4 (design), Policy R1 (recreation) and Policies G1 (1) and G2 (2) (highways).

19. The SoCG further agrees that the weight to be given to development plan policies depends upon their degree of consistency with the National Planning Policy Framework (the Framework) (the closer the policies in the plan to the policies in the Framework, the greater weight they may be given).

Proposed Submission Local Plan

20. Work is ongoing on the Proposed Submission Local Plan (PSLP). The 'Proposed Submission Local Plan: strategy and sites' document was published for consultation (Regulation 19) in June 2016, resulting in almost 32,000 comments. On 27 October 2016 it was announced that a follow-up targeted Regulation 19 consultation is proposed; this consultation is proposed take place in June/July 2017, with a potential submission date of December 2017 (as set out in the Local Development Scheme 2017). The 27 October 2016 press release confirms that there will be changes to the PSLP which go beyond minor changes. Again the SoCG confirms that both the main party's (but not that of the Parish Council) opinion that only very little weight can apply to the PSLP at the current time.

[2] The South East Plan as a whole was revoked in 2010.

Submission Effingham Neighbourhood Plan

21. The Submission Effingham Neighbourhood Plan (SENP) has completed the formal draft plan consultation stage (Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended)). EPC submitted the Neighbourhood Plan under Regulation 15 to GBC on 3 March 2017 and the Regulation 16 consultation is proceeding from 20 March to 30 April 2017. For the Parish Council the most relevant policies are ENP-G1 and SA3, which guide development within the settlement, ENP-ENV2, in respect of the wildlife corridor and ENP-C6 in respect of provision for schools. Although at a relatively early stage in is process towards adoption, there is no consensus on the weight to be attached to the SENP in the SoCG. Consideration of this in relation to each relevant policy as it is applied will be addressed below.

National Policy

22. In the national context other material considerations are considered to be:

    i. National Planning Policy Framework (the Framework) (2012)
    ii. National Planning Practice Guidance (PPG) (2014 as amended)
    iii. DfE/DCLG, Joint Policy Statement – Planning for Schools Development (August 2011)
    vi. DfE Educational Excellence Everywhere (March 2016.

23. Additional guidance and evidential material are also considered material considerations in the appeal:

    i. DfE/DCLG, Letter to Local Authorities on Funding for School Places (February 2016)
    ii. DfE/DCLG, Joint Policy Statement – Planning for Schools Development (August 2011)
    iii. DfE/EFA, Area Guidelines for Mainstream Schools – Building Bulletin 103 (June 2014)
    iv. Sport England, A Sporting Future for the Playing Fields of England – Planning Policy Statement
    v. Historic England Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment
    vi. Historic England Good Practice Advice in Planning Note 3: The Setting of Heritage Assets
    vii. West Surrey SHMA (September 2015)
    viii. GBC, Strategic Housing Land Availability Assessment (May 2016)
    ix. SCC, School Organisation Plan (December 2015)
    x. SCC, School Organisation Plan (December 2016)
    xi. GBC, Guildford Draft Local Plan Education Review 2016
    xii. GBC, Annual Monitoring Report (October 2016)
    xiii. GBC, Thames Basin Heaths Special Protection Area Avoidance Strategy 2009-2016 (extended in January 2015)
    xiv. GBC, Green Belt and Countryside Study (2013 and 2014)
    xv. West Surrey SHMA Guildford Addendum Report (2017)

Planning History

24. Each of the sites has a history of planning applications associated with them and these are set out in detail in Appendix 4 of the SoCG (CD8.5). In summary though post-construction planning activity on the HoE site (Site 1) commenced in 1954 with a proposed addition to the school buildings, followed with the same the following year. This set a pattern with a raft of further applications through the 1970s and the 1990s with approvals, including those on appeal for further expansion-related proposals. The pattern concludes with further incremental changes proposed and approved through until 2011.

25. There have been development proposals for Brown's Field (Site 2) between 1964 and 1974, including a proposed dwelling, the relocation of St Lawrence Primary School (1966) and the erection of a chain link fence.

26. Development proposed on the Lodge Farm site (Site 3) dates from 1949 and commences with an application for a cow shed and dairy. This continues through the early 1960s with an application for a glass house in 1966. Agriculture-related applications follow through the 1970s and 1980s with light industrial and storage uses sought in the 1990s. The most recent history reflects the use of some of the existing buildings as a day nursery.

The Appeal Proposals

27. The description of the development is set out in the banner heading at the start of this report and further details can be found in the evidence and in the Design and Access Statement (CD1.3) and in the extensive drawings accompanying the application for the full element of the proposals (Site 2) and for the indicative elements (Sites 1 and 3) as set out in the schedule of drawings included as Appendix 6 of the SoCG (CD8.5). The following paragraphs summarise the main aspects of each of the proposals, both full and outline.

28. The proposals for Browns Field comprise 37 dwellings. These being a mix of two storey detached, semi-detached and terraced dwellings, as well as a two storey building containing six apartments. The mix would be 2 x 1 bedroom apartments; 4 x 2 bedroom apartments; 5 x 2 bedroom houses; 16 x 3 bedroom houses and 10 x 4+ bedroom houses. The density would be approximately 21.7 dwellings per hectare. Access to the site would be by means from Brown's Lane, slightly closer towards Guildford Road than the present field entrance. Parking would be provided in a mixture of parking courts, garages and private driveways, with a total of 75 spaces provided. The existing locally listed apple store which is located on The Street frontage would be retained and repaired as part of the proposal and converted into a bat roost on the site. The existing footpath along the eastern side of The Street would be extended through the site, providing a pedestrian connection to both the Guildford Road and Brown's Lane.

29. The proposals for the HoE site are also in outline only, with all matters save access reserved. The proposal anticipates all buildings on the site, apart from the existing Little Lodge on Lower Road, being demolished and replaced with 99 dwellings over the entire width of the plot. Although only indicative, the proposal shows dwellings fronting onto Lower Road and the KGV playing fields and extending in part on the open area to the east of the school buildings. An on-site play space would also be provided towards the western side of the site. The density here would be approximately 26.4 dwellings per hectare. A single access

would be provided into the site in the position of the existing school exit. The current school entrance would be either closed or reserved for emergency access only.

30. The application on Lodge Farm site is also in outline only, with all matters reserved apart from access. The proposal here would consist of two distinct elements; the replacement HoE school on the eastern half of the site, and the construction of 159 dwellings on the western half. The proposed school building, as described in the indicative plans, would be set over three floors and would incorporate a specialist autism centre, known as the Cullum Centre. As part of the replacement of the building, the school would increase its capacity from 1,600 to 2,000 pupils (an additional two forms of entry). The proposal would also include a variety of pitches and games areas, which on the indicative plans are shown to the rear of the site.

31. Access to the site would be from a new link road which would also serve the proposed dwellings. This would lead to short term car parking for students and parents, as well as drop-off and pick-up spaces. A second access from Lower Road, along the eastern boundary of the site, would lead to staff car parking and facilitate deliveries. The residential component would consist of 159 dwellings, some of which would front onto both Lower Road and Effingham Common Road. The density of the proposal would be approximately 30-35 dwellings per hectare. Play space would be included on the site, as well as other areas of public recreation space. The proposed link road would connect Effingham Common Road and Lower Road and provide three access points for the residential development.

Other Agreed Facts

32. The SoCG (CD8.5) has sought to clarify key areas of agreement between the parties, though there is no overall consensus on the issues initially set out in the reasons for refusal (CD2.3). For clarity I set out the areas of agreement between the respective parties.

Agreed between the Appellants and Guildford Borough Council

33. Following the submission of the appellant's Position Statement on Ecology (CD 10.15) the concerns originally set out by the Council in refusal reasons three and four have been overcome, subject to the agreement of suitably worded conditions (See paragraphs 482-507).

34. Following discussions between GBC's highway consultants and the Appellants agreement has been reached in relation to appropriate highway improvements which would satisfactorily mitigate the identified highway impacts of the development. These are set out in the drawing numbers in the SoCG, including possible further revisions facilitated by the wording of the S 106 agreement It has also been agreed that given the outline nature of the school proposals, provision of reserved matters, conditions and s 106 provisions, final levels of parking on the school site may be appropriately agreed. Thus refusal reason 11 is no longer defended by GBC.

35. Following discussions on the specific obligations in the S 106 agreement the provision of onsite affordable housing and its tenure mix has been agreed. Similar agreement has also been reached on other S 106 matters. Accordingly refusal reasons 8 and 10 are no longer defended.

36. GBC also now accepts that the initial objection to the loss of sport pitches by Sport England may be overcome through the provision of alternative pitch availability, secured through a Community Use Agreement. It is accepted this could be secured through an obligation in the S 106 agreement. GBC accordingly agrees that refusal reason 9 will no longer be defended.

Agreement between the Appellants, Guildford Borough Council and Effingham Parish Council

37. A raft of educational matters has also been agreed between the parties, including relevant policy and standards, the status of the school, its catchment area, the role of the Local Authority and information on condition and demand. These are set out in detail in Appendix 7 of the SoCG.

38. The West Surrey Strategic Housing Market Assessment (SHMA) (2015) indicates that the objectively assessed housing need (OAN) for the borough is 693 homes per year (2013 – 2033). The Annual Monitoring Report 2015/2016 (October 2016) identifies a housing land supply of 2.1 years against 693 homes a year, taking account of a buffer (20%) and an accrued deficit. The West Surrey SHMA Guildford Addendum Report (March 2017) identifies a need for 12,426 homes in Guildford Borough between 2015-34, equivalent to 654 dwellings per annum. At the time of the Inquiry therefore the Council cannot demonstrate a five year supply of housing land.

39. In policy terms it is also agreed that the appeal sites were proposed for allocation for residential development and a secondary school in the Draft Local Plan 2014. However, the appeal sites were not proposed for allocation in the PSLP (2016).

40. In terms of elements of the evidence base underpinning this approach the Green Belt and Countryside Study (GBCS) (2013 and 2014) identified Potential Development Areas (PDA) across the borough for future development in the event that insufficient land could be identified within the urban areas to accommodate development needs.

41. PDAs were identified on the basis that they were surrounded by defensible boundaries and could therefore be potentially removed from the Green Belt. Volume III of the GBCS identifies a PDA at Site 3 (Lodge Farm). Subsequent work to the GBCS (Volume II addendum) categorised all land parcels (larger areas within which the PDAs are located) according to the extent that they meet the purposes of the Green Belt. The GBCS (Volume II addendum) states that the land parcel within which Lodge Farm is located satisfies four out of five of the purposes of Green Belt set out in the Framework paragraph 80 and is therefore categorised as 'high sensitivity' Green Belt land. For this reason GBC state that the PDA was no longer included as a proposed site allocation in the PSLP 2016.

42. As above it is commonly agreed that the mitigation of the effects of the development on the SPA can be secured through the provision of SANG/SAMM, secured through a Grampian Condition, this is further addressed below. These address refusal reason two, which is no longer defended.

43. There remains however significant differences between the parties and these are expressed in a summary of their respective cases below. Each of the cases is drawn substantially from the respective closings, though these are supplemented with reference to specific pieces of evidence were appropriate.

The Case for Guildford Borough Council

44. The Council's case can be summarised under the following six points:
    (a) Whilst there are undoubted benefits of the proposal these are not worth the cost to the environment.
    (b) This appeal under section 78 of the Act should not be seen as a pre-run of the Local Plan debates.
    (c) Properly understood, there is no need for an expanded school.
    (d) The project is based both on renewal and expansion of the school. For the appeal to succeed the case for both must be made out, but the fall-back position, whilst understandably not attractive, is not the end.
    (e) The nature of the Appellant's case has changed both in terms of its basic approach and its language in describing HoE position, noticeably with the introduction of their planning and education consultants, after the refusal of the application by The Council.
    (f) The Council is not Surrey County Council ("SCC"), and it is not for them to defend its stance as set out in their 2017 Statement (CD13.2) or current School Organisation Plan (SOP).

45. With specific regard to points (e) and (f) The Council state:

    (a) There is nothing "wrong" in that evolution of the Appellant's case provided it is recognised - but the Appellant's witnesses appear not to do so.
    (b) As regards the case for expansion, as put in the second version of the Educational Needs Report (CD10.11), "the case for expanding the school is derived from the recently updated School Organisation Plan …" (emphasis added) whereas now the Appellant has devoted significant passages of their education evidence to a critique of SCC's 2017 Statement, and, by reference, its current SOP. This was done without submitting those criticisms to SCC for comment or, importantly, inviting them to attend (or seeking to engineer such an outcome) to defend their position. As such these criticisms should carry very little weight.
    (c) Moreover the Appellant's education witness confirmed that the Appellant does not put forward different figures and that there is no proper basis established on which to undermine SCC's position, particularly given that its statement clearly falls within its "key"[3] role in delivery of its "core functions"[4]. It is not for this inquiry to second guess how it considers it can meet it statutory and policy driven responsibilities. The further response from SCC confirms the robustness of their forecasts.[5]
    (d) As to the case on condition, what is now the "only option" in respect of an "unfit for purpose" school whose state is one of "gross inadequacy" (Rhodes proof 8.20) is a description of a school whose condition, suitability and sufficiency has not materially changed in fact since it became an academy trust, which is still rated as "outstanding" and which terms have never been

[3] See CD4.50 at page 13.
[4] See CD21.9 at paragraph 1.52.
[5] See CD21.11. In this regard, it is in any event important to be cautious as to the Appellant's suggested inevitable increase in the need for places. Not only is household size a very important factor as is apparent from the last figures in Mr Clyne's rebuttal appendices which show significant increased households in Mole Valley but a steady number of children aged 10-14, but as the Bishop's Stortford Inspector stated at IR6.50 (CD21.14) significant investment decisions which rely in large part on such forecasts should "be viewed with caution" – the more so in terms of decisions to permanently remove land from the Green Belt.

used in the many funding applications made over the same period and have still not been drawn to the attention of the EFSA.

The project is based both on renewal and expansion.

46. The size of the proposed new school and, perhaps more importantly, extent of enabling development, which is an integral part of the planning application, is not based on a replacement school but upon a new and expanded school. Likewise, the section 106 has been negotiated and secured on that basis. It is necessary, considering the issue of very special circumstances, to consider that in the context of the whole, not just one aspect of it.

47. Whilst they are related, and it is not suggested that they need to be wholly separately justified, the Council was fully justified in dealing with these different aspects differently when ascribing weight to them (see paragraphs 5.25-7 of Mr Sherman's evidence) and it is obvious that very special circumstances are required to justify the totality of the development proposed.

Properly understood, there is no need for an expanded school

48. The word "need" is used in a number of contexts in the evidence of all parties, but in terms of whether additional school places are required it is submitted that there is no need for the HoE to be expanded.

49. The terms of paragraph 72[6] of the Framework (CD4.1) have been exhaustively picked over at the inquiry. It is submitted that:-
    (i) Great importance is to be attached to ensuring that a sufficient choice of school places is available to meet needs. This is directed at both need and choice.
    (ii) The requirement to meet need and to widening choice are separate, albeit related matters, which appropriately reflect the underlying legislation to *secure sufficient* places[7] and, separately, to exercise functions with *a view to increasing opportunities* for parental choice[8].
    (iii) Great weight is to be given to the *need* to create, expand or alter schools. "Need" in that context is the need covered earlier in paragraph 72, and must relate to need for places. This is how both the Secretary of State, and the Inspector, dealt with the matter in the Bishop's Stortford appeal (CD21.14)[9].

50. It can also be noted, as the appellant accepted, that there is no presumption in the Framework, notwithstanding that was heralded by the Joint Policy Statement ("JPS") (CD4.49). That JPS noted that any presumption would be as expressed in the Framework. It is not so expressed. Given that "the

[6] "*The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:*
- *give great weight to the need to create, expand or alter schools; and*
- *work with schools promoters to identify and resolve key planning issues before applications are submitted."*

[7] See s.14(1) Education Act 1996, SC1 page 30
[8] See s.14(3A) likewise. Note also the contrast in section 14(3A) between (a) *securing* diversity and (b) *increasing* opportunities for parental choice.
[9] See CD21.14 at DL21-23 and 28 and 32, where need is expressly discussed in the context of shortfall of places and capacity and see IR at 655 and 656.

Framework now provides a more recent expression of Government planning policy"[10] it is a misuse of language to talk of any specific or express presumptions as being part of Government policy. It is also a misuse of language to suggest, as various of the Appellant's witnesses did, that need only adds to such a general presumption.

51. The suggestion by the Appellants that GBC's approach and questioning of need is somehow incorrect is also without foundation and serves to obscure the real and arguably difficult issues in the case.

52. Furthermore, in relation to the emphasis given the JPS by the Appellants, the Council goes on:

    (a) It reflects a clear change in the way they put their case, it not having been mentioned in any document preceding the appeal.[11] No explanation is given for this apparent lack of awareness by the previous professional team. Perhaps they too considered it had been overtaken by the "more recent expression of Government planning policy" that is paragraph 72.
    (b) The failure or otherwise to mention that JPS in such documents is not that important in itself but it presages a change in emphasis from a case built on need derived from SCC's position to one that is at odds with SCC's position on need but places far greater emphasis on promotion of choice.
    (c) Choice is not a wholly new factor, and GBC has not suggested that, but it has assumed much greater prominence in the Appellant's case which is a recognition, albeit one that they are not willing to publicly face up to, that it no longer has a need case at least in the sense described above.
    (d) Increasing opportunities for choice should be given weight, but see further below. However, in terms of Green Belt it is logical that it carries less weight than an identified need – one in respect of which a failure to meet may give rise to a breach of a statutory duty.

53. In this case SCC has identified short-term need for 4 years[12] but has also identified how they consider that need can be met so that there is no need for this expansion. There is no basis for any suggestion that SCC's solution is somehow unreasonable or incapable of being effectively implemented. In fact, even without a solution to the bulge year classes referred to in Surrey County Councils 2017 statement it is submitted that a short term need adds little weight to the argument in favour of permanent development on the green belt of the scale proposed.

54. To an extent this case is analogous with the Bishop's Stortford circumstances (CD21.14), where (a very much greater and more permanent) need was found but there were alternative solutions which had not been adequately considered. GBC's case here is much stronger in that the satisfactory "alternative" solution has been set out by SCC and needs no further

[10] See CD21.14 at DL 27.
[11] I.e. not in the Planning Chapter in the ES (CD4.20 ch 4), nor in the Planning Statement (CD1.2), nor in either Education Needs Statement (CDs1.11 and 10.11).
[12] CD3.12/Dobson App 9.

consideration. (However, it is very difficult to draw any precise analogy with the Bishop's Stortford case or the Broxbourne decision (CD21.12-13[13]) – and that appears to be an agreed position. In neither case is it possible to ascertain the comparable states of the schools concerned, the extent of impacts on the Green Belt (particularly in the Broxbourne case where officers' treatment of GB harm is sparse to say the least). Incidentally, as to Bishop's Stortford, it appears clear that the proposed enabling housing development proposed in that case was not on Green Belt land unlike this case.)

55. As to choice, and increasing opportunities for choice, it is also to be noted that merely moving an existing school does not, for the vast majority of its relevant parental cohort, increase opportunity for choice. They retain the same choice. Choice is not increased for them. The proposal only does so in so far as the increased provision allows for greater choice. That is far more limited in effect than the Appellants have sought to present it and does not justify the weight they purport to attach to it.

56. Further Government support for choice is in fact tempered[14] by the recognition that it may do harm in some circumstances, and none of the cases cited by the Appellants read in context provides support to the contrary. (This reinforces the approach to paragraph 72 referred to above.)

57. It can also be seen that the need considered above equates to the basic need presented by GBC's education witness, which was the need expressly relied upon (at least in part) by the Appellant in its first Educational Needs Statement (CD1.11 at paragraph 4.34).

58. His evidence in this regard was robust and realistic and emphatically placed need in its proper context.

59. GBC also maintains that his evidence as to the funding of expansion from proceeds is correct, he has the experience to see how these matters work out in practice and the devil will be in the details to satisfy the conditions in the consent to dispose. However, on analysis this is not directly relevant to the planning merits before the Minister for determination. If he is right, as it is submitted is more likely than not, and if there is a funding gap which cannot be bridged, the permission will not come to fruition but that is not directly related to the planning merits. Whilst this issue does cast some light on the parameters under which new schools can be built and highlights the issue of need and indicates that there may be other hurdles which could prevent HoE reaching its objective on Lodge Farm it does not go further than that.

This is not a pre-run of the Local Plan debate

60. This proposition was expressly agreed by the appellants, who also agreed that, whilst having no sympathy for GBC, the decisions as to extent of Objectively Assessed Need ("OAN"), which Green Belt boundaries should be redrawn and whether indeed to seek to meet OAN at all are all matters which will be debated from widely divergent view points, and keenly so, in due course. The significant extent of the Green Belt in Guildford, the number of representations

[13] Relevant paragraphs of this decision were pointed out in the cross examination of Mr Rhodes.
[14] See e.g. SC4 at pages 52, 54, 63 and 66.

and the delayed progress of the Plan all demonstrate the difficult decisions to be made.

61. It appeared from Mr Rhodes' evidence he thought GBC may be taking some form of prematurity point but it is not.

62. It is also agreed that the current draft version of the Plan and any previous drafts are of very little weight.

63. However GBC take issue with other aspects of Mr Rhodes' mainly additional oral evidence in this regard as to Green Belt matters:-

(a) The Green Belt is of itself not out of date. It should not be overlooked that one of the two essential characteristics of the Green Belt it is its *permanence*, see paragraph 79 of the Framework. Its extent does not fluctuate with the adequacy of, for example, the 5 year housing land supply.

(b) His reference to the Suffolk Coastal case (CD 22.1) does not assist his argument. Paragraphs [55] and in particular [61] do not support his thesis – there is no suggestion in these paragraphs that Green Belt policies should have less weight merely because the local plan is out of date. Indeed, they are described as "fundamental" policies, along with AONB policy. Lord Carnwath simply states that weight to be given to such a policy is for the decision maker, and provides no support for Mr Rhodes' contention that lesser weight should be given in such circumstances. It would have been inimical to his approach, which was to ensure that the Courts recognise the boundaries of their powers to intervene, to have included such suggestion in his judgment.

(c) Whilst it is agreed that its boundaries have not been looked at for some time, or that washing over villages is no longer consistent with the Framework, does not mean that it should until changed be afforded less protection. The decision as to whether to include or exclude all of the current sites will be taken in due course and it is not a foregone conclusion.

(d) That GBC has a view as to what should happen is relevant, but its view is not determinative at this stage, likewise as to its views as to where the inset village boundaries should lie. Sites 1 (HoE site) and 2 (Brown's Field) cannot simply be ignored in terms of harm to the Green Belt, basic or otherwise.

(e) Even in respect of Site 3 (Lodge Farm) Mr Rhodes overstated the evidence in the GBCS (extracts at CD4.9). There was no expert conclusion that its removal from the Green Belt would not conflict with its purposes, just that in the view of the experts it would not significantly do so. This is a view that GBC contests.

(f) Mr Rhodes' consideration of the history of allocation omits to have regard to the timetable as explained in Mr Sherman's Appendix 1, page 2. It expressly states that the GBCS Vol II addendum was not available in time to inform the consultation no doubt prepared some time in advance – it does not state it was not produced prior to the actual consultation. It was made available in April 2014 but did not inform the summer 2014 Regulation 18 consultation. Moreover, Mr Rhodes ignores the need to take into account feedback and the reasoning set out at the foot page 2 and top of page 3 of that appendix. (See also the response in the appendix to his Rebuttal evidence to paragraphs 4.27-28 and paragraph 4.39.) The

important point is that the choice of which boundaries should change is not simply a matter of expert opinion but of balancing a number of factors and sites across the Borough. Whilst of course regard can be had to views of an expert assessor in isolation it is important not to do so out of context or jump to the wrong conclusions. To do otherwise would undermine the point of bringing forward different drafts of a proposed plan and examining alternative options and responding to feedback.

(g) Whilst it may be considered unfortunate from the school's perspective that GBC's direction of LP travel as to Effingham has changed that is the nature of the process.

64. As to Housing and Affordable Housing, there is no dispute as to the current position but that position was fully taken into account in both the Officer's Report and Mr Sherman's more recent assessment.

65. The unsatisfactory supply position within GBC would not justify significant Green Belt development nor the significant change to Effingham village. Those are matters for the Local Plan (LP).

The undoubted benefits of the proposal are not worth the cost to the environment

66. The Council maintains it has trod a careful line in its position in relation to the school.

(a) it is worth reiterating that it has not, in its Officer's Report or elsewhere, challenged the success of the school, the professionalism and dedication of its teachers or the results achieved. In the words of Mrs Moss it is a "fantastic" school, and that view was reinforced by the calibre of witnesses the Trust was able to call upon. GBC's submissions do not call this into doubt and if, contrary to its case, a new school was the outcome it would no doubt reflect the current high standards and achievements. There are many "good things" about this application.

(b) Nor does it dispute the unsatisfactory nature of the current school premises. In a lengthy passage in the Officer's report (CD3.1) these are set out under the heading "The existing school and the need for its replacement". Officers in particular highlighted three factors – security and safeguarding, play space and condition in that order – which is a very fair reflection of the case as then presented to them[15].

(c) Indeed, that may reflect current concerns. When asked by the Inspector about comparative schools the presence of the footpath was the single issue Mrs Pennington highlighted. (Much greater emphasis is now put on condition, sufficiency etc.) This issue is capable of being dealt with, and perhaps surprisingly has not been revisited since 2009 was the school was local authority maintained and indeed Mrs Pennington suggested that if HoE remained on site it would be dealt with. This is perhaps a good example that not all the current issues are incapable of solution or at least alleviation. Indeed, Mr Olliff accepted there many variations to the options he had examined in terms of the school remaining on site.

[15] See e.g. summary in Chapter 1 of CD 10.11 and indeed the Design and Access Statement CD1.3.

(d) Officers in the Report noted the lack of comparative evidence against which to set the plight of the school. There was none and, importantly, still is none. It is clearly relevant to establishing a case for very special circumstances based on building condition, suitability and sufficiency of facilities to have some understanding of how the HoE compares with others. Only Mr Clyne gave that evidence – as he said he had been into lots of schools over a long time.

67. Just as the position of the school should not be understated, neither should its inadequacies be overstated, although it is noted that Mr Olliff does not think that is possible[16] - at least now. That severity is simply not apparent from the description he used in the Design and Access Statement.[17]

(a) The condition and sufficiency of the school has not changed since its Ofsted inspection, at which stage it had even more pupils than today but was judged outstanding.
(b) Notwithstanding that, the content and language of the applications for funding and even sale of land at CDs 21.5 & 6 do not present the same dire case as is now presented in terms of "gross inadequacy" or being unfit for purpose.[18]
(c) Nor is the history of funding applications, which is limited, and the lack of a bid in the second (let alone first) round of the Priority Schools Building Programme ("PSBP") consistent with the urgent need to spend over £4.5M in the next 5 years to secure the "most basic level of maintenance"[19]. Indeed, we know that no application was made in the second round of the PSBP not because the school was "prevented" from doing so[20] but because the school had determined to proceed to rebuild.
(d) Moreover, the extent of maintenance of the school since the Gleeds inspection was below £200,000 whereas Mr Dobson's evidence was that for part of the period c£0.5M was made available to the Trust in terms of the HoE school, and we know this year the school has been discouraged from the seeking grants from its parent body. Now, this is all quite sensible, why waste money on a school that may be about to be replaced, but it is relevant to consider its current condition and the amount of sticking plaster that may need to be applied.
(e) The HoE has provided no documentation of its own setting-out an assessment of condition, suitability or sufficiency. The decision not to do so is a matter for then, so indeed is how the school compares with others within its stable. Similarly no internal long-term maintenance plan has been produced by HoE.

68. The condition assessment is not disputed, but more interestingly Mr Olliff accepted that, subject to caveats which appear on the face of the assessment the Property Data Survey ("PDS")(CD 9.1 part 3)[21] was of similar content to

[16] See is proof of evidence at paragraph 4.8.
[17] CD1.3
[18] Attention was drawn in cross examination to the wording of the various application forms and supporting documentation in CD21.5 and note in particular the 2012 Business Case in CD21.6.
[19] as Mrs Pennington put it at paragraph 4.6 of her evidence, but which was not born out by a reference to the Gleeds material in CD10.1.
[20] As Mrs Barnfield suggested at her paragraph 5.8
[21] E.g. as to asbestos and fire safety

the Gleeds survey (CD10.12). The extent of the attack on it by a number of witnesses was surprising, but even more so given that no challenge was made to the PDS despite it being clear on its face that it would be used for funding decisions. (As to the NAO report[22], and its critique. First, the restrictions on the PDS survey as a whole were apparent on its face and in the attendant documentation[23]. Second, they do not suggest it is not a reasonable basis for allocating funding and it remains in use.[24])

69. Moreover, that the old school buildings do not comply with current building regulations or indeed with the 2012 School Premises Regulations[25] is not that surprising. It will no doubt be pointed out, and correctly so, that no issue was taken with the assessment but the Building Regulations do not apply retrospectively nor do the 2012 Regulations apply to Academy Trusts – they only apply to local authority maintained schools. That it may breach such regulations is illustrative to a point but it is not determinative. This is not challenging Mr Olliff's evidence, it is putting it in context. Likewise BB103 provides current guidance not mandatory standards.[26] So a failure of an old school to comply with its standards has to be seen in context but that context has not been provided by HoE.

70. What then of funding? Past opportunities and the extent to which they were explored are noted above, but they are in the past.

    (a) Currently c£0.5Mpa in the last two years nominally for HoE for capital projects. This level of funding is not going to provide a new school, but neither should it be dismissed as insignificant.
    (b) This funding is based in part on the PDS. Not only do we know that it was not challenged (so perhaps there is less sympathy with the previous level of grants in this regard) but we also know there is soon to be a new survey in 2017 so if warranted the level of capital funding would take this into account.
    (c) We also know that no case was made in the past to deal with asbestos or mechanical items save for the boilers (which was successful), now programmed to be replaced on a cyclical rather than end of actual life basis, so it is not possible to determine whether, had such a case been made, funding would not have been forthcoming to deal with such items.
    (d) It is to be noted that no-one has split the Gleeds summary into capital projects and maintenance, in respect of which a proportion of the General Grant is applicable as the appellants accepted. It is clear from a brief glance that many of the continuing items might fall into the maintenance camp, which is consistent with reasons given for the refusal of emergency funding for limited asbestos work contained in CD21.5 But that is not to say that v significant capital expenditure is not identified that would require capital funding.

[22] SC25, page 711
[23] SC9 at page 225 and following
[24] See SC24.
[25] Which can be found at Appendix F to the first Gleeds Report CD10.12
[26] SC5, page 72 and see the Introduction on page 74.

71. The status quo option would be a blow to the Appellants, and its staff, but it is not the end. HoE would be in the same position as the many other schools with similar issues (according to Mr Clyne and in part implicitly recognised in its applications or lack of them for funding) who don't have a convenient bit of high value Green Belt land that can be used to enable the building of a new school. In fairness, the school witnesses did not suggest that it would be the end.

72. Mr Clyne's evidence was that enabling development for new schools was not uncommon, what was unusual was building a complete new school, but he even gave an example of that at Macclesfield. And it is noted that the extent of impact on the Green Belt proposed here is greater than any other example when the enabling housing is taken into account.

73. There are benefits from a new school building and expansion, which are not contentious.

74. Although again some context is needed. No drop in applications/preferences is noted and the estimated average drop off in sixth form is noted as 10 pupils a year[27], who, as the continued improvement in results show, appear perhaps to be making a poor choice. It is also noted that the school continues to attract sixth form pupils. As to the Cullum centre, undoubtedly it would fit well with the HoE but there is no evidence that if not at the HoE it would not go elsewhere as successfully.

Other benefits

75. As to the other benefits, there is little dispute as to provision of housing, affordable housing, community and transport benefits etc. To spend little time on them is not to denigrate their importance, as with the benefits of a new school.

76. The issue of the SANG, the principle of the Long Reach proposal having been accepted in principle, is only relevant to GBC in respect to the timing of provision, and hence weight that can be attached to it. There is no certainty as to the outcome of the appeal at Long Reach (although that is likely to be resolved prior to the determination of this appeal) and whilst Berkeley Homes will acquire the land at Long Reach the timing to put in place the necessary requirements set out paragraph 8 of the Note (CD21.15) is uncertain. In response to the issuing of the decision letter in relation to Long Reach, the Council stated that whilst they agreed the decision provides clarity over the principle of potentially using the site as SANG, it does not deal with a number of important issue; the decision or its conditions do not secure the delivery of the SANG and, in particular the funding for its management in perpetuity. This is fundamental to the ability of the SANG to act as mitigation for the impact on the TBHSPA. They accept however that this issue would be dealt with through the discharge of condition 4, although they are unaware how this may be achieved[28].

[27] More in the last year, as per Mrs Pennington's evidence but no actual number supplied, but the average of 10 is perhaps more reliable, see CD10.11 at page 53, top right hand column.
[28] Comments sent by e mail rom the Council following consultation on the Long Reach appeal decision 28 July 2017.

Disbenefits

77. These can be dealt with more swiftly.

(a) There is clear harm to the green belt by reason of inappropriate development and its impact on openness, and in this respect Sites 1-3 are relevant. Note also submissions above as to the green belt.
(b) There is harm to its purposes – as set out by the Council in their planning Proof (Mr Sherman), who states 'In terms of the impact on the openness of the Green Belt and compliance with the five purposes of including land within the Green Belt as set out under paragraph 80 of the NPPF, an assessment of each of the sites is required. The concept of "openness" is generally considered to being free from built development, the absence of buildings - as distinct from the absence of visual impact. The addition of buildings will result in harm to openness even where there are no or limited views from outside of the site'[29].
(c) It is underplayed by the Appellant and Mr Rhodes' Appendix 18.
(d) There is the cultural heritage harm. I say more about this below.
(e) There is the adverse impact on Effingham as a village.
(f) There is the impact of the particular development on Brown's Field.

78. As above, just because GBC does not wax lyrical about these disbenefits does not mean that they are less important.

79. As to cultural heritage, harm to setting of Conservation Areas is not a matter to which regard is required by Statute but it is a matter to which attention is required by the Framework.

80. GBC's case remains as set out in the evidence of Mrs Beadsworth sections 14, 15 and 16 in particular[30]. The strength of her criticisms is a matter for assessment on the ground, rather than detailed submission. However, that said, GBC point to the following specific factors:-
(a) The extensive areas of open land within and surrounding Effingham which would be lost.
(b) The effective unification of Effingham and Little Bookham as recognised in the EIA (CD 1.20[31] but not agreed by Mr Grover).
(c) The combined impact of all three proposals on the Effingham Conservation Area in particular, and indeed on the village as a whole, of the sheer quantity of additional housing. If the current school has a negative impact, how much more with all these proposals? If the current modern housing has had a negative impact how much more development which "mirrors"[32] even if only to a certain extent that to the south of Guildford Road?
(d) This would lead to clear harm to the modest rural villages[33] of both Little Bookham and Effingham sought to be preserved via their Conservation status, indeed Effingham could no longer be described as modest or rural.
(e) The sheer scale of the "interesting" new school, which would indeed become the dominant building in the village[34]. It would be out of context.

[29] Sherman main proof paragraph 5.6 page 12/13.
[30] It is accepted in terms of the layout of Brown's Field that as Mrs Beadsworth fairly accepted in cross examination this evidence must be read as modified by her answers.
[31] Chapter 12, paragraphs 12.7.18-19
[32] ibid
[33] Per English Heritage's descriptions CD21.7

(f) The lack of honesty in the design of the houses in Brown's Field, which seek to draw their comparisons from the heights of the "top end" of buildings located throughout Effingham but concentrate them within this one section of the conservation area with roof designs which are far from sympathetic. It is not capable of resolution by condition.

81. Just because the harm is "less than substantial" does not mean that in combination it would not be considerable, which, GBC state, it is.

Planning Balance

82. Significant aspects of the evidence are not or not substantially in dispute, although there are important issues which go to the weight of various aspects which remain to be determined. It is in reaching the final decision that the difficulty arises because there are important factors pulling in opposite directions.

83. The test is not just whether there are very special circumstances but whether they are such as to clearly outweigh the harm to the green belt by reason of inappropriateness and any other harm.

84. GBC are far from unsympathetic to the position of the school, as the nature of Mr Clyne's initial involvement and indeed GBC's initial engagement as well as the tone of the officer's report demonstrates. No decision maker would be. And indeed the letters of support from Lord Nash, SCC and others reinforce this view, but they did not have to and did not grapple with the GB test. However, that does not equate with the school passing the test and GBC maintains that it has not.

85. First, it refutes the suggestion that it has invented a new test with which to approach this exercise. Neither paragraph 72 nor the JPS provide any specific help in terms of development on Green Belt land.

86. Second, it commends the approach of Mr Sherman, whose current balancing exercise in section 7 would perhaps have been a better starting point for Mr Rhodes' analysis of factors. As noted above GBC considers the school has overstated its case. Properly analysed whilst worthy of considerable weight, it is not worthy of the weight it suggests. The lack of need is an important factor.

87. Third, it is the sheer scale of enabling development and consequent impacts that are determinative. The concept of enabling development, even in the Green Belt is not in itself novel. There has indeed been a history of approvals on this site in the past. However to allow this level of development where there is no need for additional places would be to open Pandora's Box.

88. Whilst it is relevant that significant benefit would be obtained at limited cost to the public purse the cost to the environment would be significant and in this

[34] Mrs Beadsworth paragraph 16.11

case that is not justified. It is not for the environment to make up for constrained school funding.

The Case for Effingham Parish Council

Policy Context

89. The most up-to-date statement of planning policy in relation to education is NPPF 72 which identifies that the Government attaches great importance to "*ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities*". It continues to state that LPAs should take a proactive, positive and collaborative approach to meeting this requirement and also to development that will "*widen choice in education*.".

90. Progressing in to bullets NPPF 72 then identifies that LPAs should:

    a. Give great weight to the need to create, expand or alter schools; *and*

    b. Work with school promoters to identify and resolve key planning issues before applications are submitted.

91. So provided that *sufficient* choice is provided to meet the *needs* of communities, NPPF 72 is met. Great weight is attracted in policy terms by a *need* to expand a school per NPPF 72. Crucial to these assessments then is the identification of:

    The *need* to expand a school (cf. it being *desirable*, about which NPPF 72 is silent);

    a. The *needs* of communities pertaining to schools (cf. the *wants* of communities); *and*

    b. Whether *sufficient choice* is already provided for the identified *needs* of those communities (cf. increasing choice 'for the sake of it' or beyond a 'sufficient' level of choice).

92. Relating to the policy context for education considerations is the "joint policy statement" of the DCLG and DfE (Dobson appendix 6)[35]. This identifies the Government's commitment to ensuring "*sufficient provision*" to "*meet growing demand for state-funded school places, increasing choice and opportunity in state funded education and raising educational standards*.". In that context (sufficiency of provision and the limits of the NPPF) the 2011 policy statement sets out a presumption in favour of development of state-funded schools. That presumption, couched in sufficiency and need (and not reiterated in paragraph 72 of the Framework), must be set in a wider policy context.

[35] The joint policy statement is a document which is published in August 2011 and so, as it pre-dates the NPPF, must be interpreted in light of the (later) NPPF 72 and should any conflict between the two arise the NPPF would be expected to take precedence

93. The wider policy context of the appeal proposals includes the Green Belt, within which this inappropriate development is proposed. As per NPPF 88, substantial weight should be given to any harm to the GB and Very Special Circumstances will not exist unless the potential harm by way of inappropriateness and any other identified harm is clearly outweighed by other considerations.

94. In the *Bishop's Stortford* decision [CD21.14] at Inspector's DL747 (supported by SoS) the interaction of the 2011 policy statement and GB policy is addressed; the 2011 policy statement does not purport to override Green Belt policy, to which the Government is still clearly committed. Moreover the 2011 statement itself refers back to the (then) draft Framework which makes it plain that where there are adverse planning impacts, the proposals should be refused, and that there is no suggestion that the 2011 policy statement should over-ride other planning considerations but that it should be read alongside GB policy.

95. In addition to engaging GB policy the proposals impact on designated heritage assets leading to less than substantial harm and so the proposals require an assessment of the level of such harm against the public benefits of the proposals (per NPPF 134) and also engaging the specific statutory duties under the Listed Building Act ('LBA')[36].

96. As regards the development plan Effingham is classified as a large village, unsuitable for substantial growth but capable of accommodating a proportionate extension under Guildford Borough Council's 'Settlement Hierarchy and Profiles'. Under the 2003 Local Plan all three sites are within the GB; under the emerging Local Plan Site 3 remains in the GB, classified as "high sensitivity" in GBC's 'Green Belt and Countryside Study' (at appendix 1, 'Green Belt Purposes Schedule', of the Volume II Addendum, April 2014 (parcel D10)[37]).

97. The Effingham Neighbourhood Plan (2016-2030) has been submitted for examination and so, whilst not forming part of the development plan, is plainly a material consideration in policy terms. Moreover EPC submit the weight the Submission ENP attracts should be informed:

    a. By the likely further progressed stage of the SENP at the point any decision in relation to the appeal proposals is taken; *and*

    b. In light of s1 Neighbourhood Planning Act 2017 which, when in force, will require that when determining applications for permission the LPA must have regard to a post-examination neighbourhood plan[4].

98. In terms of conflict with the SENP, the proposals conflict with ENP-G1 and SA3 which steers development to within the settlement (G1) as per the 2003 Local

[36] The Planning (Listed Buildings and Conservation Areas) Act 1990

[37] D10-A being identified as providing an opportunity to accommodate development without significantly compromising the purposes of the GB, noting that the parcels scored highly in the GB Purposes Assessment (12.11 Vol III, page 12 Pegasus document); 12.12 going on to identify that D10-A is affected by the adjacent Thornet Wood SNCI and Ancient Woodland and being to the north of the Effingham Conservation Area, which provides a partial constraint to any proposed development. [4] Section 70(2)(aza) and s70(3B) Town and Country Planning Act 1990

Plan or (in effect) the Inset Boundary of the emerging Local Plan, along with allocated sites (SA3). To that end, the appeal proposals can be seen as effectively negating and almost totally destroying (Councillor Hogger) the considered (and consulted upon) approach adopted by the SENP[38]. The proposals conflict with the wildlife corridor provided for under ENP-ENV2, Local Green Spaces as addressed under ENP-ENV1, and schools under ENP-C6. This is no small degree of conflict.

99. It is suggested by the Appellant that little weight be given to the SENP because of:
    a. Unknown compliance with the emerging local plan; *and*

    b. Its draft status.

100. Draft status is already addressed; on (a) above the Appellants stated that if SENP survives examination, is passed, and then made, then we'll need to have regard to it. EPC submit that the SENP attracts weight in any event; Mr Rhodes' reservations (and therefore assessment of weight to SENP at this stage) are misgiven. The response was that '*as soon as new LP is produced it will be necessary to look again at NP otherwise there's a risk that NP is seriously out of date'*. He went on to suggest that the NP "housing requirement" is derived solely from EPC's own survey of residents rather than seeking to align with the Local Plan. Its current consistency with PSLP was described as a "coincidence"; but p42 of the NP does say that its housing proposals are in line with the assumed requirements of the PSLP.

101. This does a disservice to the SENP which is explicit in the extensive provision of, and for, housing above and beyond that proposed in the emerging Local Plan and which is rooted in the 2015 SHMA and 2016 availability assessment:

    a. **Page 41** that a Housing Requirement Survey was carried out in Effingham to provide a local assessment of housing need within the Plan Area to supplement the 2015 SHMA;
    b. That the 52 homes at SENP-H1 is a "minimum target" and anticipates delivering a greater number of homes within the ENP period;
    c. The 2016 Land Availability Assessment identifies sites within the inset boundary proposed in the emerging Local Plan as realistic candidates for 43 dwellings in the ENP (a Plan which sets a minimum housing target);
    d. **Page 42** that the ENP will provide more new homes than are assumed by the 2016 emerging Local Plan;
    e. The four allocated sites in the ENP and in the GB are all 'not inappropriate' in GB policy terms per NPPF 89;
    f. **Page 43** that windfall sites are likely to increase and continue to come forward in the Plan Area and provide significant amounts of additional housing;

[38] And this was also the effect of the proposals on the ENP identified by the HPTrust response to the ENP Regulation 14 consultation [CD10.17] – that the ENP would have to take account of the decision in this appeal, rather than vice versa

g. That the target of at least 52 homes is consistent with the emerging Local Plan.

102. EPC state it is not a defensible position to assert that little weight attaches to the SENP – it attracts at least modest weight, if not more, because it is plainly in accordance with national policy and strategic policies of the current and emerging Local Plans. The NPPG expressly provides for NPs being made before a LP is adopted, including the need for such a NP to comply with the strategic policies of both the current and emerging Local Plans (which SENP does); notably the Appellants make no suggestion that the SENP in any way conflicts with that Guidance.

The Richborough Estates/Suffolk Coastal decision

103. The effect of the ruling of the Supreme Court can be summarised thus – on the question of whether a relevant policy has become out-of-date, whether that is so, and with what consequence, is a matter of planning judgement unrelated to paragraph 49 which deals only with housing supply. This determination may in turn have an effect on other related policies.

104. This may mean in turn that other competing policies will need to be given less weight in accordance with the tilted balance. But that is a matter of pure planning judgement. Housing policies deemed "out-of-date" under paragraph 49 must also be read in that light. Restrictive policies in the development plan (specific or not) are relevant, but their weight will need to be judged against the needs for development of different kinds (and housing in particular), subject where applicable to the "tilted balance".

105. EPC state that there is no 'tilted balance' here because of the GB designation which, per NPPF 14 fn9, precludes the tilted balance. Ultimately degrees of weight for various factors are a matter for the decision taker.

Harms and benefits

106. The benefits of the appeal proposals have been set out extensively in evidence by the Inquiry and undoubtedly the appeal proposal has benefits in the form of provision of market and affordable housing[39] and community benefits[40]. Education benefits will also arise – the provision of new school facilities must count as a benefit, however the weight to be given requires careful consideration.

Need

107. A new and expanded school is not necessary to meet a basic demographic need[41]. The SCC 2017 statement (Dobson appendix 9) explains the clear distinction between need and demand, and why school-level demand is not used to determine the need for provision of additional places. The table at Mr Dobson's reb pg11 shows a deficit in places in the Effingham Planning Area

[39] Against the background of the absence of a 5yr housing land supply
[40] For example improvements to the KGV hall
[41] Meeting a demographic need in Effingham planning area was not how the Appellants put their case at application stage – CD1.11 apx D

however, properly understood and contextualised in terms of need, demand and planning areas, all this shows is that for a handful of years there will be pupils in the Effingham planning area who will have to be accommodated in schools in the Leatherhead planning area, or perhaps another planning area (the excerpt here shows no other planning areas despite there being clear evidence that pupils come to the HoE school from a wider geographical area). All of this has to be understood against a background that this only actually arises if all children living in the Effingham planning area choose HoE as a 1st preference (or express a 1st preference for a school outside the Effingham planning area but fail to achieve their 1st preference and, because they live in catchment, then go to HoE).

108. Evidence is provided as to how many pupils currently from *within* the Effingham planning area choose to go to schools *outside* the Effingham planning area; Ms Moss was clear in verbal evidence[42] that 2FE (of 8FE) attending HoE school do so *despite* having expressed a 1st preference for another school (which must, by definition, be outside the Effingham planning area) but failed to achieve that place. The effect of the catchment area they live in being given equal weight to a 1st preference is to place those pupils to attend the HoE – not their choice of school, but a placement arising because of available capacity at the HoE and a lack of available capacity elsewhere. The same 'catchment trap' will continue to operate (and operate on a larger scale) should capacity at the HoE expand – it will then be able to take *more* students from within its catchment, which will operate to deny pupils who express a 1st choice to go elsewhere, their 1st choice – because on an equal footing between 1st choice to go elsewhere and provision in HoE catchment, those pupils will be directed to the HoE instead of their 1st choice.

109. When understood that way not only is there no problem in accommodating pupils in other planning areas, but the accommodation of pupils in other planning areas is the natural consequence of seeking to allow pupils choice between schools. It is something which already happens and is not suggested to be problematic – HoE are not complaining that they attract pupils from other planning areas; how then does it become problematic for pupils to move out of the Effingham planning area to go to school or for their 1st preference school? To think otherwise (i.e. to assume that all pupils living in the Effingham planning area[43] should be accommodated in the planning area and attend the HoE) is the polar opposite of increasing choice. As EPC demonstrate, the HoE catchment area already operates to effectively deny 2FE pupils their choice of school, purely because they live within the HoE catchment area. It's not the Councils however; the same issue was aired by Julia Dickinson - children who express a preference for HoE can be frustrated because places are often granted to applicants living within catchment but who expressed a preference to attend a school in a different planning area because HoE is their nearest alternative school.

110. The reality of increasing choice in this area is SCC's planned expansions of FE at schools near and around the border of the Effingham planning area

[42] Not contradicted by DOBSON
[43] Not the catchment area, as the catchment area is simply a tool used to control admissions and does not denote a need or desire to attend a certain school

showing more than 14FE to come 'on stream' by 2017/18. That will increase choice by allowing students within the HoE catchment expressing preferences to go elsewhere to actually go elsewhere, releasing places currently taken at HoE for those outside catchment[44] who express a preference to go to HoE but currently are prevented by those living in catchment but failing to make their 1st preference 'out-of-planning-area' school.

111. Even in a scenario where 'bulge' classes are required for Effingham planning area (because all of the children there decide that year to attend HoE instead of other schools as they historically always have) the small number of years which cannot be accommodated in either Effingham or Leatherhead planning areas requires no *permanent* increase in FE; Surrey and Me Clyne confirm this. If needed SCC propose to use 'bulge' classes given the temporary nature of the increase. The Appellants stated that the operation of 'bulge' classes required the co-operation of schools which were free to refuse to accept the same, however there is no evidence supporting a view that any school would refuse to co-operate with SCC to ensure the temporary increase in need is met. And again, 'bulge' classes at HoE are only an issue if in that year every child living in the planning area chooses to go to HoE.

112. Then there is the question of money. There is no intention by (and no request of) SCC to fund the expansion sought – the proposals therefore plainly do not relate to meeting a 'need' for places (otherwise SCC would be – and would be expected to be – paying for those places).

113. The consequential disruptive effects on SCC's wider, cohesive plan for education provision across Surrey were set out by the Councils (and such effects are clearly in the Government's mind underpinning Mr Clyne's apendix pg54, addressing steps to be taken where a change is proposed which either the LA or neighbouring schools consider may undermine the quality of education provided by other good or outstanding schools in the area by creating additional places where there is already surplus capacity. And, again, following the money, the Appellants confirmed that funding for schools is (at least in part) per capita. If HoE does draw students away from other schools, that per capita funding goes to the HoE (actually it goes to the Trust) and does not go to that 'other' school. This is also reflected in the NAO "Capital Funding For Schools" Feb 2017 that spare capacity due to increased provision nearby could have a moderate to high impact on the funding of neighbouring schools and a consequential risk that pressure on funding may adversely affect standards in existing good or outstanding neighbouring schools.

114. EPC question whether the School is as outstanding as 2009 Ofsted might suggest. They refer to the emerging Government assessment criteria known as Progress8. This, at -0.04, is squarely average in the nation and where 40% of schools currently sit. This compares with other schools in Surrey, for example, St Peters at +0.59 'well above national average'; Therfield (proposed to accommodate students from the Effingham planning area) achieves a higher Progress8 than HoE at +0.05

[44] Recollecting that since 2010 HoE has placed all pupils living within catchment expressing a preference for HoE and a number of students from out of catchment, all on their current PAN

115. One final point on 6th form provision – despite the Appellant's challenge, the only quantification of demand for 6th form provision beyond that currently existing is to be found at CD10.11 at pg53 which estimates that "*up to 10 students each year who would have chosen to stay, leave because of the limited facilities available for the courses they have chosen*."

The Buildings

116. The reality of HoE's suitability, sufficiency and condition might best be neatly summarised with the Appellants acceptance that should the appeal fail the HoE will continue with what buildings they have. This is not a school on the point of closure due to inadequacy of buildings; they are not about to turn students away for fear of mishap or litigation. Nor has the suitability, sufficiency or condition of the buildings affected the HoE Ofsted – the Appellants were quite clear that the situation regarding the buildings was very much the same as in 2009 when rated "Outstanding". As they accepted that any risk exposure of a school in the Trust, or to the Trust itself, would be identified, assessed then addressed or mitigated within the risk appetite of the school concerned and the Trust. Any exposure that couldn't be addressed or mitigated would have to be flagged for the Trust and the Trust would have to take steps or acknowledge an unresolved concern before their accounts and finances could be signed off. No unmitigated, unaddressed, inappropriate or unusual risks relating to buildings at HoE (or anywhere in the Trust estate) appear in the Trust financial statements or report. The "risk of prosecution or civil litigation" that concerns Mr Olliff (his 4.92 pg53) clearly does not so concern the HoE nor the Trust.

117. The Appellants state that the Eco Building arrived 2009 – a point when it couldn't have been used for Trust purposes since the Trust didn't come into existence until 8th April 2011[45] . What can be seen is that the decreasing space for teachers/teaching appears to be related at least in part to the expansion of the Trust and its staff[46]. They go on to state that the conversion of storerooms and toilets was to accommodate partnership growth and changes in leadership structure.

118. The Appellants accepted that the condition of the HoE is materially no different to that of thousands of other schools; within the acknowledged general condition of the wider school estate however both Gleeds and the PDS assess the HoE buildings (taking into consideration the age, context and construction of the various blocks and their usage) the majority of Howard of Effingham School was deemed satisfactory from a building condition perspective (e.g. CD10.12 para 1.4) with some 89% of building elements in either good or satisfactory condition. The HoE did not challenge the PDS survey results; Mrs Barnfield said this was because '*certainly the guidance in the PDS document said it would not be used to target funding – that it was a strategic guidance document for Government and nothing more than that'* which unfortunately is the precise opposite of what the PDS explicitly stated about itself – "*The PDS information will be used by the department later in the year to help target*

[45] See the Trustees Report at CLYNE apx pg 745 – Trust incorporation 8th April 2011, took over HoE School from 1st July 2011, 2013 became a MAT and changed its name to THPT
[46] Recollect PENNINGTON's evidence that student numbers at HoE have remained stable for some time – 3.5

future capital investment to identify where school building condition needs are greatest and to help shape future capital allocations."

119. Decisions to adopt a failure/replace maintenance policy over a lifecycle maintenance approach; to spend no more than necessary on maintenance and not to even bid for funding for works (e.g. PSBP2) are all management decisions, seemingly centred or focussed on impending provision of a new school. The school was up-front that there was an ambition of replacing the school buildings entirely. Later years saw what the school describes as 'seeking all opportunities to invest in the school buildings' seemingly drop away, given that the HoE did not apply for PSBP2 because it did not fit with the vision of a complete rebuild. That lack of application for PSBP2 was unfortunate to say the least – PSBP2 *automatically* included blocks rated as condition D by the PDS and which required substantial funding and otherwise outside the programme; likewise PSPB2 automatically included any blocks with a significant structural issue or asbestos that could only be sustainably addressed by rebuilding. This is all reminiscent of the NAO warnings and cautions that lack of maintenance and failure to invest in preventative maintenance was a major barrier to improving the condition of school buildings, with a risk of creating a perverse incentive as school leaders could let buildings in poor condition deteriorate further so they meet criteria for replacement.

120. For reasons which remain unknown the HoE asbestos records were not maintained which, combined with the failure/replace policy led to the "£40,000" repair bill for the art and textiles light fittings[47]. The bid for funding for this was unsuccessful as HoE was expected to meet the costs itself, which it did – unsurprising given the Trust financial statement shows across all schools in the Trust c.£4.5million is spent on buildings and maintenance. Of a total income to the Trust of c.£79million the operational surplus of the Trust was c.£1.4million.

121. The openness of the site derives seemingly from two points – the car park entrance and the footpath. On those, the primary concern for the car park entrance was joggers and the potential for collision with pupils – although the school was quite blunt that such collisions, if occurring just outside the school entrance on the pavement were of no concern to the school since that was off school property and she provided no instance of this actually having happened on school property; seemingly no thought appears to have been given to the use of gates across the car park entrance to prevent joggers from entering.

122. Similarly the footpath – following an earlier (2009) informal consultation, because of indications that consent for diversion or closure would not be forthcoming the school did not progress seeking any form of Order for diversion, or temporary or permanent closure of the path. Putting aside the (likely criminal) behaviour of the single deliberately intimidating individual Mrs Pennington described – in relation to whom both the criminal justice system and civil litigation provide controls over in the form of various orders of restraint – the concern expressed by the school is of interaction between

[47] Although BARNFIELD notes an emergency application cost of £18,968 – Table 2 at BARNFIELD pg18

pupils and ordinary members of the public. They make the point that 'the school doesn't know who they are' – but this doesn't seem to hold the school back from using KGV fields for orienteering.

123. As regards wider car park safety concerns, the school identified two incidents in 2013 (a parent reversed into a teacher's car and a school bus struck a teacher's car while turning) and one incident in Jan 2017 where two cars "were damaged" (presumably as one driver misjudged the space and tried to squeeze out). Again despite the Appellant's witness urging in her POE that these occur 'frequently' and there are 'many' of these incidents, only three are identified. In addition to those three are the annual demolition of a brick pillar by a school bus (inviting the obvious question as to why this is continually rebuilt) and the off-site "over-turning" incident (which actually wasn't) of 2014.

124. On the Cullum Centre, the school's evidence on the approach to her is noted, but the fact remains that there is no reflection of what they say in the recorded position as regards SCC. There is nothing to suggest that the Cullum Centre for the HoE was in any way dependent on the provision of a new school with a separate block, indeed the very ethos of the NAS and Cullum Centres are inclusion in and integration with the mainstream student body for upwards of 60% of a pupil's time in school. The other three (of four) centres are open and operating, only the HoE's is not. This has to be seen in the wider context of the school's management decisions not to apply for funds for rebuilding of individual or groups of blocks which might then, in rebuilding, have accommodated the Centre, but to wait for comprehensive rebuilding of the entire school.

Ecological matters

125. The approach to ecological considerations is of great concern to EPC, from the misidentification of (and subsequent inadequate investigation of the flora and fauna of) the marshy grassland area to the north of the Effingham Lodge Farm site – which the appellants witness accepted was at least a 'checkerboard' of the same and which was not represented as such in the ES (indeed 'marshy grassland' does not appear at all in the ES), through the downplaying of the value of the Ancient Woodland and SNCI that is Thornet Wood (from a single visit at a sub-optimal time of year) to the seemingly wholesale disregard of the position regarding potential bat use of the site and wildlife corridor. The overall character of the approach can be illustrated with that taken to HSI assessment (in relation to GCN) – the ES contains HSI scores for ponds which were not visited; the appellants witness was critical of the Parish's approach in assessing likely fish use of a pond in informing his HSI scores without acknowledging that he similarly reached a view on HSI without even visiting some of the ponds scored.

126. Of more concern by the close of the Inquiry is the situation as regards bats. It is clear from the Appellants' own evidence that bats use the northern and eastern boundary of the Effingham Lodge Farm site – this is where the majority of registrations in the surveys for the ES are made (ES 9.5.49 – CD1.20).

127. At the time of the ES a brown long eared bat roost is found in the science block roof space; latterly we know from the Surrey Bat Group that in Bookham Common myotis bat species have been recorded and that the whiskered, Brandts, Alcathoe bat (found in only 3 counties in the UK) and the Bechsteins bat (an Annexe II species) are among them[48]. The Surrey Bat Group note that this is one of the very few woodland sites where all three small myotis bats have been found together and that the Thornet Wood woodland is close to, and connected by, linear landscape features[49] to Bookham Common. This leads the Surrey Bat Group to the conclusion that it is reasonable to assume (until proven otherwise) that the same bat species are present[50]. The Appellant's 'updating' 2016 survey work confirms the registration of "unknown" bat types along the eastern and northern boundaries of Effingham Lodge Farm[51].

128. As both ecology witnesses agree, different bat species are affected by differing levels of light in different ways. The difficulty then is this – there is plainly evidence of potentially nationally important groupings of bats in very close proximity – bats which will use linear landscape features to commute and forage, where such linear landscape features are present and are clearly on the Appellants case being used by "unknown" bat types. It is not possible on that basis to be satisfied as to the 'in principle' acceptability or otherwise of the impact of the proposed development on bats. A condition for more survey work is not proposed and in any event could not remedy the situation, since a decision taker needs to know now, at the stage of granting permission, that any impact is acceptable in planning terms. EPC submit that on the evidence before the Inquiry that is not possible.

129. That the 'linear landscape features' comprising the wildlife corridor as set out in ENP-ENV2 is actually being used by wildlife undermines the Appellant's suggestion that the wildlife corridor is not of value or that his alternative proposed corridor should be used instead. They were not able in cross examination to explain how his alternative route (which crosses multiple residential plots – cf. ENP-ENV2 which does not) provided any better corridor. Staying with the topic of bats, the Appellant's proposed alternative contains no linear landscape features. But the Appellant's proposed alternative requires that they fly through open residential gardens, not along linear features, and across land with unknown and uncontrolled levels of lighting (security lighting, plus the presence of street lighting on Water Lane). The built form of the school (and all the human activity and lighting that comes with it – especially for car parking and the proposed community uses including gym and other classes in the evening) will have an unknown impact on the wildlife using the corridor (including the previously discussed bats) and will effectively sever the corridor.

[48] Confirmed primarily by acoustic lure and harp trap
[49] The wildlife corridor as per ENP-ENV2
[50] WHITBY apx 2
[51] FINNIE reb table 5 (static detector registrations)

The Effingham Neighbourhood Plan

130. The appeal proposals directly conflict with many policies of the SENP (see policy context above). From severing the wildlife corridor to fundamentally ignoring the spatial strategy and housing allocations (themselves arising from the SHMA and SHLAA). The reality is that the HoE expect the NP to conform to the Trust and the school's ideas for the future and development of Effingham – there is no other way to read CD10.17 (THPT response to ENP consultation) that "*In due course, the Neighbourhood Plan will need to…reflect the outcome of the planning appeal decision relating to the HoE's proposals*. There is no regard by the HoE to the extensive community engagement and consultation on the SENP (see pg20+) ongoing over a four-year period for a plan setting out as comprehensive a plan as possible for all of Effingham, reflecting the needs and aspirations of Effingham Parish, not just one element of that community.

131. As Councillor Hogger stated, it is not a 'nimby' NP, it is a NP to support the development of Effingham to meet the needs of all members of its community in a measured and planned approach, improving facilities and services for all residents while enhancing and promoting the essential character and landscape of the village, providing development appropriate to the objectively assessed needs of the community.

132. It would be nothing short of astonishing for a community which has so positively embraced the ethos and practice of localism to then be ignored – and worse, directly contradicted and overridden, by one appeal scheme which will, at a stroke, render pointless so much of a submitted NP.

Built Heritage Matters

133. EPC maintains that the proposals for all three sites, individually and collectively, fail to respond positively to the distinct character of Effingham and will change the shape of Effingham village, causing considerable, direct and irreversible harm to the setting of the designated heritage assets which are the Effingham and Little Bookham Conservation Areas and having a harmful impact on the settings of identified Listed Buildings. As per *Forge Field*[52] a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong (albeit rebuttable) presumption against planning permission being granted and that the desirability of preservation be given considerable importance and weight in discharging a decision-taker's statutory duties under ss66 and 72 LBA. These harms stand for assessment alone (as per NPPF 134 and ss66 and 72 LBA) and add cumulatively to the harm by way of inappropriateness. Mr Bell's assessment of the level of harm was that it is considerable, albeit less than substantial (in terms of NPPF 134).

134. EPC's assessment of the significance of the designated heritage assets, the character and settings of the three sites which are the subject of this application are set out in at paragraphs 2.4 to 2.9, Effingham Conservation Area (and heritage assets at paragraphs 4.4 to 4.18) and Little Bookham

[52] *R. (on the application of the Forge Field Society, Barraud and Rees) v Sevenoaks District Council* [2014] EWHC 1895 (Admin), following from *East Northamptonshire DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137 [2015] 1 WLR 45 ('Barnwell Manor')

Conservation Area (and heritage assets at paragraphs 4.19 to 4.27) of Mr Bell's PoE.

135. Paragraph 134 of the Framework is applicable here; also relevant is NPPG paragraph 009 confirms that '*Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals*.' At paragraph 013 detailed guidance is provided on how the setting of a heritage asset should be taken into account.

136. The most significant harm caused by the appeal proposals is that the scale of development overwhelms the historic village of Effingham which is quintessentially small in scale and historic in nature having escaped extensive redeveloped or extensive post-war expansion instead retaining its evolved medieval form as well as most of its rural separation and setting. Mr Bell is clear in his proof that these are the characteristics which make it special and gave rise to its designation as a conservation area.

137. The scale of development in the appeal proposals is disproportionate and contrary to Effingham's natural evolution and growth which gave rise to its character. This would amount to a "*revolutionary change in the shape and morphology of the village which cannot fail to harm its distinct character*". An additional 295 dwellings (37 within the conservation area and 258 alongside it) - an increase of 83% set against the current 353 dwellings in the historic village - will irreversibly change the way in which the historic village of Effingham is perceived; from an evolved medieval village in rural surroundings to a much larger modern suburb with a historic core.

138. Mr Bell is clear that even if such development were well designed, it could not assimilate well into the fine grain and historic parameters of the village and would remove historic green spaces which contributes so much to character and provides the valuable historic and visual context to the village. This development will cause demonstrable harm and as such clearly fails to conserve the heritage assets in a manner appropriate to their significance and so cannot achieve the NPPF objective of sustainable development.

139. Site 1, the appeal proposals would extend well beyond the footprint of the existing school buildings, on land currently used as playing fields and tennis courts closing the green gap which is a significant feature in defining the setting of both Effingham and Little Bookham Conservation Areas [Mr Bell 5.9]. The development would connect the two ancient settlements for the first time causing a loss of their separate identities and impacting negatively on the setting of both conservation areas when viewed from Lower Road [Mr Bell 5.9]. This coalescing can be seen in maps and plans showing the proposed development.

140. The development will have a harmful impact on the setting of Little Bookham Parish Church (Grade II*) as, unlike some village churches which gain significance and character from being at the heart of a village, Little Bookham Parish Church is significant for its rural surroundings and for its relative tranquillity which make it special and contribute to its significance. Mr Bell is clear that Development within 45m of the existing graveyard cannot fail to cause harm to its unspoiled rural setting and to its tranquillity and relative

remoteness. Even if the visual impact of the development is mitigated by sensitive landscaping the tranquil quality of the place and the value of its green setting will be diminished.

141. With regard to Little Lodge, the former gate house to Effingham Lodge (locally listed), although it appears to be retained on the indicative layout the development fails to respond to its significance in any positive way. The historic significance of Little Lodge could be better revealed if the geometry of the historic carriage drive to Effingham Lodge were used as the basis for the proposed road layout which would enhance understanding and legibility of the architectural and historic significance of Little Lodge and Effingham Lodge (Grade II), both of which currently lack their historic contexts.

142. Site 2, Browns Field, falls within the Effingham Conservation Area and sits within close proximity to a handful of listed buildings and locally listed buildings. Historically part of Manor Farm, now Browns Farm, its heritage significance derives from its historical link, farmland to farm, to the farming village and from its green and pleasant character. It also serves the important role of providing the green gap between the historic village and the 20th century housing development to the south of Guildford Road. When viewed in the context of the other fields and playing fields around the periphery of the village, it makes a very significant contribution to the way in which the historic village is perceived.

143. Mr Bell is clear that the appeal proposals on site 2 would compromise the ability of the onlooker to comprehend the modest size and distinctness of the historic village, diminishing the strong relationship between the village and its green surroundings, and coalescing the medieval village with the suburban 20th century housing to the south. It will have an urbanising effect on the character of Guildford Road, Brown's Lane and to a lesser extent The Street. All these impacts are harmful to the special character and appearance of Effingham Conservation Area and the setting of the listed buildings and locally listed buildings which are adjacent to the site.

144. Site 3, Lodge Farm, is the largest at 19.7 hectares and provides the rural backdrop to both Effingham and Little Bookham Conservation Areas. It also helps to reinforce the separate identity of the two distinct medieval settlements and enhances the perception of both villages as isolated and modest rural settlements. Mr Bell is clear that the appeal proposals on this site will be harmful to the setting of both conservation areas because it will remove the significant green gap which separates and gives identity to both conservation areas.

150. In particular, on the north side of Lower Road, the proposals will result in continuous built development from Effingham through to Little Bookham then Great Bookham and Fetcham some several miles to the east. It will directly affect views into and out of the conservation area [BELL 5.30]. Whilst it is accepted that views of the conservation area from the north across farmland are largely (but not exclusively) private, NPPG 013 is clear that '*The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.*' The significance of the conservation area, when viewed across the proposed

housing development and school, instead of across farmland, will be harmed. Views from the conservation area across farmland to Thornet Wood, from the Church of Our Lady of Sorrows and the British Legion site, will also be urbanised and will be harmed as a result [Mr Bell 5.30].

151. Mr Bell further emphasises the impact of the development on the shape of Effingham village which he states will be significantly changed; any new development should reinforce local distinctiveness and special character rather than dilute it therefore needs to be of a scale and type which builds on the very special characteristics of the place which this development is not.

152. Overall, the impact of development across the three sites will plainly be harmful and considerable, albeit less than substantial in terms of NPPF 134. The modest scale of the historic village would plainly be overwhelmed transforming the historic settlement, with its tight-knit grain and cumulative layers of history.

Design Matters

153. Paragraphs 58 and 60 of the Framework state that planning decisions should aim to ensure that development responds to local character and history, reflect the identity of local surroundings and materials, and promote or reinforce local distinctiveness.

154. EPC state that part of the harm to character and setting derives from the poor design of the proposed houses and the site layout. The proposed site layout and the proposed architectural and highway designs falls short in several respects: the layout of the highway has the character of a suburban estate layout which relates poorly to the urban grain of Effingham; many of the houses are inward looking or fail to address the street in the way that is well established in the conservation area; and the architectural treatment of the dwellings lacks integrity. He further emphasises his view that development of this type, which does not reinforce local distinctiveness or respond positively to an area's special character, inevitably dilutes it and as such the detailed proposals for the Browns Field site cause harm to the special character and appearance of Effingham Conservation Area.

155. EPC emphasise that the character of the conservation area derives from houses which directly address the historic streets and are set at the back of pavement or behind small front gardens, and criticises the houses in the proposed layout for failing to directly address the historic streets. Furthermore, Mr Bell asserts that the proposed highway layout fails to respond to the historic grain of the conservation area due to being designed around organic, branch -like 'estate roads' with all the characteristics of modern suburban housing layouts and no relation at all to the pattern set in the rest of the conservation area nor to the distinct character of Effingham Conservation Area resulting in its own distinct character which will not integrate well and will cause harm to the special character. His wider concern was that the development itself has little regard to its historic context and fails to respond positively to its conservation area surroundings. Consequently it is poorly integrated into the historic environment and causes harm (less than substantial) to the character of the conservation area and the setting of the designated and non-designated heritage assets.

Highway matters

156. Whilst the Parish acknowledge the LPA and Appellant have agreed the situation regarding highways and traffic impacts, they remain concerned as to the highways impact that the development proposals will have locally.

157. Mr Hackett, the EPC witness, was clear that the everyday experience of residents and visitors to Effingham is that roads around the village are congested – especially so at school times – and voiced EPC's concerns as to the likely negative impacts of increased traffic from the proposals. EPC remain concerned that the inputs used for analysis do not sufficiently match the reality of Effingham, given that in local residents' views some of the outputs – such as short queues dispersing quickly – do not match what is experienced on the ground locally. To that end the Inspector is drawn to Appendix 2 – the pedestrian and vehicle survey produced by Mr Hackett to his proof – and to the photographs at his Appendix 4. In short, EPC fairly acknowledges that they are not experts but rightly points to their local knowledge which should assist to inform the data output, rather than (for example):

a. The site selection criteria used (at Appendix L (Transport Assessment) and Appendix M (Transport Assessment) locations "suburban area" and "edge of town" have been selected) - Effingham which is more reasonably described as "village" or "out of town".

b. Appendix L one can see that "all" has been selected for public transport which may therefore include sites where such transport is better than poor. Mr Hackett is clear that public transport in Effingham is inadequate. Mr Foxall doesn't dispute the accuracy of what Mr Hackett says about public transport provision however disagrees that it is inadequate. EPC emphasise that it plainly is.

c. The adherence to (albeit industry-standard) consideration of AM and PM network peak times may well leave a distorted view of the actual peak traffic in the area which will be heavily affected by school run traffic;

d. No account appears to have been taken of the KGV carpark or lower end of Church Road with regard to drop off points meaning that the drop-off rates are likely underestimated.

158. The consequential effects are that even if the link road from Lower Road to Effingham Common Road does divert some school traffic away from the centre of the village and the mini roundabouts, the development will lead to increased traffic on the narrow roads in the conservation area and over the mini roundabouts. Further concerns are raised as to the size of the drop off area. Mr Foxall for the Appellants confirmed that he was content to discuss the drop off and design of the link road with EPC (subject to SCC as Highway Authority) approval.

159. Points which seem to now be resolved (subject to Highway Authority approval) appear to be:

a. The crossing proposals at The Street should be reconsidered so as to widen the footway at the corner of Crossways and swap the kerb build out to the other side at the pinch point, extending out. EPC takes the

view that this would be a safer alternative; a proposal described by Mr Hackett and on the site visit, confirmed as beneficial from a heritage perspective by Mr Bell in his oral evidence, and Mr Foxall confirmed that in principle he had no issue with this proposal subject to highways approval;

b. EPC and the appellant are *ad idem* on the lack of need for yellow lines on Browns Lane, flagging that this might push people into more dangerous parking. Mr Foxall confirmed that the Appellant would be happy to not have these, subject to highways approval;
c. EPC's suggestion for parking for plots 1-4 be revisited on the Browns Field site to make the parking spaces more desirable; a condition has been suggested in this regard and there is an expectation of consultation with EPC on any redesign of the same;
d. Additional parking is required at Browns Field to comply with ENP R1 of the Neighbourhood Plan ;
e. Mr Hackett notes the current problems experienced at the double mini roundabouts at the junction between Lower Road, The Street and Effingham Common Road which, given its proximity to St Lawrence Primary School is of particular concern to EPC. In evidence, Mr Hackett flagged the total lack of mitigation at present at the mini roundabouts.
f. EPC also expressed concern as to the safety of those walking up Church Street - highlighted as dangerous in his proof and the total lack of mitigation proposed. Mr Hackett described a route taken by parents to go to the primary school, where they are forced to cut through the pathway through the green space to the right where there are a number of small steps which are almost impossible to navigate. Mr Foxall asserted that no mitigation was required.

160. With regard to Browns Field EPC asks that should the appeal be allowed, that suitable conditions be put in place which would allow for additional parking spaces in accordance with the SENP and for the relocation of parking at plots 1-4. With regard to EPC's remaining concerns, should the appeal succeed EPC urges that the Appellants engage with them at the reserved matters stage.

Brown's Field and Effingham and Letherhead Rugby Club

161. The removal of Brown Field from Effingham Rugby Club use will fundamentally strike at the club's "one club" ethos. At present the entire minis and juniors can train and play together on facilities across the road from each other, facilities which accommodate hundreds (and hundreds) of minis and juniors.

162. Moving the minis to the new school field and facilities will sever that connection with the juniors and with the wider club. There are not enough pitches provided at the school to accommodate the needs of the club for running its minis and juniors together; the reality is that minis will be taken away to a remote location to play with no connection to the juniors. That will create logistical problems for parents who previously might have had one child playing each side of a road, they will now have one child playing on completely separate sites with no ability to easily move from one site to another (as now). There will be no clubhouse which the minis will train or play near, no interaction with or ability to watch juniors play while the minis wait for their match to begin and no seniors around (since the clubhouse will be remote from them). The fundamental effect on the rugby club is not hard to see.

Conclusions for the Parish Council

163. As noted in opening (and as accepted by EPC throughout) there are obvious benefits to the proposals. Provision of market and affordable housing given GBC's shortfall, community benefits and provision of a brand new school all doubtless have positive aspects to them.

164. But those benefits, such as they are, need to be understood in context. The considerable (albeit less than substantial) direct and irreversible harm to the designated heritage assets, coalescing the distinct communities of Effingham and Little Bookham, closing the green gap and introducing inappropriate development into the GB whilst causing unquantified likely harm to protected species and their habitats, including the severing of the proposed wildlife corridor, the division of the Effingham and Leatherhead Rugby Club, conflicting with the considered and consulted upon NP which itself reflects the needs and aspirations of the Parish as a whole, all for the sake of expanding a school which doesn't require expansion, to replace buildings which are largely good or satisfactory, for a school which demonstrably performs no better than others in the area, and the consequence of expansion here likely being a reduction in choice to attend other nearby schools, to provide housing which doesn't reflect the needs of the Parish and will be in fundamental conflict with the spatial strategy of the NP, all point to the benefits (such as they are) not constituting VSC so as to clearly outweigh the harm by way of inappropriateness and all other identified harms.

Case for the appellant

165. In summary the Appellants submit, the appeal proposals will bring development which is much needed; the replacement and expansion of the HoE School ("the School") as well as 295 dwellings (including an agreed proportion of affordable housing) in the form of enabling development, which itself has a particularly strong case.

166. The provision of the new School and the housing, together with the other benefits of the scheme, represent compelling very special circumstances justifying development in the Green Belt, as well as public benefits outweighing any harm to heritage interests.

167. The Appellants case covers the following matters: The benefits of the proposed School and the housing development, the Green Belt, the effect of the development on designated and non-designated heritage assets, the character and appearance of the area, ecology, highways, sports facilities, other matters and decision taking; these are elaborated on below.

The benefits of a new school

168. The scheme comprises two principal elements whose provision is highly beneficial in policy terms and for both of which there is a particularly strong need; the new school and the proposed housing. I begin by dealing with the School.

Introduction: support from the Government and from the County Council

169. The Appellants start with the position of the Schools Minister. Lord Nash has provided an unequivocal letter of strong support for the proposals[53]. Further, the Education and Skills Funding Agency (ESFA) has given consent for the exchange of the school's current premises for the new site at Lodge Farm[54], and the Regional Schools Commissioner (RSC) has expressed support[55]. This support from within Government is unsurprising and underlines how the case for the provision of the new, expanded school is directly consistent with Government policy. This scheme, where housing which is itself badly needed enables new school provision without recourse to public funds, is exactly the kind of case that deserves support.

170. The case for the School to expand was also recognised by SCC in its letters of support submitted in 2015 and 2016.[56] The statement on basic need provided to the inquiry by SCC does not withdraw that support and indeed SCC confirmed in a letter in 2014[57] that it supported the proposals in full knowledge that there was no basic need funding available.

Policy context

171. Given the importance of education to the future of the country, national planning policy deliberately sets out an exceptionally positive policy basis for the consideration of planning applications for the creation, expansion or alteration of schools such as the HoE.

172. The Framework makes clear[58] that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities are to take a "proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education". Accordingly, authorities are to give great weight to the need to create, expand or alter schools, and work with school promoters to identify and solve key issues. Any specific need identified for a specific school would thus be in addition to the clear general policy principle that the country needs to create, expand and improve its schools in the national interest.

173. Further, the Government regards promoting the role of state-funded schools (which includes Academies such as the HoE) as so important that, unusually, there is a specific policy statement dealing with them-the Policy Statement[59]-Planning for Schools Development (JPS) issued jointly in 2011 by the Secretary of State for Communities and Local Government and the Secretary of State for Education.

174. The JPS is consistent with paragraph 72 of the Framework and other Government policy. It emphasises the Government's commitment to increasing choice and opportunity in state-funded education and raising educational

[53] Barnfield appendix 12
[54] Barnfield appendix 10
[55] Barnfield appendix 11
[56] Dobson appendix 12
[57] Education Needs Statement 2014 CD 1.11 appendix D
[58] Paragraph 72
[59] CD 4.49, and Dobson appendix 6.

standards. It makes clear that the Government wants to enable new schools to open, good schools to expand and all schools to adapt and improve their facilities. This, says the JPS, will allow for more provision and greater diversity in the state-funded school sector to meet both demographic needs and the drive for increased choice and higher standards. Accordingly, there is to be a presumption in favour of the development of state-funded schools. The reason for this policy is set out in the JPS. The creation and development of state-funded schools is strongly in the national interest. That presumption would be reinforced by any specific additional need which can be shown in relation to individual schools

175. Thus, increasing choice is a critical factor. Government policy emphasises a schools centred approach with schools determining their requirements and a choice based approach, in which places in good schools are expanded, not only to meet demographically driven demand but also to meet parental choice and drive school improvement. The Government's strong support for new school development and expansion does not depend on demographic need, although in fact there is a demographic need for the proposed expansion. Nor is Government's support limited to cases where the capital cost of the new school is being paid for by Government. That is clear from Lord Nash's letter[60], where the Minister commends the fact that the proposed development will occur without recourse to public funds.

176. The Government's clear policy position as set out in paragraph 72 of the Framework and the 2011 Policy Statement forms the essential background to the case for the School -a case which is directly supported by the Schools minister. To be clear, this is both planning and education policy. We know that because the JPS was issued by both the Secretaries of State for Communities and Local Government and Education.

177. Nevertheless, it was remarkable that in the main proofs of evidence from the Borough Council dealing with education and policy generally, neither paragraph 72 of the Framework nor the JPS was referred to.

178. It is of course the case that both were referred to in the Committee Report[61]. However, the lack of reference to either crucial policy document in either Mr Clyne's or Mr Sherman's evidence is of concern, because neither witness gave real weight to the fact that the Government's policy favours expansion to promote choice, and not only where there is demographic need.

179. Mr Clyne appeared to have difficulty in accepting that that is the case. Indeed, he was under the erroneous impression until the inquiry that the JPS had been withdrawn at the time of issue of the Framework. He did mention paragraph 72 of the Framework in his rebuttal but said that the JPS had been withdrawn.[62] He was wrong. It very obviously is Government policy and is regularly applied as such[63].

[60] PoE Barnfield Appendix 12.
[61] CD 3.1
[62] Clyne rebuttal section 3.9 pages 6-7
[63] Eg Ingleby Barwick decision (2013) at CD 11.3 (DL 7), Steart Farm decision (2016) at CD 11. 4 (DL 10) and Perry Beeches decision at CD 11.5 at CD 11.5 (DL 6)

180. It was suggested that this mistake about the continued existence of the Policy Statement did not matter, because the JPS refers back to the Framework and there is no difference between the guidance contained in the JPS and that contained in paragraph 72 of the Framework.

181. The JPS is important not because it differs from paragraph 72, but because it makes clear that expansion is supported not just where there is a demographic need but also in order to increase choice. The Secretary of State and his Inspectors have emphasised in their decisions that the widening of choice is the critical factor, and any other need does not have to be proved.[64] As the appellants education witness pointed out in evidence[65], the need for more schools in order to increase choice and thus drive higher standards is clear in policy and of itself creates a presumption in favour of any school proposal, regardless of any specific demographic need in a particular case.

182. GBC's planning witness did not mention paragraph 72 or the JPS though in oral evidence he said he was well aware of them. However, when considering the education case as a potential very special circumstance, his evidence[66] dealt only with SCCl's January 2017 Statement on basic need. He did not refer to the case for expansion as furthering the "critical factor" of choice. He said he had taken that into account, but if he had, it is remarkable that there is no mention of it in his evidence.

183. In summary, the support of the Government, as a matter of planning as well as educational policy, for improvement of facilities by schools, and for expansion to improve choice as well as meet demographic needs is plain. That is the context in which the case for the new School falls to be examined.

Replacement: the case for a new school

184. To begin with, the existing school is acknowledged by everyone to be outstanding. However, its premises badly need replacement. The essential criteria to be applied to consideration of whether a School is fit for purpose are suitability, sufficiency and condition.[67] The existing School fails on all three criteria.

Suitability and sufficiency

185. Starting with suitability and sufficiency, the Appellants' evidence provides a detailed examination, department by department, including the outside areas.

186. Mr Olliff has analysed each part of the School's premises, including outside space. Mrs Pennington, the Headteacher, following the same order as Mr Olliff, has set out clearly how the School's problems affect delivery of education within the School.

187. This is a school the core of which was laid out in the 1940s with facilities sized for a fraction of its current roll. The inadequacies may be summarised as follows.

[64] See Perry Beeches decision CD 11.5 at DL 13 and IR 108 and Ingleby Barwick decision CD 11.3; Inspector stating at IR 11.17-11.19 that widening choice is the critical consideration, and Secretary of State agreeing with him at DL 13.
[65] Rhodes PoE.
[66] Sherman 5.19 – 5.27 pages 15-17
[67] Olliff proof 4.9, page 15

188. In relation to *accessibility*[68], the School does not accord with the Building Regulations. It does not meet BS 8300-2009 (Design of Buildings and their approaches to meet the needs of disabled people-Code of Practice). Mr Olliff expressed the view that the school is at risk of litigation for failure to comply with the Equality Act 2010 in relation to disabled people. The reasons for these failures are

    a. The only lift access in the School is in the Sports Centre, and there is no direct access to the lift from the main reception area. The Sports Centre is not attached to the main school buildings.

    b. Many rooms within the School remain inaccessible via staircases or changes in level, both externally and internally.

    c. Over 50% of the classrooms are not accessible for any pupils, staff or visitors with limited mobility.

    d. The buildings contain little or no provision for disabled access and egress, lavatories or lifts.

    e. The main building has split level access and ramped entrances, but no automatic entrance and exit doors to the main reception area.

189. In relation to *security and welfare*, the School is not compliant with the Standards for Schools Premises (2000) guidance which requires school premises to provide reasonable assurance of occupants' health, safety and welfare.

190. Among the concerns is that the school fails against the requirement to protect occupants from fire, which is reiterated in Managing School Facilities Guides 6, Building Regulations Part B and BB100. As Mrs Pennington said[69], the School site itself is not secure from intruders, and suffers from poor surveillance internally. Many parts of the school are inadequately ventilated, and there are insufficient lavatory and drinking water facilities[70]. Arrangements for vehicular access are inadequate and the situation is unsafe[71]. Accidents occur both on Lower Road and in the school car park. The existing buildings and outside spaces are inadequate in terms of *teaching requirements*.[72] Many of the classrooms do not meet the basic standards for size of classrooms set out in Government Guidance at BB 10320. There is chronic congestion in corridors.[73] The outdated classrooms in the School mean that the School does not conform to the Department for Education's standards for school premises. This is largely due to the adjacency of classrooms, which open immediately onto the congested, narrow corridors.

191. The process by which the School has grown over time to accommodate additional students has led to a progressive reduction in the amount of outdoor play space available.[74] The school site is very cramped. The School playing

[68] Olliff page 52
[69] Pennington pages 9-10
[70] Pennington 3.63-3.68 page 19, 3.23 page 11
[71] Pennington 3.51-3.55 pages 16-17
[72] Olliff 4.93 page 53
[73] See Olliff 4.97 page 55 and Pennington proof 3.28-3.40
[74] Pennington 3.41 page 15

fields space provision is way below standards[75], even if Brown's Field, which cannot be used due to security concerns[76], is counted in[77].

192. Mrs Pennington[78] said that the impact of the school's buildings in their current state is resulting in greater challenges for her and her colleagues and without significant intervention will only get worse as the current building stock ages. Incremental improvements have been tried but they have not secured the necessary improvements for the long term. In Inspector's questions, Mr Olliff confirmed his clear view that the School is simply not fit for purpose.

193. In essence, the above points are agreed. The Council accepted all of Mr Olliff's and Mrs Pennington's evidence about these matters. There has been very little challenge since. Mrs Pennington was cross examined about the problems she identified with the footpath running across the School playing fields. It was suggested that the School might be able to close the footpath, although the School had met strong local opposition previously. Mrs Pennington pointed out that such closure, even if achieved, would not solve the School's security problems, because intruders could still gain access to the School premises. Also, it was suggested, in particular by the Parish Council[79], that the School's needs for playing fields were adequately catered for by the availability of KGV playing fields. However, the School has no security of tenure of those facilities, and Mrs Pennington, as the expert running the School, drew attention[80] to the practical problems reliance on KGV playing fields causes.

194. Because there was so little challenge to the evidence on these matters, the suitability and sufficiency of the School's premises has occupied relatively little attention during the inquiry. But it is vitally important, and its acceptance forms a fundamental foundation for the grant of planning permission in this case.

The Condition of the School Buildings

195. Next, in relation to condition, there are major deficiencies, including the presence of substantial areas of asbestos. Again, the Appellants' evidence deals with these matters in detail, department by department. Mr Olliff's evidence[81] considers the matter with the same rigour and attention to detail that he brought to the analysis of suitability and sufficiency. Gleeds have up-dated their condition assessment[82], to take full account of crucial issues such as asbestos. The cost of remedying the defects over the next 10 years is £5,931,315.

196. The Appellants' evidence on condition was not disputed. Instead, the Council sought to argue, based on the results of the Property Data Survey ("PDS")[83] carried out by Government in 2014, that in comparison with other schools the HoE School's performance was not unusually poor. However, as Mr Olliff said[84],

[75] Pennington 3,56 page 17
[76] The correct figures are at Dobson rebuttal paragraph 2.41 fn 2.
[77] Pennington 3.124-3.125 pages 28-29
[78] Pennington 6.4 page 44
[79] Mrs Hogger paragraph 3.25 page 13
[80] Pennington 3.124 page 28
[81] Olliff pages 55-83
[82] CD 10.1
[83] Attached to the Parish Council's Statement of Case
[84] Olliff page 56

drawing on the National Audit Office report of February 2017[85], the PDS was based on visual inspection only and excluded some information, including asbestos, which is a major issue at this School.

197. The reality is that the condition of the School is seriously defective, and swift and expensive action is needed to remedy those defects. It is clear that the School has tried to secure funding to ensure that it keeps the premises in a reasonable state during the process of developing the appeal proposals and the planning process. The issues described in the Gleeds report are not recent but longstanding and the School has done its best to address those issues. But as described below, there is simply not enough funding for it to have operated a lifecycle approach to a series of inadequate buildings. On-going maintenance costs are met from the same budget as teaching and learning resources and the higher cost of maintaining and operating the existing School would therefore have direct impacts on those budgets.

Are the deficiencies of the school material?

198. The effect of Government policy is that there is already a presumption that proposals for the renewal and expansion of schools will be supported. Any evidence of need or deficiencies adds weight to the presumption which applies in all cases.

199. It is evident from the above summary that this is a School which very seriously fails in terms of sufficiency and suitability as well as being in unacceptable condition. Could it be said that this grave situation does not require a remedy, on the basis that the School is performing as an outstanding school in Ofsted terms, and can be expected to continue to do so? The Appellants suggest that it could not.

200. Government has emphasised the importance of decent facilities. As stated in the Government's Facilities Output Specification document[86] "[E]ducation outcomes are strongly affected by the internal environment in teaching spaces."

201. Mr Clyne quoted[87] as "telling" a part of the James report of 2011[88] where it is stated that:

"..-there is very little evidence that a school building that goes beyond being fit-for-purpose has the potential to drive educational transformation. The generally held view was that the quality of teachers and leaders has a much greater impact on attainment than the environment."

202. But the School in this case is not fit for purpose. To say that it is not fit for purpose which Mr Olliff did in answer to an Inspector's question, is not a "new case" by the School. As Mr Dobson that the School has throughout made the points about sufficiency and suitability and condition that it is making now. The inevitable conclusion of those defects (which no one challenges) is that the School is not fit for purpose.

[85] Clyne's appendix SC 25, starting at page 681 of his appendices
[86] Clyne appendix 16, page 303
[87] Clyne 3.7.3 page 29
[88] Clyne appendix 8 page 120 onwards

203. The School is not seeking a luxury environment, but only a decent school which complies with standards and which can properly continue to serve its community.

204. It is significant that Mr Clyne himself has argued successfully at appeal that poor accommodation adversely affects standards of education. In the Billericay appeal decision [89]the Inspector accepted[90] a decline in standards was likely to be attributed to the negative impact of poor accommodation. So here, Mrs Pennington has stated[91] that a declining proportion of pupils remain at the School for the sixth form, despite good examination results, citing the quality of the facilities as the reason.

205. The reality is that the School badly needs new premises and Government policy presumes in favour of proposals to provide such new premises. Any refusal is unreasonable unless clearly justified.

The availability of Government funding

206. There is no prospect, and never was, of securing funding for a replacement School from Government.

207. Mr Clyne suggested[92] that a carefully presented bid could have secured the funds for a replacement School under the PSBP scheme. This shows his recognition that the School needs replacing. However, he is wrong about funding. Mrs Barnfield has throughout her tenure constantly sought to secure such funds. Her evidence deserves considerable weight. Under her leadership the Trust has grown, at the request of the Department for Education[93] and SCC to become a Multi Academy Trust ("MAT"). She told the inquiry that the Trust has been given responsibility for additional schools, and has recently been given in principle approval to open a Special Needs School Free School by the Secretary of State.

208. Mrs Barnfield's evidence contains a comprehensive review of the funds available since she arrived at the School and her efforts to secure any funding possible. As Mrs Barnfield says[94], no Surrey school received funding through the Building Schools for the Future (BSF) programme. Since the discontinuance of BSF education capital spending has been very significantly reduced.[95] The Priority Schools Building Programme (PSBP) replaced BSF. The programme focused on condition rather than suitability and sufficiency[96]. Mrs Barnfield explained[97] why the School would not have succeeded in an application under PSBP. Round one funding was only awarded to schools in the very worst condition[98], and on unacceptable financial terms. Round two was not intended for re-building schools. No further rounds of PSBP funding have

[89] DL 33
[90] DL 33
[91] Pennington 3.117 page 27
[92] Clyne 5.9.7 page 43
[93] Barnfield paragraph 1.3 page 2
[94] Barnfield 4.9-4.13, pages 11-12
[95] Barnfield 4.16 page 13

[96] Barnfield 5.6 page 16
[97] Barnfield 5.6 page 16 and in cross examination
[98] Only 2.5% of schools were awarded funding-see Barnfield 5.7

been announced and national schools capital expenditure is being reduced year on year.[99]

209. The School was able to bid for the Academies Capital Maintenance Fund (ACMF), later re-named Condition Improvement Fund (CIF). The maximum amount available was £4m, so CIF would not have been available for a redevelopment.[100] The School has made several applications for funding for piecemeal improvements, some of which have been successful[101]. It also twice applied[102] for Government funding to buy the Lodge Farm site, but without success.

210. The present funding programme is School Capital Allocation, which is awarded on a per pupil basis with a condition element, and not in response to bids. This year's allocation is £2.483m across the whole of the Trust's nine schools. If this were used on a per capita basis, the Howard's share would be around £550,000. Mrs Barnfield was challenged about this. It was in effect suggested that it might be possible to use more of the allocation for the Howard. However, as she explained, all of the other schools have their own needs. Bids from seven of the schools (not the Howard and one of its sister schools, in process of being re-built) have been received for sums totalling more than the £2.483m awarded. The bids are for work including replacements roofs (the roof of one classroom collapsed) and refurbishment of temporary classrooms. Plainly, it cannot be assumed that the Howard could receive more than a per capita share of the total.

211. The reality is that Government funding is not available to rebuild the school (or for more than very limited and inadequate repairs). Indeed, Mrs Barnfield said she had been to see the Secretary of State for Education, accompanied by the local MP Sir Paul Beresford. However, the Secretary of State had confirmed that there was simply no money for a new school.

212. Mr Cornwell related that Sir Paul Beresford indicated that funds may be available. But there was simply no evidence to support the existence of any hitherto undiscovered reservoir of available money. This shows clearly an acceptance that a new School is necessary.

213. Indeed, the School does not even have the money to carry out the repair and maintenance work recommended by Gleeds, and which everyone agrees must be done. It will be recalled that Gleeds say[103]that £5, 931,316 needs spending over the next 10 years. However, that spending is concentrated in the first five years. For that period, sums approaching one million pounds a year are needed. Mr Olliff explained this.[104] The Gleeds figures assume that the necessary repair work is done in the first five years, and are the sums necessary to remedy defects as they exist now. That means that any delay in addressing the faults would significantly add to the costs. Then, after the first five years the figures over the rest of the 10 year period are notional, because they assume that all necessary work has been done and

[99] Barnfield page 14 and NAO report CD 4.46 figure 11
[100] Barnfield 5.11 page 18

[101] Barnfield table 2 at page 18; also
[102] Barnfield 6.7 and 6.8 page 23
[103] CD 10.1
[104] Olliff 4.200 page 80 and 5.13 page 87

(unrealistically) that cyclical failures will not occur.

214. A more realistic way of assessing the cost of repair and maintenance is by a lifecycle analysis over the normal 25 year period. This adds[105] £18,941,632 for maintenance to the initial £5,931,316. As Mrs Barnfield explained[106]that brings the cost to around £24.8m. In short, just to keep the buildings repaired and maintained, the School needs around a million pounds a year. On the basis of its current funding, it cannot afford that money.

215. Given the lack of Government funds, Mrs Barnfield embarked on the process which has let to this appeal.[107]Section 6 of her evidence sets out the substantial progress of discussion and negotiation with officers of the Borough Council, with the Head of Planning recommending Berkeley Homes[108] and the Council deciding in 2014 to propose allocation of Sites 1-3 for development as per this appeal proposal.

216. The Councils have tried to suggest that the School could have obtained more funds. But the inevitable conclusion from the evidence is that it has tried everything to secure funds to repair its buildings, carry out improvements and even buy land for a replacement School. It is hard to imagine that Mrs Barnfield and her team would willingly put themselves through the protracted process of a planning application and appeal such as the present one, if there were any realistic alternative way of ensuring the future of the School into the future.

The options available to the school

217. It is necessary to review the School's options in the light of the matters set out above. Mr Olliff has undertaken a comprehensive options analysis. Option 1 is repair and maintenance. I have already said that the School will not be able to afford even that at current funding levels.

218. Given the unavailability of Government funds, any other option will require enabling development. Mr Cornwell said[109] he considered it financially unsustainable to replace the existing buildings with a new School. He went on to say[110] that there are reasonable opportunities to develop or redevelop some existing facilities on the School's present site.

219. However, Mr Olliff has considered in detail the options of refurbishment of the existing buildings so as to produce some improvements to sufficiency and suitability (option 2 in his analysis) and refurbishment and part redevelopment (option 3). The fact is that either of those options costs considerably more than provision of a new School on the Lodge Farm site (option 7). The reason for the greater cost is the necessity for temporary classrooms during the refurbishment and/or redevelopment work. Such temporary classrooms are very expensive.

220. What that means is there is no "half way house" of refurbishment or part redevelopment[111]. Any option short of provision of an entirely new school

[105] See Artelia cost schedule, CD 10.2, first page
[106] Barnfield 5.17 page 20
[107] Barnfield section 6 page 22 onwards
[108] Barnfield paragraph 6.9 page 23
[109] Cornwell 3.12 page 8
[110] Cornwell 3.12
[111] Also, it is not an answer to the School's problems of inadequate accommodation to get rid of the Trust

would be more expensive.

221. Furthermore, Mr Olliff has also shown, with his option 4, that redevelopment of a new School on the existing site would cost more than any of the other redevelopment options (5, 6 and 7), again because of the need for temporary classrooms.

Other locations for the new school

222. To re-cap, the School is not fit for purpose. A new School is needed. At current funding levels the School cannot even afford to keep the existing premises in repair. Refurbishment/part redevelopment or redevelopment on the existing site would be even more expensive than provision of a new School as proposed.

223. If a new School is to be provided, no one has suggested any more suitable location than Lodge Farm. A formal Alternative Sites Assessment was undertaken[112] in support of the planning application. That exhaustive study reached the unsurprising conclusion that no alternative site exists to meet the need. That conclusion has been accepted by the Council[113]. Mr Olliff has considered in his options exercise (options 5 and 6) provision of a new School on the land to the East of the present School buildings, and on Brown's Field. Neither would be produce a satisfactory School, and furthermore, both options would be unacceptable in planning terms. No one has suggested any other possible site. If a new school is justified, Lodge Farm is the only location for it.

The case for a new school: the benefit of expansion

224. The new School will not only replace the existing deficient premises; it will also provide for expansion.

225. Expansion is wholly in line with Government policy, as set out in the JPS, to enable good schools to expand, in order to provide increased choice and higher standards for children. The appeal proposals, by allowing an outstanding and popular[114] school to expand, are directly in line with Government policy.

226. This has been recognised in the support from the Schools Minister, the ESFA and the RSC. It has also been recognised by the County Council. In its letters[115] the County Council has expressed strong support.

227. There has now been submitted a Statement on "basic need" from SCC dated January 2017[116], and GBC relies on this Statement to oppose the expansion of the School.

228. There is, in fact, a demographic need for expansion, as demonstrated below. However, any such need simply adds yet more weight to the case for expansion which is already supported by Government policy.

Offices. They need to be at the School, which is the lead School of the Trust, and the Trust has already had to surrender most of the space originally provided for it.

[112] Rhodes paragraph 5.13 page 38
[113] Committee report CD 3.1 page 51
[114] The Howard has more than two applications per place
[115] Dobson appendix 12
[116] CD 13.2, Dobson appendix 9

229. SCC provided the School with a set of projections for Planning Area when the School was developing its proposals. Those projections showed that there would be a need for an additional 26 places per year (averaged over the following five years) within the area. Added to that figure was the pupil yield (11) from the Berkeley Homes housing development[117], a figure (4) to take account of the increase in pupils that will result from the presence of the Cullum Centre, and a small allowance for surplus capacity[118]. The result was a need for additional places within the Planning Area of 51, which, rounded up (as it has to be), means 2 additional Forms of Entry ("FE"). The table submitted with the Educational Needs Report [119] is reproduced in Mr Dobson's proof of evidence.[120] The County Council has never suggested that this assessment of the demographic need for more places was inappropriate or inaccurate.

230. In the January 2017 Statement SCC updated its projections. Additionally, it assessed basic need in the area by examining together two neighbouring Planning Areas, Effingham and Leatherhead.

231. So far as the Effingham Planning Area is concerned, there is still projected to be a considerable additional demographic need for places. Indeed, as Mr Dobson pointed out for the period until 2022 the new projections are for a higher additional need for places than the previous projections. The new projections consider a longer period, in which demand drops, but projections become less accurate later in the planning period and in any event (as considered below) the drop-off later in the period can be explained by the housing trajectories provided by the Borough Councils.

232. Taking the Effingham Planning Area alone, and even taking account of the later years, the new projections still support a requirement for an additional 2 FE. The average additional demand for places in that Planning Area in the period covered by the latest forecasts would be 21 (down from 26) but still sufficient to require 2 FE when the need for places for the proposed housing, the Cullum Centre and a small surplus is taken into account.

233. For the assessment of basic need (an administrative term used to denote the short term demographic need for which Government funding is provided) SCC has chosen in this document to examine the Effingham and Leatherhead Planning Areas together. Leatherhead has surplus places in most years. The Statement says that temporary "bulge" classes will be needed in three years, when there is a deficit of places taking account of the two Planning Areas jointly.

234. However, to begin with, provision of temporary bulge classes is not an appropriate solution. The Howard cannot accommodate such classes[121] so they would in practice have to be at the Therfield School in the Leatherhead Planning Area. That school is a less popular school than the Howard, and would

[117] Which, contrary to Mrs Moss it is wholly right to include, because the proposed housing is itself needed and will help the Borough Council address its urgent housing needs.
[118] Explained at Dobson paragraph 6.23 page 28-Mrs Barnfield said the School was advised by the County Council to add 5%, but used a more conservative 3.5%.
[119] CD 10.11
[120] Dobson paragraph 6.12-6.13 page 25

[121] Dobson paragraph 6.40 page 32-and as he said, no school can be forced to accommodate bulge classes.

be further to travel for almost all students in the Howard Planning Area, which is where most of the additional need for places originates.[122] Requiring Effingham Planning Area children to travel further to a less popular school hardly delivers increased choice in accordance with Government policy. It follows that the right solution is to provide for the additional need for places permanently at the Howard, the only school in the Planning Area, rather than temporarily at the less popular and more distant Therfield School.

235. Secondly and in any event, the housing trajectories provided to SCC for the purpose of making the forecasts in the January 2017 Statement under-state the required rates of delivery. It was put to Mr Dobson in cross examination that SCC's projections are based on demographic and migration assumptions as well as housing growth data. He agreed. Indeed, he had said so in his main proof of evidence[123]. However, housing growth data are an important component.

236. Because both MVDC's (most of the Effingham Catchment) and Guildford's local plans are out of date, their trajectories understate the amount of housing that will be required. MVDC has provided a housing trajectory of 188 dwellings per year, but the latest SHMA shows an OAN of 391 dwellings.[124] In Guilford, the housing trajectory supplied by GBC to SCC is based on 526 dwellings per year, far less than the OAN of 693, with hardly any homes being delivered in the wards relevant to the Effingham Planning Area after the first five years.[125]

237. In those circumstances it is reasonable to assume a need for considerably more places in the period of SCC forecast than SCC has allowed for in the January 2017 Statement.[126]

238. Overall, therefore, there is a demographic need for more places in the Effingham Planning Area, which it is appropriate to meet at the Howard, which is the Planning Area's only secondary school. In addition, expansion of the Howard future-proofs at an outstanding school, to help meet future demand from housing growth.

239. It was suggested that expansion at the Howard would adversely impact on the expansion plans of other schools, or mean empty places at those schools. In fact, it would do neither, for the following reasons.

240. First, the expansion is required on the basis of increased demographic need arising within the Planning Area, so that the Howard will not be taking pupils from other schools and leaving them with empty places. It may be added that there is nothing in Mr Clyne's suggestion that it was inappropriate for HoE to expand, on the basis that it "greedily" already takes a percentage of its pupils from outside its Catchment Area-as Mr Dobson said[127], most Surrey schools do not have a Catchment Area, and this one was drawn up simply to ensure that

[122] Dobson paragraphs 6.34 and 6.35 page 31

[123] Dobson paragraph 6.76 page 41
[124] Dobson paragraph 6.48 and 6.49; and as Mr Dobson said in his evidence, the further Statement submitted by the County Council (CD 21.11) contains no new information which he had not taken into account in his evidence.
[125] Dobson paragraph 6.68 and 6.69 page 39
[126] Dobson paragraph 6.78 page 42
[127] Dobson rebuttal paragraph 3.5 page 17

children from the areas to the West of the School would be able to obtain places.

241. Secondly, as pointed out in the Government document Basic Need Allocations 2019- 2020-Explanatory Note[128], surpluses in one Planning Area are not used to offset shortfalls in other Planning Areas. That means that though provision at the HoE might avoid the need for SCC to claim funds for basic needs in future years in *that* Planning Area, it will not affect Government funding for school provision and expansion in other Planning Areas.[129] It is significant that neither SCC nor any other school has suggested that expansion of HoE will have even the slightest adverse effect on other schools, or that in any other way what the School is proposing will usurp SCC's proper role.

242. In summary, Government policy provides very strong support for expansion at an outstanding school such as the Howard in order to increase choice and drive up standards. There is also a strong demographic need.

243. Finally, as Mr Olliff said[130], the footprint of a school for 2000 pupils is little larger than that of a school for the present numbers. Thus the enlargement of the School to enable more children to benefit from the high standards of education in fully modern facilities at the School does not have a significantly greater impact on the Green Belt and in heritage terms than a straight replacement of the existing School. That makes it all the more appropriate to take the opportunity provided by the construction of a new School to replace the previous one to provide for expansion needs.

Provision of the Cullum Centre

244. Provision of facilities for autistic students in the maintained sector is much needed, and SCC has for several years supported provision of four Cullum Centres, one of them at the School. [131] Mr Clyne was prepared to say that this facility "may be desirable"[132], but it is plainly more than that. As Mr Dobson has noted[133] it is national policy and also the policy of the County Council that places should be provided in mainstream schools, not only for cost reasons[134] but also because of the basic principle that the most high functioning autistic children should not be isolated from other pupils. It is significant that the Schools Minister, Lord Nash, described the facility at the School as "much needed".[135]Mrs Moss suggested that the Cullum Centre could be provided on the existing School site, but as Mr Olliff said, there is nowhere for it to go. It was also suggested that there might be other sites for the Cullum Centre proposed at the School, but no such site was mentioned. The provision of the

[128] Appendix A to Dobson rebuttal

[129] And even taking Effingham and Leatherhead Planning Areas together, the only school with expansion plans listed by Mrs Moss in the Leatherhead area is St Andrews, whose expansion has in fact already taken place.

[130] Olliff 5.68 page 102

[131] SCC Cabinet report 23rd September 2014, Moss appendix 13
[132] Clyne paragraph 10.7.1.2 page 63
[133] Annual cost of a NMI (private school) place to the County Council is far greater than at a maintained school, and in this case there is no capital cost, as the Cullum foundation is paying for that.
[134] Lord Nash letter Barnfield appendix 12 last paragraph, first page.

Cullum Centre is of real importance to SCC in providing maintained places, and a major benefit of the appeal scheme.

Disposal of the existing school site

245. It was suggested by Mr Clyne[136] that the ESFA would not give its consent to disposal of the existing School site in the case of a proposal involving expansion of the School's pupil numbers. This is patently wrong. The ESFA has already given its consent for the disposal by way of exchange for the new site, as its own letter and that of the Schools Minister testify. The Government is fully aware of the proposal to expand numbers, as also it is aware that the new School is to provide from private funds and not basic need funding. The application documents provided to the inquiry make that clear.

Overall conclusions on the new school

246. Overall, there is a compelling need for the new School as proposed. No other more suitable site is available and no funding model is available or foreseeable to allow this to happen, apart from the innovative approach proposed in this case. Expansion is strongly supported by policy in order to increase choice and drive up standards. There is also a demographic need for the proposed expansion.

The need for housing

247. The appeal proposals promote the development of 295 dwellings, of which it is now agreed that 20% (61) would be affordable (comprising affordable rent, shared ownership and discount market sale dwellings). The evidence demonstrates that there is a particularly acute housing need in the Borough generally, including a pressing need for more affordable homes.

248. It is agreed[137]that the housing land supply is 2.1 years, based on the latest Annual Monitoring Report.[138] That may under-estimate need, because there have been representations to the PSLP that the SHMA under-estimated housing need.[139] Indeed, using the standard methodology of assessing OAN suggested by the Government's Local Plan Expert Group, the OAN would be considerably greater.[140] Furthermore, this takes no account of the needs of neighbouring Boroughs, which GBC may have to help meet.[141]

249. The reality is that there has been a chronic, serious and persistent under supply of housing in Guildford over a protracted period of time. Average completions over the 10 year period 2006/7-2015/16 have been 261, against an annual requirement derived from the former South East Plan of 461 [142] (and the Council's own estimate of OAN of nearly 700). And GBC has delivered an average of only 62 affordable homes over the past 7 years, compared with a requirement of 455 annually. As Mr Rhodes said, if GBC were to build enough houses to meet its affordable housing need (and assuming it achieved 40% of

[136] Clyne paragraph 8.2 page 53
[137] SCG paragraph 5.2 (ii)
[138] AMR 2016, CD 4.8
[139] Rhodes paragraph 6.11
[140] Rhodes appendix 26
[141] Rhodes paragraph 6.12 page 41 onwards.
[142] Rhodes paragraph 6.8 page 40

homes as affordable) the annual housing requirement would be 1138 homes.[143]

250. The problem has been exacerbated by the long delay in preparing a new Local Plan. GBC is one of relatively few authorities in the country that does not have a post-2004 LP. The LP had a time horizon of 2006 and GBC has simply failed to meet its obligations to plan for new housing since that time. The protracted delay in preparing a new LP has deferred the identification of an up to date figure for housing need and also resulted in a substantial backlog of under-provision.[144]

251. As a result, as the SHMA says, affordability pressures have worsened markedly over the past 15 years.[145] As Mr Rhodes said in his evidence, this is a *human* cost of failure to provide enough housing.

252. There have been a number of attempts to review the plan since its adoption in 2003, the most recent being the Regulation 18 Draft Local Plan of July 2014, the Proposed Submission Local Plan of June 2016, and now, the prospect of a further draft, the Proposed Submission Local Plan of 2017 ("PSLP"). It is agreed that very little weight should be attached to the PSLP. In any event, the PSLP relies for much of its housing delivery on a limited number of difficult, long-term strategic sites which themselves were the subject of significant objection when proposed in the previous Pre-Submission Draft Plan.

253. The clear expectation of the Framework is a step change in the delivery of housing. The continued delay in the preparation of the Local Plan reinforces the urgent need for planning decisions to be taken now to release more housing in the area-and not just for the next five years, but also further into the future. It is plain from the recent Richborough case in the Supreme Court that the lack of a sufficient housing supply may reduce the weight to be attached to policies which resist the provision of new homes, including Green Belt[146]. The appeal proposals provide an important opportunity to deliver much needed homes (including a significant affordable housing contribution-nearly as much as the average achieved, Borough- wide) and the ability to deliver those homes should count very strongly in their favour.

The Green Belt

254. All three Sites lie within the Green Belt. Paragraph 88 of the Framework provides the clearest approach to the decision in this case. In order to apply that paragraph, it is first necessary to consider the scale of any potential harm to the Green Belt by reason of inappropriateness of the development, before asking whether these harms are clearly outweighed by other considerations.

255. The appeal proposals therefore represent inappropriate development and they are by definition harmful to the Green Belt, by virtue of paragraph 87 of the Framework. It is then necessary to consider the scale of any specific harm to the purposes and function of the Green Belt arising from the present proposals.

[143] See Annual Monitoring Report CD 4.8 Table6, SHMA 2016 CD 4.22 Tables 42, 44 and 46
[144] The Borough Council in its latest version of the PSLP is proposing to reduce the OAN figure. Even if that happened housing supply would only be 2.7 years-see Rhodes appendix 26 paragraph 1.12
[145] Rhodes paragraph 6.9, page 40
[146] See Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC [2017] UKSC 37, CD 22.1

256. As background to such an assessment, it is quite clear that the Green Belt at Effingham is out of date. The Green Belt has not been reviewed since 1987, save for an immaterial amendment in relation to the University of Surrey, and it was last tested in relation to development requirements running up to 2006.

257. Also, completely contrary to up to date national policy, the Green Belt washes over Effingham, whereas policy demands that the village should be inset from the Green Belt[147]. The need to review Green Belt boundaries to take account of this consideration has been recognised by GBC.[148]

258. Also, the Borough Council recognises a more general need to review Green Belt boundaries, having regard to the need to identify sites for development.[149] Given that the Green Belt covers 89 % of the Borough, it is plainly necessary and common ground that the boundaries should be amended. The PSLP carries that recognition into practice, proposing major Green Belt releases for both housing and secondary schools.[150]

259. Both Borough and Parish Councils recognise that development must take place on land currently allocated as Green Belt, and both emerging Borough and Neighbourhood plans make such allocations. With the Borough effectively washed over by Green Belt (apart from the town of Guildford and the western extreme of the Borough) housing and education needs simply cannot be met otherwise.

260. It is common ground with GBC that it would be appropriate for Green Belt boundaries to be revised at Effingham so that the village is excluded from the Green Belt. In 2014 GBC proposed that all three sites should be excluded from the Green Belt. In 2016 the GBC reviewed its position, but still proposed exclusion of Sites 1 and 2. That is still its position in the PSLP, even though it is not allocating them for development. Although the Council's emerging proposals carry little weight, it is the fact that in relation to Sites 1 and 2, it is GBC's view, and has been for several years, that those Sites should not be in the Green Belt.

261. Against that background, the Appellant's case in summary is as follows.

262. Site 1 does not significantly contribute to the purposes of the Green Belt. It lies within the natural confines of Effingham village and can be developed without significant harm to the purpose or function of the Green Belt. The Site is substantially developed with dense school buildings, whose replacement with residential development would not impact adversely on the Green Belt. While the eastern edge is more open, with playing fields, it falls clearly within the perceived boundary of the village and its development would not add to sprawl, the erosion of countryside or the coalescence of settlements. Both Borough[151] and Parish Council propose the removal of the Site from the Green Belt. The fact that the Borough Council proposes its removal while not allocating them for development shows that the Borough Council recognises

[147] Paragraph 86; see Rhodes paragraphs 4.7-4.8
[148] See the quotation from the 2013 Issues and Options paper set out at Rhodes paragraph 4.16 page 28
[149] See the Council's Housing Topic Paper as quoted by Rhodes at 4.33 page 32
[150] See the major sites referred to at Rhodes proof paragraph 6.30 page 47-Gosden Hill Farm, Blackwell Farm, Ash and Tongham and Wisley (NB the Normandy site is no longer proposed).
[151] PSLP 2017-CD 5.9

the Site does not significantly contribute to Green Belt purposes. Indeed, Mrs Hogger accepted that EPC contemplated that some expansion of the School within that Site might be appropriate.

263. Site 2 is an open area of land but because of its characteristics and location does not contribute at all to the purposes of the Green Belt. It plays no role in the separation of settlements, should not be regarded as countryside, and development of the Site would not contribute to the unrestricted sprawl of large urban areas. Both Borough and Parish Councils propose the removal of the Site from the Green Belt, and the Borough Council was right in the Committee report[152] that the Site's development would have limited impact on the Green Belt purposes of resisting merger and encroachment upon countryside.

264. Site 3 is a larger site of more mixed quality which does have some Green Belt characteristics, particularly in its North-Eastern corner. The proposed development of the appeal site with a school and playing fields in this part of the Site does, therefore, generate some harm to the Green Belt. That harm, however, is limited by a number of factors-particularly the enclosed nature of the Lodge Farm Site as a whole and its close visual and physical relationship with the village of Effingham.

265. The Appellants agree with the conclusions of GBC's own consultants, who in considered[153] that the site offers "opportunities to accommodate development without significantly compromising the purposes of the Green Belt." They gave their reasoning[154] for that conclusion as being defensible boundaries with partial visual enclosure.

266. That reasoning was followed by GBC in the 2013 Issues and Options Report and in the 2014 Draft Plan, when parcel D10A (the Lodge Farm site the Appellants are proposing for development) was proposed for allocation.

267. Of course, GBC has since changed its mind, as it is entitled to do. However, nothing has changed on the ground. Nor did the Council change its mind based on a new expert assessment. There has been none. It is suggested in the Addendum to Mr Sherman's rebuttal that since the GBCS was undertaken the original PDA is no longer appropriate because the boundary originally identified in the study is no longer considered defensible. However, when this statement was questioned , it elicited from GBC an email exchange from 2014 in which the Pegasus consultants, far from recommending that the PDA should be deleted, recommended that its boundary should be extended Northwards.[155]

268. The reason for the Council's change of stance is that the Site falls within an overall parcel (which includes the whole of Effingham north of the A246) identified by the GBCS as being of high sensitivity. In essence, the Council decided to apply a "gateway test", whereby because the overall site D10 (not the PDA 10 A site in particular) was considered to be of high sensitivity[156], Site 3 would be excluded from development, even though the consultants had said

[152] CD 3.1 page 52
[153] See the quote at Rhodes paragraph 4.20 page 29
[154] Quoted by Rhodes at 4.20
[155] CD 21.10
[156] This approach has not been applied consistently; see Rhodes paragraph 4.28 page 31

that development could take place without significant adverse impact. As Mr Rhodes said when giving evidence, the Borough and Parish[157] Councils knew that site D10 as a whole had been identified as being of high sensitivity when Site 3 was proposed for allocation in 2014.

269. It is significant that Mr Rhodes's assessment[158] of the Green Belt contribution of the three Sites closely coincided with that of Pegasus, as was illustrated by the plan within the GBCS showing Pegasus's analysis in diagrammatic form, including "gateways" to Effingham. As Mr Rhodes confirmed, he was not relying on the GBCS as planning policy, but simply (and importantly) as an expert and detailed study.

270. In summary, the harm to the Green Belt from development of these sites, together with "any other harm", is limited, In any event, there is a very strong case that development should be allowed, by reason of very special circumstances;

    a. First and foremost, the benefits arising from development of the new School in fulfilment of Government policy. That need justifies not only the School itself, but also the housing which is necessary to finance its construction.
    b. Second, the need for the housing of itself. National Planning Practice Guidance[159] states that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute very special circumstances. However, at least where there are, as here, other very special circumstances in addition, the need for housing should attract significant weight.[160]It is clear from the Richborough case[161]that where there is no 5 year housing supply, the weight to be given to all policies, including Green Belt, is a matter for the decision maker. Here is a case where the weight to be given to the need to satisfy housing need is great.
    c. Other substantial benefits, including a substantial improvement in community sports facilities and a significant enhancement to Effingham's community hall at KGV playing fields, and the significant improvement in village traffic conditions arising from the provision of additional and enhanced parking and drop off facilities at the new School.

271. Overall, it is submitted, the harm to the Green Belt is limited but that there are in any event compelling very special circumstances which point decisively to the grant of planning permission.

Heritage and character and appearance matters

272. It is necessary to begin with to identify the statutory context for consideration of the relevant issues. Section 72 states that in the exercise of planning functions with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the

[157] See Hogger paragraph 3.11
[158] Rhodes appendix 18
[159] Quoted by Rhodes at paragraph 6.39
[160] See decision re North Wyke Farm at Rhodes appendix 22
[161] CD 22.1

character or appearance of that area. Section 72 does not therefore apply to sites outside a conservation area, such as sites 1 and 3. The effect of development on such sites is of course relevant in policy terms, but section 72 does not apply, and that is accepted by the Parish.

273. Next, the physical context needs to be borne in mind. The local context is wider than the heritage buildings. If therefore one is assessing the effect of development on the character of Effingham, it is important to take account of that wider context. Of course, Effingham has a historic core some of whose character survives, but there is also substantial modern development on its North and South sides. That is part of the character of the village. Mr Bell said[162] that the appeal proposals would overwhelm the historic village of Effingham and that such a change would be revolutionary in terms of its shape and morphology. But when the whole village is taken into account, that would not be the case.

274. Mr Bell made the error of ignoring the totality of Effingham. So, therefore, he compared[163] the "historic village" of Effingham, with 353 dwellings, with the scale of the appeal proposals. However, Effingham is much more extensive than 353 dwellings. We know from Ms Hogger's evidence[164] that the Parish contains 1054 dwellings, a much greater number. Mr Bell also said[165] that development of this scale has never occurred in Effingham Conservation Area. However, this ignores the fact the vast majority of the development proposed in this appeal is not within Effingham Conservation Area at all, but outside it.

Site 1.

275. In relation to *Site 1*, Historic England's view[166]was that the development would not "unduly harm" either Conservation Area. The appellants agree.

276. As Mr Grover said, this presents an intrusive and negative visual aspect in public views running East-West through the Northern Part of the Conservation Area. While recognising the buildings' unattractiveness, Ms Beadsworth said their impact on the Conservation Area was "at best neutral." The reality is that the impact is clearly negative.[167] Well-designed housing would be in conformity with the character of the rest of the Conservation Area, unlike the School buildings, which are alien in character. To replace those buildings with housing would be a benefit.

277. Development will encroach onto the playing fields east of the existing School buildings. However, to begin with, that would not adversely affect the Effingham Conservation Area. While accepting that the development on Site 1 would not adversely affect listed buildings in Effingham, Ms Beadsworth appeared to consider the extended area of development would affect the Conservation Area, which terminates at the Eastern extremity of the present

[162] Bell paragraphs 5.2 and 5.3
[163] Bell paragraph 5.4
[164] Hogger paragraph 3.35 page 15
[165] Bell paragraph 5.5 page 25

[166] Historic England letter 15th December 2014(CD21.7)
[167] Even Mr Bell agreed "marginally negative"-see Bell paragraph 5.8 page 25

School buildings. However, the extended area of housing would be largely hidden from the Conservation Area by trees.[168]

278. The extended area of housing would be visible in views west from the Little Bookham Conservation Area and in particular the Church of All Saints.[169] However, any impact would be minor. The extent of the impact has to be judged against the present view. At present, the existing high and unattractive School buildings are visible, especially in Winter.[170] It is not the case that West of the Church the perception is of a rural scene. Mr Bell said[171] that Little Bookham Church is significant for its rural surroundings and its relative tranquillity. However, the presence of Effingham is very much felt. A fair analysis of the impact of the new housing must take that into account.

279. In the assessment of the acceptability of the extended area of housing on Site 1, it is relevant to take account of bodies other than the Borough Council. EPC does not oppose at least some extension of built development. Mrs Hogger said that EPC has not objected to the proposal by GBC to exclude Site 1 from the Green Belt, with that exclusion "giving more scope for School redevelopment and extension."[172]She confirmed that EPC was not opposed to some extension onto presently un-built areas. In relation to the effect of development on Little Bookham, the responsible local authority, MVDC, did not object on heritage grounds[173]. It was right not to do so.

280. Ms Beadsworth had criticisms of the illustrative layout for Site 1. However, that part of the application is in outline, the proposed density of 27.7[174] is not unusual in the Effingham context or generally, and there is therefore ample flexibility for the Council to control the layout at reserved matters stage. It may be that Ms Beadsworth's misapprehension[175] that three storey buildings are proposed on the Eastern boundary of Site 1 influenced her views about the adverse impact from Little Bookham. Overall, Historic England was right to say that development on Site 1 will not unduly harm heritage interests.

Site 3.

281. There would be no adverse impact on listed buildings in the Conservation Area, as the Borough Council Committee report recognised[176] and Mr Bell also accepted.[177] Ms Beadsworth was alone in suggesting there would be an impact on the Red House. She is entirely wrong, and we ask that regard is had to what Mr Grover said about this point in his evidence.[178]

282. We accept that there would be an impact on the setting of Effingham Conservation Area. However, impact on views out from the Conservation Area

[168] Grover 6.9 page 41
[169] Ms Beadsworth also suggested the development would be visible from Manor House School. It will not-see Grover paragraph 6.20 page 44. Mr Bell was right to concede that the only issue from Little Bookham was the effect on the Church.
[170] See Grover plate 35
[171] Bell paragraph 5.11 page 26
[172] Hogger paragraph 3.16 page 12
[173] See reference to Mole Valley DC's objection in Committee report CD 3.1 at page 9
[174] Rhodes rebuttal paragraph 3.3
[175] Beadsworth paragraph 15.8 page 38
[176] CD 3.1 page 30
[177] See email Councilor Hogger 4 May 2017
[178] Grover paragraph 6.59 page 53

will be very limited. In particular there will be an impact on views beyond the cemetery of the locally listed Roman Catholic Church, Our Lady of Sorrows, as Mr Grover acknowledged.[179] However there are no other significant impacts. Both Ms Beadsworth and Mr Bell referred to an impact on views into the Conservation Area. However, again, impact would be limited. Ms Beadsworth did not specify what views would be affected. In practice views towards the Conservation Area over Site 3 would be restricted to the footpath to the east of Lodge Farm. This view is referred to in the Submission Neighbourhood Plan[180]. However, it is there stated that the Conservation Area is viewed "in the distance." There was a suggestion from Mr Bell that the development on Site 3 would be visible from the Little Bookham Conservation Area. In fact, we say, either the development will not be so visible, or any views will not be significant.

283. Both councils criticised the effect of the Site 3 development along Lower Road as eroding an important perception of rural open farmland separating Effingham and Little Bookham. We say that in reality this is not a major concern. To begin with, as already set out, the extent to which the development on Site 3 would be perceived in views from either Conservation Area or to either Conservation Area from the surrounding countryside is very limited. Secondly, the current view North of Lower Road contains a number of buildings on Site 3 itself as well as the Vineries Garden Centre to the East of Site 3. Finally, the Site 3 proposal will not, as claimed, result in an unbroken line of development along the North side of Lower Road. The new School is well set back from Lower Road, with a substantial green area intervening, and views of the School will be limited because of that set-back and the fact that as Mr Olliff said[181] the School will be set in a lower lying part of Site 3.

284. Ms Beadsworth criticised the illustrative proposals for Site 3. Again, as in the case of Site 1, these proposals are in outline. As with Site 1, the residential density (24) is such as to allow sufficient flexibility for the Council to control layout of the housing while still ensuring that the proposed number of dwellings is delivered. The School proposals, also, are in outline. However, as Mr Olliff's presentation emphasised, not only has the School has been carefully designed to accommodate the educational needs of future pupils and staff, but also it is a distinguished work of design in its own right. It was submitted that an assessment of the acceptability of the proposals in terms of heritage and character of the area should take account of the fact that the new School will, unlike the existing one, be a fine design, properly acknowledging the importance of the Howard to the local community.[182]In summary on Site 3, any harm would be "limited", as Historic England recognised in its letter.

Site 2.

285. The development of Site 2 would cause harm, arising from the development of a previously open area of Effingham. However, it was submitted that the degree of harm is minor. The evidence for both the Borough and Parish Councils sought to emphasise the importance of Brown's Field to the village.

[179] Grover 6.54 page 52, 6.58 page 53
[180] CD 28.1 page 32-referred to as view E2
[181] Olliff in chief, and proof at p 109
[182] As well as concealing views from the West of the unattractive Vineries Garden Centre.

Ms Beadsworth, for example, said[183] that the site provides a buffer between the historic village and the modern development South of the A246 Guilford Road. Mr Bell said[184] that the site makes a significant contribution to the way in which the historic village is perceived. Ms Beadsworth claimed[185] that the development would harm the Site's historic value as "open farmland in the heart of the village."

286. The Appellants state these claims are exaggerated. Of course, the proposals will lead to the development of land in the Conservation Area that is currently undeveloped. But that did not prevent the Council from proposing its development, along with Sites 1 and 3, in the Issues and Options document of 2013 and the Draft Local Plan of 2014.[186] Furthermore, the Council has never identified Brown's Field as being of any particular importance in a Conservation Appraisal; and in its Submission Neighbourhood Plan, drawn up in full knowledge of this appeal, EPC does not mention any views over Brown's Field as one of the views within Effingham that are considered of importance. The site is not open farmland. It is a sports field, mown and (depending on the season) lined in order to act as a sports pitch.

287. There was much discussion of the detailed proposals. The Appellants state that both the layout and the detailed designs are entirely acceptable and appropriate in their context. Both Councils argued that the layout was not outward facing, with houses not directly addressing the surrounding streets and instead turning their backs to them. This is wholly unjustified criticism, and shows a failure to assess the proposals fairly and in sufficient detail.

288. To begin with, contrary to the view seemingly held by Mr Bell, housing at back of pavement or behind small front gardens is not the dominating characteristic of the Conservation Area. In this regard, the character of the Conservation Area is mixed, with several houses set within substantial gardens and not facing the street directly.

289. Secondly, any layout has to take account of the particular characteristics of the site. In the present case, Brown's Field has substantial tree cover on the Guildford Road and The Street sides. Any good layout has to respect and take advantage of such a feature. This proposal does so. The trees are retained within the development (and contrary to Mr Bell's impression are mainly *not* included within individual gardens). That of itself limits the ability to place the new houses directly "on the street". At its West side, there is a substantial level difference between the site and The Street. That, again, limits the desirability of providing houses directly "on the street".

290. Thirdly and finally, when the plans are examined carefully, the houses do, in fact, face the surrounding roads. That is the case, as covered in cross examination, in relation to The Street, Guildford Road, and Brown's Lane. It is simply untrue that the development turns its back on its surroundings. Overall,

[183] Beadsworth 14.7 page 31
[184] Bell 5.16 page 27
[185] Beadsworth 14.6 page 31
[186] CD 5.3

the layout is appropriate and to be commended. The Borough Council's officers were right to say they were "relatively content" in the email of August 2015[187].

291. There was also criticism of the details of the proposed houses. Mr Grover has dealt with these points in detail. The main criticisms appeared to be of the heights and roofs of the proposed dwellings. However, there are houses of comparable height within the Conservation Area and roof pitches of comparable pitch[188]. The roof designs on analysis are not "convoluted"[189] as Ms Beadsworth suggested, and contrary to Mr Bell's perception[190], the Conservation Area contains many examples of half-hipped roofs, both ancient and modern.

292. The fact is that the Conservation Area has various building types. Further, the variety of views expressed showed their subjectivity. For example, Mr Bell criticised Middle Farm Place (41 dwellings, density of 34.6 dph) and Barnes Wallis Close. However, EPC, his client, commended Middle Farm Place in the Submission Neighbourhood Plan. Ms Beadsworth expressed approval of both Middle Farm Place and Barnes Wallis Court[191], while Barnes Wallis Court features in the Borough Council's Design Guide.[192] That suggests strongly that the Secretary of State should hesitate before deciding that the appeal proposals for Brown's Field are unacceptable in their details.

293. In any case, details of the proposals for Brown's Field could be reserved by condition. It would be possible to require further details of specific aspects.[193] Indeed, even if it were concluded that changes in the layout as well as detailed design were required, a condition could be imposed requiring approval of such matters. Such a condition could properly be imposed despite the Site's location in a Conservation Area if the Secretary of State is confident that the site could accommodate 37 dwellings. He can be confident of this because there has been detailed evidence to this inquiry about the proposals and the density is relatively low at 22 dph. Therefore a planning permission with conditions requiring submission of details of layout and design could be reasonably imposed if it were thought necessary to require further refinement under the Council's control[194]. However this is simply unnecessary because the detailed proposals that have been submitted are in fact acceptable. In summary in relation to Brown's Field, while Historic England was right to identify "some" harm from the development, it was also right not to object. The Appellants' evidence also considers the overall impact of the proposals on the *character of the area*. It is suggested the impact of the development is acceptable. Of course, it is true that the appeal proposals would alter the appearance of each of the three Sites. However, to begin with, Effingham experienced considerable growth throughout the C20, and cannot be described as having either a wholly historic or wholly "rural" character.

---

[187] John Busher email to David Gilchrist 27th August 2015 CD 10.22; one of the officers on whose behalf Mr Busher was speaking was Ms Beadsworth.
[188] Grover 6.41-6.46
[189] Grover 6.47 page 50
[190] Bell 5.26 page 29
[191] Beadsworth 10.13 page 26, 15.6 page 37 and 14. 14 page 34 (Ms Beadsworth said in xx that the reference in the last sentence of 14.14 was to Barnes Wallis Court.)
[192] Grover paragraph 6.39 page 49
[193] Grover paragraph 6.49
[194] And it would be open to the Inspector to give guidance in his report as to the nature of any changes to the submitted scheme that might be considered desirable.

Furthermore, the three elements of the development will not be visually "read" together. Finally, account must be taken of the benefits the proposals will bring by replacing the present unsightly buildings on Sites 1 and 3. Mr Sherman was right to give only "modest weight" to this part of the Council's case[195].

Provision of the Suitable Alternative Natural Greenspace

294. In relation to the issue of mitigation in respect of the TBHSPA, it is agreed with the Borough Council that the issue of Suitable Alternative Natural Green Space ("SANG") can be pursued by the imposition of a Grampian condition. We propose use of SANG at Long Reach, a site also within Guildford Borough Council's jurisdiction.

295. A planning application has been submitted for SANG development at Long Reach[196]. For the reasons explained by Mr Rhodes, it is hard to imagine a use which is more appropriate to the Green Belt than its ecological and landscape enhancement so that it may be used for public recreation in order to relieve pressure on a European Protected Site, particularly when the soundness of the PSLP relies on it.

296. Unsurprisingly, given that GBC itself proposes the site should be used for this purpose, officers recommended approval, but the application was refused. An appeal is to be heard in June 2017. We suggest there is every prospect that the appeal will be allowed, and furthermore, Berkeley has contracted unconditionally to buy the Long Reach site[197] so that delivery of that site as SANG is secured.

297. In these circumstances, as a number of appeal decisions show,[198] a Grampian condition is amply justified. Further, because there is every prospect that Long Reach appeal will succeed and Berkeley has secured the ability to deliver that SANG (by contracting to buy it) *and* there is an alternative SANG proposal which the Council supports, this issue should not be regarded as one preventing the appeal proposals from coming forward so as to contribute to the housing supply over the next 5 years and generally.

298. With specific regard to the Long Reach appeal decision the Appellants note that in paragraph 19 of the decision, the Inspector identifies a 'direct link' between the Long Reach SANG and the HoE development. They further remind that 'it is common ground with GBC that this link can be secured through the imposition of a Grampian condition. Berkeley now own the Long Reach site, having completed on the purchase at the end of June 2017, therefore delivery of that site as SANG is secured'. The appellants then posit a further programme for the delivery of the Long Reach SANG:

- **September 2017:** Berkeley to submit details to discharge conditions of Long Reach consent, including SANG Management Plan under Condition 4;

[195] Sherman paragraph 7.5
[196] Rhodes page 60
[197] CD 21.15 and letter from Green Reach, the present owners, attached.
[198] CD 11.6 and 11.7

- **November 2017:** Guildford Borough Council to discharge conditions within 8 weeks;
- **Early 2018:** Berkeley to undertake works to implement the SANG; and
- **March/April 2018:** Long Reach SANG available for use by the HoE scheme.

Other issues

299. The Parish Council raises further issues, in relation to Thornet Wood SNCI, the wildlife corridor proposed in its SENP, impact on dormice and newts, and marshy grassland. Neither Natural England, nor the Borough Council, nor Surrey Wildlife Trust objects on any of these grounds. We say they are all entirely without foundation.

300. It is agreed by Mr Whitby who gave evidence for the Parish Council that there is no sound reason to refuse planning permission because of any impact on *Thornet Wood* or on *dormice*. In respect of Thornet Wood, Mr Whitby confirmed[199] that he was seeking a buffer zone between the Wood and the School grounds. Mr Finnie confirms[200] that a buffer zone of a minimum width of 15 m will be created. Mr Whitby confirmed that this would suffice to deal with his concerns. Similarly in relation to dormice, Mr Whitby agreed that this issue could be dealt with by a condition.[201]

301. In relation to the proposed *wildlife corridor*, it was suggested by Mr Whitby that the corridor is highly valuable, in particular for nocturnal and crepuscular species including bats, hedgehogs, badgers and certain types of birds. In fact, there is simply no evidence to support this proposition.

302. In reality, as Mr Finnie made clear[202], when it is proposed to designate a wildlife corridor, detailed consideration has to be given to the habitats the corridor is meant to connect, and whether the proposed corridor is suitable to connect those habitats. This corridor is supposed to connect two areas of Ancient Woodland, Ranmore Common and Bookham Common. Because the corridor is not itself Ancient Woodland, it will not provide a conduit for floristic species.[203] There is no evidence either that the proposed corridor is valuable for any species of animal, or that the proposed development on Lodge Farm will have any effect on them.

303. Mr Whitby placed particular reliance on bats. However, as Mr Finnie says[204]in the Bat Survey-Update, the site is relatively poor in relation to bats. The records are of four common species, and there are no records of the Annex II species listed by Mr Whitby.[205]

304. Mr Finnie was criticised for the methodology of his bat surveys, and it was suggested he had not complied with the Bat Conservation Trust Guidelines. As

[199] Whitby page 7
[200] Finnie 4.2.9, page 28
[201] Whitby page 9
[202] Finnie rebuttal paragraph 1.2.2 page 3
[203] Finnie 4.4.2 page 35
[204] Finnie rebuttal appendix R1, para 3.2.3 page 19
[205] Whitby paragraph 4

Mr Finnie said, however, the Guidelines frequently change, and in any event the Guidelines make clear that they are not mandatory and give primacy to the judgement of the surveyor in any particular case. He had taken the view that Automated Surveys would not be useful to check for bat activity on Lodge Farm, because of the lack of trees on the site, and had therefore carried out a considerably greater number of transect surveys than recommended.

305. In any event, the proposed development will not affect what bat activity there is on the site. To begin with, the layout at Lodge Farm is in outline, so that GBC can control it. Further, even in relation to the layout proposed in this case, about half the section of the eastern part of the site, including the area nearest to Thornet Wood, would be given over to sports pitches. Also, the lighting in and around the school itself could be carefully designed to ensure minimal light spillage, thus minimising what would in any event be a low impact.[206]

306. In relation to *great crested newts* ("newts") there are no ponds on the appeal site except at the School, where no newts have been found.[207] Also, there are no historical records of newts within 2km of the appeal site boundary.[208] Mr Finnie identified[209] the location of ponds within the area surrounding the appeal site. None was of concern to Mr Whitby, save the group of water bodies at E on Mr Finnie's plan. He suggested there might be newts there, and that the proposed development might affect them.

307. For three reasons, it would be wholly wrong to refuse planning permission because of this matter. To begin with, it is unlikely that the water bodies at E contain newts. Only one pond assessed by Mr Whitby[210] scored even "average" in the HIS assessment, and that was on the assumption, strongly doubted by Mr Finnie[211] that the pond contained no fish. Secondly, the water bodies at E are 170 m distance from the Lodge Farm site, with good newt habitat intervening. It is significant that Natural England recognises that newts rarely travel such distances, as its guidance[212] calls for "careful consideration" about whether attempts to capture newts are necessary at distances of more than 100m from ponds. Thirdly and finally, even if newts might travel all the way to Lodge Farm, a mitigation strategy can be put in place, as agreed by the Council and Surrey Wildlife Trust, which would ensure by careful mowing that any newts were not harmed.

308. Mr Whitby's final point[213] was about *marshy grassland.* For the reasons given by Mr Finnie[214] this is not a reason to refuse planning permission. To begin with, although there are some wetter areas on the site, marshy grassland is not a protected habitat and the fact that the ground is wetter does not mean it is more valuable as a habitat than the semi-improved grassland on the rest of

[206] Finnie rebuttal 1.2.8 page 5
[207] Finnie 4.3.6 page 30
[208] Ibid
[209] Finnie appendix 23
[210] Whitby appendix 4
[211] Finnie cross examination; as he said, the existence of clear water does not indicate the absence of fish.
[212] Cited at Whitby paragraph 19 page 10 and Finnie appendix 26
[213] Whitby section 5
[214] Finnie rebuttal section 1.6 page 10

the site. Indeed, Mr Finnie expressed the view[215]that the marshy grassland on this site was of less value than the drier grassland on the rest of the site. There is no evidence[216] of the presence of any of the species mentioned by Mr Whitby, let alone any evidence of 50 species in a 2m x 2m area.

309. Secondly and in any event, marshy grassland can be provided on the site as part of the development, and was already proposed[217] even before Mr Whitby raised the issue. The hydrology of the relevant areas can be controlled, and Mr Finnie said that habitat translocation and recreation of this kind is very common in his experience.

310. Overall, EPC's concerns about ecology are unfounded. There is no reason to refuse planning permission because of this issue. Indeed, it is significant that nowhere in Mr Whitby's evidence is it suggested that permission should be refused. He was right not to make that suggestion

Highway and transportation matters

311. The Highway Authority, the County Council, never objected on highway grounds. However, the Borough Council refused permission on this ground contrary to the advice of its officers. The Borough Council appointed consultants to pursue a number of issues, all of which have now been resolved to its satisfaction. Accordingly, there is no objection to the proposals on this ground by either the County or Borough Council[218]. In fact, as I have already said, the contrary is true, and the proposals will bring real benefits to Effingham in transport terms.

312. EPC opposed the scheme on highway grounds, but their arguments should be rejected for the reasons given by Mr Foxall in his evidence. Mr Hackett, giving evidence for the EPC, was a fair and moderate witness, but it needs to be kept in mind that he did not suggest he had any relevant qualifications in highways engineering.

Existing highway conditions

313. EPC began[219] by criticising the Appellants' evidence about existing highway conditions in Effingham. However, for the reasons given by Mr Foxall[220] his observations provide no basis for doubting the Appellants' assessment of baseline traffic flows and current circumstances. In particular, Mr Hackett's evidence is a series of "snapshots" of traffic conditions at a particular moment. Crucially, there is no record of whether the observed queues[221] were static or moving, or the length of time they took to clear. In order to assess the capacity of the road network, it is necessary to assess queuing at the relevant junctions, by examining static queues. [222] That is what the Appellants have assessed.

[215] Finnie in xx
[216] Whitby paragraphs 25 and 26
[217] Landscape Plan Finnie Appendix 19
[218] SoCG paragraph 5.1
[219] Hackett pp 7-10,
[220] Foxall rebuttal 3.1-3.17, 3.31-3.48
[221] Hackett Appendices H and J
[222] Foxall rebuttal 3.41

314. Mr Hackett drew particular attention to what he described as dangerous conditions at the North of the historic village, around the North end of Church Street and Lower Road[223] and the junctions of The Street and Brown's Lane with the A246 Guildford Road,[224]in the Southern part of the village. In both cases, setting aside the modest amount of traffic the development would add, specific improvements are proposed.

315. In relation to the North of the village, as Mr Foxall pointed out[225] there is no serious accident record either at that location or anywhere else in the village. Further, as Mr Hackett agreed, dropping off of pupils at the Howard adds substantially to the congestion experienced. This activity would be removed, which is an undoubted benefit of the scheme, as agreed in the Transport Statement of Common Ground. [226]

316. Further, in relation to the A246 junctions, their performance will be enhanced by the introduction of MOVA, which typically reduces delays by 12-15%.[227]

317. Overall, although local residents may perceive the road network in Effingham as busy and congested, there is nothing in Mr Hackett's analysis to invalidate that undertaken by Mr Foxall, and in any event the scheme will bring improvements to the areas of most concern.

Traffic generation

318. EPC criticised the trip rate assumptions used in the Transport Assessment. It was suggested that the TRICS data used did not reflect the reality at Effingham, in terms of either public transport[228] or car ownership levels[229].

319. In relation to public transport, the suggestion was that public transport in Effingham is poor, and that the TRICS data used did not reflect that. This is not accepted as an accurate characterisation of public transport in the village. The details are in Mr Foxall's appendices[230]. The Appellants suggest[231] that provision is very good. In any event, however, Mr Hackett had to agree that he had no evidence to demonstrate that public transport in Effingham was any worse than the locations used in the selection from TRICS, or that difference in quality of service would affect the trip generation figures.

320. Similarly with car ownership, Mr Hackett produced no evidence that car ownership at the levels prevalent in Effingham would make any difference to the trip rates agreed between the Appellants and the Borough and County Councils.[232]

[223] Hackett 3,6-3,8
[224] Hackett 3.19-3.21

[225] Foxall rebuttal 3.13
[226] Transport SOCG paragraph (xiv), page 3
[227] Foxall rebuttal 3.46
[228] Hackett 3.23 page 11
[229] Hackett 3.25 page 11
[230] Foxall appendices G and H
[231] Foxall rebuttal 3.22
[232] And see Foxall rebuttal 4.2 page 13 and 4.8 page 14

321. Mr Hackett also criticised[233] the assessment of trips for the affordable housing. There is nothing in this criticism. As Mr Foxall explained[234] the Borough Council's consultants queried the rate initially used, and the Appellants used a higher rate in their sensitivity analysis. Mr Hackett could not justify a yet higher rate.

322. Thus, there are no valid grounds to criticise the trip rates used for the residential element of the development. Further, in relation to the traffic generated by the school, although the initial assessment relied on TRICS, Mr Foxall[235] used actual observations of the traffic to the existing school (factored up for the increased numbers) in his sensitivity analysis.

323. Finally in relation to traffic generation, Mr Hackett suggested[236] there would be more trips than assumed by the Appellants because as a result of the School's expansion its Catchment Area would widen. The evidence before the inquiry is that the Catchment Area will not change. The expanded numbers will be generated by increased demand from within the existing Catchment Area.

School parking

324. EPC made detailed criticisms of the school parking. Those criticisms have been fully answered by Mr Foxall in his rebuttal.[237] However, in any event, Mr Hackett accepted that even if his criticisms were justified, that should not prevent planning permission being granted, because the School element of the proposals is in outline, so if more parking were required, it could be provided. Similarly, EPC suggested that the proposed Link Road would "inevitably result in traffic queues along Lower Road to enter the School…" However, he accepted again, that because this element of the proposals is in outline, any necessary amendments to the Link Road could be addressed at reserved matters stage.

Residential parking

325. EPC argued[238] that the parking at the Brown's Field development would be insufficient. He accepted that the parking provision complies with the County and Borough Council standards, but drew attention to the fact that the proposed parking standards in the SENP would require more spaces. As Mr Foxall stated, six more spaces would be required. However, to begin with, the SENP is entitled to only modest weight, as Mr Hackett himself said.[239] Further, no evidence has been submitted to justify a more demanding parking standard in Effingham than elsewhere. Finally, even if it were thought that six more parking spaces should be provided, they could be accommodated on the site without material amendment to the submitted layout.[240]

---

[233] Foxall main proof 5.58 page 34

[234] Foxall main proof 5.58 page 34

[235] Foxall main proof 5.70 onwards page 36

[236] Hackett 3.31, page 12

[237] Hackett page 14 onwards

[238] Hackett 3.54, page 18

[239] Hackett 1.2 page 4

[240] Foxall rebuttal 7.3 page 19. Of course, there could be no objection to the parking provision sites 1 and 3, because those are outline proposals only.

The proposed highway works

326. Finally, Mr Hackett commented on the proposed Toucan crossing[241] and the highway works in The Street[242]. In relation to the Toucan crossing, as Mr Foxall said[243] its provision is entirely appropriate, and the fact that some children may not use it does not detract from that.

327. Further, in answer to a criticism from Mr Hackett, he said[244] that it had been demonstrated by a LinSIG assessment that the crossing would not materially affect the operation of Lower Road.

328. So far as the works within The Street are concerned, the Appellant suggests they are appropriate, as has been recognised by the County and Borough Councils. The Northern works shown on drawing 6102B[245] would be well located and would bring substantial benefits to existing villagers as well as residents of the proposed development. The criticisms made by Mr Hackett are misplaced.[246] However, in any event, it is clear that EPC recognises that changes need to be made at this location in order to aid pedestrian movement and safety, quite irrespective of the appeal proposals. Mr Hackett put forward an alternative suggestion. Both the works shown on drawing 6102B and Mr Hackett's proposal are entirely within highway land, so even if it were thought that Mr Hackett's suggestion might be preferable, that would not be a reason to refuse planning permission for the appeal proposals. Once permission has been granted, the Highway Authority will be able to consider which of the options (or any other alternatives) should be adopted.

329. As for the build out to the South, shown on drawing 6106B [247], Mr Foxall expressed the view that it was unnecessary.[248] However, in any event, contrary to the views of Mr Hackett, it will not materially interfere with the functioning of The Street, which would still be of ample width.[249] Overall, there is no sound basis for refusal of permission on highway grounds. The County Council and Borough Council are right to consider that the scheme is acceptable, and, indeed, beneficial.

Effect on sports facilities

330. Planning permission was refused on the ground of loss of sports facilities (reason for refusal 9). However, that matter is rightly no longer pursued by the Borough Council In reality the proposals will bring major enhancement to sports provision for Effingham, by new facilities on Site 3, which will be available to the community generally (as well as the Rugby Club) and a very

[241] Foxall rebuttal 7.6 page 19, 8.21.1 page 22, and main proof 5.18-5.27
[242] Hackett 3.68 page 19, onwards

[243] Foxall rebuttal 3.68 page 19
[244] Foxall rebuttal 4.18 page 15
[245] Foxall appendix W
[246] Foxall rebuttal 8.3-8.4 page20
[247] Foxall appendix W
[248] Foxall rebuttal 8.21.5 page 23
[249] Foxall rebuttal 8.5-8.6 page 20

substantial contribution (£2.6m) towards and improved and replacement facility for the KGV Hall.

331. Mr Rhodes dealt in his evidence with the points made by Mr Cornwell. The concern that parents will not be able to supervise minis and juniors at the same time if minis are trained at the new School is not valid, because the same applies at present; Brown's Field is separate from the King George V playing fields, on the other side of Brown's Lane. The Brown's Field facilities are open to the public whereas the new School facilities would be far more secure. The changing facilities at the School would be "on site" and secure, not public and across a road as now. The quality and scale of the pitches available at the new School would be far superior to the unmarked, smaller, publicly open pitch at Brown's Field. Finally, the Rugby Club pays no rent and has no security at Brown's Field but its use of the new School facilities would be protected by the Community Use Agreement. In summary, the local community's sports facilities will benefit significantly, not lose, as a result of the success of this appeal.

Decision taking

332. The submissions set out above provide a compelling case for the grant of planning permission. It remains to consider whether there is any reason, based either on development plan considerations or precedent, why permission should nevertheless be withheld. The Appellants suggest not.

333. So far as the PSLP is concerned, it is agreed that very little weight can be attached to it. Rightly, it has not been suggested by GBC that permission should be refused for these proposals on prematurity grounds. Refusal on such grounds would be quite wrong, because the PSLP is at such an early stage and because the proposals are not of such magnitude as to predetermine the content of the Plan.

334. In relation to the SENP, the Plan makes no provision for the appeal scheme, and as the Plan progresses, the weight to be attached to it will increase (although that weight must surely be reduced by the fact that there is only a 2.1 year supply of housing). However, again it would be quite wrong for permission to be refused on that basis. As Mrs Hogger agreed, this inquiry is the right forum for the decision to be made about the appeal scheme, because all the evidence is before it. The full extent of that evidence will not be before the Neighbourhood Plan examiner. Further, the Plan will very likely need early review in any event, in that it is coming forward (contrary to the original intention) in advance of the PSLP. Its conformity with the PSLP once that latter document is finally adopted will have to be considered. If the PSLP adopts a higher housing provision or different distribution from the current draft, the SENP will need substantial revision.

335. Finally, there is no reason to refuse permission on the ground that it will establish a precedent. The Appellants have framed their case on the basis of the particular circumstances of the case, and not in reliance on some general principle about education need in the Green Belt. The mere fact there are other schools in the Green Belt in Surrey or elsewhere does not mean that the Secretary of State should fear the consequences of allowing this appeal. The evidence to this inquiry shows that to allow new schools in the Green Belt is not wholly novel. However, it is also clear from the Bishops Stortford case

submitted by GBC that every case is different, and in any particular case the proponents of the proposal will need to provide strong justification to demonstrate very special circumstances. As an example, it appears that there was very significant impact on Green Belt openness in that case as well as on a well-known walking route , and that (unlike in the present case) there were other potential sites for the development.

336. Thus, the Secretary of State can and should adopt his usual stance of determining this case on its own merits. In this case, not only is there a clear need for the new School, but also a clear need for the housing which will comprise the enabling development. If *identical* circumstances existed in another case, no doubt the result should be the same, but in fact no two cases are ever the same.

Other representations made at the Inquiry

337. A number of people made representations during the Inquiry, both for and against; these are set out below.

338. Councillor Julie Isles (Surrey County Council, Horsleys Division) spoke to oppose the proposals. Councillor Isles had undertaken a survey of Horsleys constituents seeking their views on the 'Howard School development'. The survey asked two relevant questions: 'Do you support building nearly 300 new homes to provide a new school?' and 'What are your views on the application?'. The survey indicated two thirds of respondents opposed the proposals with most concerns expressed relating to the effect on roads and increased traffic.

339. Mr Harry Eve made representations in respect of traffic flow assessment in respect of highway matters. Mr Eve emphasised the need to take into account 'the Real World Queue' rather than a static queue vehicle count applied in the appellant's transport study. The former takes account of slow moving as well as static traffic waiting at junctions. A failure to apply the latter methodology can 'give a seriously misleading view of the actual conditions'.

340. A number of local residents, parents and School Trustees/Governors also spoke in support of the proposals, these were Mrs Rebecca Darling (ID12), Mrs Julia Dickinson (ID19), Mr Jonathan Brown (ID18) and Mr Mark Swyny (ID23). All who made representations draw attention to the quality of the education provided by the School but also the deficiencies in its facilities and building stock. The demand for places from the locality was emphasised as was the pressing need to improve security and facilities, both for the School and the community. The role of the school as a leader in the Multi-Academy Trust was also emphasised, as was the need for an optimum educational establishment to meet the rapidly changing needs of the local, national and global economy.

Written Representations at application stage

Statutory Consultees

341. There is no formal objection from English Heritage[250] though they did respond with some detailed comments on the proposals[251]. Whilst the agency identified 'limited harm in respect of the Effingham Conservation Area, the setting of the Little Bookham Conservation Area and 'loss of views to open fields from the core of the historic village' they also suggesting any such harm could be mitigated through strategic planting in relation to sites 2 and 3. They also confirmed that again subject to 'it being very well screened', site 1 would not unduly harm the significance of the adjacent conservation areas. This response does not therefore constitute a formal objection to the proposals, notwithstanding the identification of 'limited harm'.

342. Natural England initially raised objection to the proposals on the basis that there was no mechanism presented to mitigate the effects of the development on the SPA. Subsequent correspondence however indicated the acceptability of a Grampian-type condition mechanism for mitigating effects.

343. Sport England also objected to the proposals on the basis that it would not accord with any of the exceptions in Sport England's playing fields policy on the loss of sports pitches and that the residential development would exacerbate existing pitch deficiencies in the locality.

344. The Environment Agency responded to consultation, raising no objection on grounds of flooding.

Non-Statutory Consultees

345. The Assistant Director of Schools and Learning at SCC confirmed the Council's support for the proposed rebuilding and expansion of the HoE School, whilst the Schools and Families Directorate also responded, confirming support for the education and place planning case for the proposed rebuilding and expansion for the school, as set out in two separate letters to the Council in July 2015 and March 2016[252].

346. The first letter, jointly signed by the Assistant Director Schools and Learning and Cabinet Member for Schools, Skills and Educational Achievement, indicates that an 'expansion of the HoE School will add to the capacity of Guildford Borough secondary schools. Future projections, based on rising birth rates and resulting expansions in the primary sector, indicate at present a further five forms of secondary provision are required in Guildford Borough. These addition places (at the HoE School) will benefit Guildford pupils and their families; thus enhancing the local educational offer to meet ,as far as possible, parental preferences for a school place which is an issue held as a priority by the DfE. The HoE School is recognised as a successful and popular school and has been consistently oversubscribed for the last 20 years'. The letter goes on to comment, in the context of rising population growth, that' a small surplus capacity in any given area is highly desirable as an efficient way for a local authority to manage its school place planning'. The letter concludes by acknowledging that the replacement enlarged school will have to absorb pupils

[250] At the time of the consultation response (15 December 2014) the Agency was formally known as English Heritage, as of 1 April 2015 the part of the agency charged with offering statutory advice on planning and heritage matters was reconstituted and renamed Historic England.
[251] CD21.7.
[252] Dobson PoE Appendix 12.

from its own proposed housing development, additional numbers from the proposed autism unit and accommodate an anticipated 70% take-up rate for sixth form pupils, resulting in a suggested school capacity of approximately 2000 pupils. The letter concludes by saying 'Surrey supports any school seeking innovative ways to improve their facilities, teaching and learning, providing more opportunities for our students to be educated in a modern, safe and effective environment'.

347. The second letter, co-signed by the Deputy Chief Executive and Director of Children's Services and the same Cabinet Member for Schools, Skills and Educational Achievement, starts by affirming that 'SCC , as Education Authority, has not moved from a position of support for the rebuilding and expansion of the Howard. This is a popular and successful school rated Ofsted Outstanding and is consistently oversubscribed.' The letter goes on to reiterate the point that the 'Expansion of the Howard will provide the local authority with flexibility to meet such future demand and we may also support the potential for a larger expansion of this school for future unmet demand'.

348. The Surrey Wildlife trusts expressed concerns over the lack of mitigation for the SPA and the lack of mitigation for potential protected species on the site.

349. The Campaign to Protect Rural England (CPRE) and CPRE Surrey both submitted representations objecting to the proposals on the basis of the erosion of Effingham's rural character.

350. The National Autistic Society also commented at application stage supporting the provision of a specialist Autism Inclusion centre within the proposals.

Written representations at Appeal Stage

351. There have been a total of 60 written representations received in respect of the appeal, 22 in favour of the proposals, 38 against it. The views expressed therein generally reflect those set out in respect of the planning application and are representative of the respective positions taken by the main parties at the Inquiry[253].

352. The Parliamentary Under Secretary of State for the Schools System, Lord Nash, has also written in support of the proposals. To this end the letter advises that the Secretary of State has granted consent for the Howard Trust to dispose of its current site and to take on the new site provided by Berkley Homes, as required by legislation. He goes on to say that 'if delivered to plan, this project will see this OFSTED 'Outstanding' school move to a new site adjacent to its current location. This new site and its newly built buildings will be a significant improvement to those currently occupied by the school. The school, its staff and pupils will enjoy facilities constructed to meet the modern standards of building design, space and health and safety set by the Education Funding Agency'. The letter goes on to note the provision of a 'much needed new autism centre' and to note that the 'school will have sufficient building and outside space to facilitate aspirations to expand its pupil numbers to meet the growing needs of the local community. All of this without a call on the local or national public purse'.

[253] Appeal File, red folder enclosed.

353. SCC, through their Schools Commissioning Office on behalf of the Education Authority, submitted a further statement in respect of the appeal which set out definitions of 'demand' and 'basic need' and projected need in both the Effingham and Leatherhead Planning Areas over a 10 year period. Whilst this analysis does forecast an increase in basic need requirements, this is shown as limited, and able to be accommodated within 'bulge' classes in limited years. The statement concludes: 'Overall, current forecasts would indicate that the combined demand for secondary school places in Effingham and Leatherhead planning areas can, in the long term, be satisfied adequately by the combined number of secondary school places in those areas'.

Conditions

354. There was a good measure of agreement between the Council, the Parish Council and the appellant concerning suggested conditions in the event that the appeal was to succeed and planning permission to be granted. These discussions had regard to guidance set out in the Planning Practice Guide.

Planning Obligations

355. An agreement pursuant to section 106 of the 1990 Act was submitted in draft at the opening of the Inquiry with a signed and dated copy presented after its closure. The contents of the agreement, on which there is consensus between the Council, the Parish Council and the Appellant in the SoCG, is considered in the identified paragraphs below [519 – 524].

Inspector's Conclusions

Preliminary matters

356. The following conclusions are based on the evidence given at the Inquiry, the written representations and my inspection of the site and its surroundings. The references in square brackets [] are to earlier paragraphs in this report.

357. The Secretary of State has advised that he particularly wishes to be informed on the effects of the proposed development on the Green Belt.

Planning and policy considerations

358. One of the most significant areas of consensus is that all the parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in development plan policy and the Framework. This being so, for the purposes of considering this appeal, the evidence presented indicates that the main considerations are:
    (1) The effect of the proposed development on the openness of the Green Belt;
    (2) Whether or not the proposed development would preserve the character or appearance of the Effingham Conservation Area;
    (3) Whether or not the proposed development would preserve the setting of designated and non-designated heritage assets in the vicinity of the respective sites including listed buildings, locally listed buildings and the Little Bookham and Effingham Conservation Areas;
    (4) Its effect on the character and appearance of the settlement of Effingham and its setting;
    (5) The effect of the proposed development on the ecology of Thornet Wood

and on protected species;
(6) The effect of the proposed development on the local highway network and the safety of highway users, including cyclists and pedestrians;
(7) The effect of the proposed development on the continued availability of playing pitches within the village and;
(8) Whether any harm by reason of inappropriateness, and any other harm would be clearly outweighed by other considerations, including in this case but not exclusively, the provision of new and enlarged educational facilities and the provision of market and affordable housing. If so, would these amount to the very special circumstances necessary to justify the recommendation that the appeal be allowed?
(9) Whether any such permission, should it be allowed, be subject to any conditions or obligations, and if so, the form these should take.

359. In in relation to (8), when considering the weight to be apportioned these other matters, specifically in relation to the proposed replacement school, it is also necessary to consider in some detail the policy based justification for such a proposal, the related matters of educational need and matters of practical consideration, in other words the suitability, sufficiency and condition of the existing buildings. Also in light of the emerging nature of elements of the development plan it is also necessary to consider:

(1) The measure of weight to be afforded to the Proposed Submission Draft Guildford Local Plan (2016);
(2) The measure of weight to be afforded to the Submission Effingham Neighbourhood Plan;

Lastly, and prior to the formal recommendation, it is necessary to set out the overall conclusions in respect of the case.

Inappropriate development in the Green Belt

360. As set out above, all the main parties agree the proposals are considered to be inappropriate development as defined by paragraph 89 of the Framework. As paragraph 87 of the Framework goes on to make clear 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 88 of the same goes on to state that 'When considering any planning application [decision makers] should ensure that substantial weight is given to any harm to the Green Belt. '[V]ery special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'. The development, defined in those terms, would also conflict with saved policy RE2 of the GBLP. Having established the fact of inappropriateness it is first therefore necessary to consider any other Green Belt harm and then any other harm, before the consideration of any other matters that may outweigh it. These are addressed below.

The effect on the openness of the Green Belt

361. The Appellants have presented their evidence of the effect of the development on the Green Belt through and application of the five purposes the Green Belt

serves set out in the paragraph 80 of the Framework. This is reflected in their proof of evidence on the matter and their Green Belt Study[254] which in turn draws from the Council's own Green Belt and Countryside Study commissioned to inform the preparation of the PSLP. In terms of approach the study assesses the extent to which the respective sites contribute to the five purposes and then apportions a 'score' to each. What it does not do however is to actually gauge the *effect* of the proposed development on the openness of the Green Belt, identified as one of the key attributes in paragraph 79 of the Framework. Whilst it is necessary to have regard to such an assessment it is, as has been set out in the opening definition of the main considerations before the Inquiry, the actual sum effect of the development on the openness of the Green Belt which is the critical matter at issue here. It is on this basis that this matter is addressed below.

362. For clarity consideration of these matters is set out on a site by site basis, as adopted above [7- 12].

363. Site No.1 (the HoE School site) is substantially occupied by the various phases and forms of the existing school buildings and associated open areas and car parking. However, the eastern portion of the site beyond the lodge and facing Lower Road is in part hard surfaced play area and part playing fields. As the planning history of the site illustrates this site, although within the Green Belt, has been the subject of successive development proposals associated with the School [24]. Given the extent, density and mass of these structures, the sum of residential development now proposed on the site, despite modest encroachment onto the western limits of the play areas, would have no material effect on the openness of the Green Belt, or other Green Belt purposes.

364. Moreover, the greater site does [260] lie within the perceived boundary of the village. Whilst currently within the Green Belt boundary, the consensus view of both Borough and Parish Councils in both future PSLP and SENP that the greater site should be removed from the Green Belt. This both reflects this geographical reality and the preferred approach to settlement demarcation in relation to Green Belts set out in paragraph 86 of the Framework. Although the Green Belt boundary would only be formally amended through the development plan process, the likelihood that such an outcome will result, in the context of this appeal is a material consideration, though one meriting only modest weight.

365. Nevertheless, the concept of 'openness' is generally considered to be land being free from built development [77b]. The proposed residential development, especially on the northern portion of the former playing fields to the east of the school, would constitute 'built development' where there was hitherto none. It inevitably follows that there would be some degree in a reduction of openness, so conflicting with the expectations of paragraph 79 of the Framework. However, because of the factors identified above [351] the extent of this loss of openness and therefore Green Belt harm is limited and should properly be afforded a medium measure of weight in the final Green Belt balance.

[254] Rhodes, Appendix 18.

366. Site No.2 (Brown's Field) also lies within the Green Belt. Although it is on the fringes of the historic village at its south eastern point [363], it cannot be said to be at the margins of the greater modern settlement. Although abutting The Street to the west the southern boundary of the site beyond the Guildford Road is framed by extensive C20 residential development. To the east the site is partly enclosed by the precincts of the King George V hall, while to the south east its context is characterised by the manicured expanse of the attendant playing fields dotted with mature trees.

367. In this context the site cannot rightly be regarded as countryside and its development would have very limited effect in terms of the erosion of such or to extending the merger of settlements [262]. Moreover, and as before, both Councils in their respective submission plans confirm the site should be taken out of the Green Belt for the same reasons set out above [352]. As before, such a consideration is material, though one meriting only modest weight.

368. However, the site is currently let to grass, albeit bordered by trees, dwelling boundaries and fencing with self-evidently an almost complete absence of built development upon it (save the apple store adjacent to The Street). The development of 38 dwellings with associated garages, roads and associated development would result in a significant reduction in openness. Paragraph 79 of the Framework advises that the fundamental aim of Green Belt policy is, inter alia, to keep land permanently open, and goes on to remind the decision maker that the essential characteristics of green Belts are their openness and their permanence. In this context, and notwithstanding the mitigating factors identified above, this diminution of openness and therefore Green Belt harm must be afforded substantial weight in the final Green Belt balance.

369. Site No.3 (Lodge Farm) also lies within the Green Belt. This is by some way the largest of the three sites and can be broken down into three main sub-elements: housing and open space to the west, the replacement school and open space to the east and the proposed playing fields to the north. Although these proposals (as for Site No.1) are in outline save for access, the indicative layout of the combined site, in conjunction with the other design work submitted in evidence, give a fair degree of clarity on the likely distribution and form of the constituent elements.

370. Whilst the greater part of the site is open fallow agricultural land, its centre accommodates the former horticultural structures of the farm and, though not comprising previously developed land by virtue of this former use, they do constitute a significant body of physical built form on this part of the site, as described above [15]. The greater site cannot therefore be held to be entirely open in character.

371. Moreover, each component of the proposed development incorporates areas of open land. Although the northern element comprising the sports pitches will require a degree of re-profiling, it will be entirely free of built development. The element accommodating the replacement school would also comprise an area of open space immediately to the north of Lower Road, whilst the residential site too allows for a further area of open space incorporating a balancing pond to its north west. Again, though indicative, this arrangement suggests that less than half the greater site would be built on.

372. Nevertheless when the residential development and the replacement school are taken together this would constitute a significant body of new development within the Green Belt. This would inevitably result in a very significant degree of reduction to its openness, so conflicting with the primary expectations of paragraph 79 of the Framework and in the light of the high sensitivity of the site as identified in the Council's GBCS, in conflict with saved policy RE2 of the GBLP.

373. Taken together and notwithstanding the mitigating factors in relation to Sites No 1 and No. 2, the proposals would result in a significant reduction in the openness of the Green Belt, resulting in a degree of harm meriting substantial weight when considered in the final Green Belt balance.

Whether or not the proposed development would preserve the character or appearance of the Effingham Conservation Area;

374. Site No.2 (Brown's Lane) is located entirely within the Effingham Conservation Area. From the outset the boundaries of this designation have been widely drawn to include significant open areas beyond the built form of the historic village. This is apparent to the east where the KGV playing fields, apparently part of the former landscaped context to the now listed Lodge are encompassed within the boundary. This is also clear to the west of The Street, where a run of open agricultural fields, still currently under cultivation, continue to form a strong visual link with the principal historic former farmsteads on this side of the village.

375. Brown's Field is, with the inclusion of the dwellings at the south end of The Street, included in this enveloping area of open land within the conservation area. However, its character is markedly different from those each side of it. This space has a much more enclosed character, being screened on three sides by mature tree and boundary planting. It would appear to be historically associated with the former Manor Farm, now referred to as Browns (a Grade II listed building) to the north, though this now has limited legibility when viewed on the ground.

376. That said, all three elements of open space within the conservation area, legitimately linked to designated heritage assets within it, all play a part in continuing to define a sense of rurality to the historic core of the settlement, and this is most especially evident when the village is viewed from the public footpaths to the west. Although Brown's Field is more visually discrete, it nevertheless combines with the KGV playing fields to sustain a sense of openness and detachment from the residential development to the south. On this basis, and with its historic associations, the site makes a positive contribution to the character and appearance of the conservation area as a whole thereby constituting an element of its significance as a designated heritage asset.

377. The proposals are for 38 dwellings arranged off a single access with a series of spurs terminating in turning heads and garage and parking courts. The houses would sit within plots of amenity space, the existing boundary planting would be retained and supplemented by further landscaping details. A pedestrian link would also be created with The Street allowing access from this point across the site to Brown's Lane and the KGV playing fields beyond. The dwellings would display a conscious diversity of orientation, placement, form,

articulation, materials and detailing. The aim appears to be to effect an apparently random and divers collection of vernacular dwellings forming its own defined enclave. The layout and elevational drawings on first analysis are not altogether supportive of this aim, suggesting an ultimately vehicle- focused layout and a rather mechanical treatment to the architecture, which is neither free from vernacular detail nor expressing these with enough conviction to convince the observer that this is indeed a discrete vernacular enclave to an historic village. Both Councils draw similar conclusions in respect of this element of the scheme [80f]-[147].

378. This is however on closer analysis unjust. The layout would allow a number of the dwellings to address the street frontages (not itself a universal character trait in the historic village centre) whilst the detailing and materials, if followed through with close attention secured through conditions [504-508] could deliver a softer more convincing Home Counties vernacularism more reflective of the illustrations in the Design and Access Statement. It is the case that in some instances the scale and profile of the roofs of the dwellings (not so the ancillary structures) betray the contemporary plan form and internal configuration of these structures. However, they would not be viewed in direct juxtaposition with the traditional roof profiles of those dwellings in The Street and would in any event be viewed through the screen or filter of the mature and supplemented tree cover of much of the boundary of the site.

379. Furthermore, the nearby development of Barns Wallis Close, also approved, by GBC and identified as an appropriate form of development by EPC, exhibits both lesser neo-vernacular character but also substantial hipped roof forms, successfully setting the tone of modern development here. Moreover, with the additional landscaping supporting the existing cover filtering views into the site, the proposals would make a visual contribution to the conservation area certainly not inferior to the other examples previously permitted residential development[255].

380. So although in aesthetic and design terms there would be no material harm to the character and appearance of the conservation area, there would be a degree of harm in respect of the erosion of the open context of the historic village, a discernible and positive component of its former rural agrarian character and therefore its significance. In these terms it would therefore fail to preserve the character or appearance of the conservation area as anticipated by section 72 of the Act. For the same reasons it would not meet the expectations of paragraph 132 of the Framework that anticipates great weight being afforded to the conservation of designated heritage assets. Again for the same reasons this element of the proposals would conflict with policies HE7 of the GBLP. However, in the context of the conservation area as a whole, and in accordance with consideration of paragraphs 133 and 134 of the Framework, that the magnitude of this harm is appropriately considered less than substantial [81]. Again in accordance with the expectations of paragraph 134 of the Framework, this degree of harm, and any other degree of heritage harm should it be found to exist, must be considered and balanced against any public benefits the development may bring. This is considered in relation to all heritage matters below [392-393].

[255] Middle Farm Place, Middle Farm Close and Barns Wallis Close.

Whether or not the proposed development would preserve the setting of designated and non-designated heritage assets in the vicinity of the respective sites, including listed buildings, locally listed buildings and the Little Bookham and Effingham Conservation Areas

381. Again, for clarity the issues in respect of these matters are set out on a site-related basis, with an overarching summary at the end.

382. Site No. 1(the School site) lies immediately adjacent to the north east boundaries of the Effingham Conservation Area, set within the angle of the boundary formed to the south by the KGV playing fields and to the west by the landscape context of The Lodge, a former country house of earlier C19 origins and a Grade II listed building. Some modest distance to the east of the site lies the Little Bookham Conservation Area (within the jurisdiction of MVDC). Set within this designation there is also The Manor House, Manor Farmhouse, Manor Farm Tithe Barn (all Grade II listed buildings) and the Church of All Saints, a modest though attractive building of considerable architectural and historic interest dating from the early C12 with subsequent alterations and nationally designated as a Grade II* listed building. The respective list descriptions of these buildings identify all as being of Group Value (GV) in recognition of their cumulative interest. The church is in turn set within its own defined precincts comprising an open graveyard with extensive planting and veteran trees.

383. There is common agreement that at best the existing school complex has a neutral effect on the setting of the Effingham Conservation Area. A more critical eye might conclude that the ad hoc, incremental arrangement of essentially utilitarian structures detracts from the setting of the historic village, especially when approached from the east. That said, such is the verdancy and depth of the tree cover to the south of the site that the perception of the historic settlement beyond is very limited.

384. In this context, the proposed residential development and, with appropriate handling of form, massing and additional landscape treatment resolved through reserved matters, could quite reasonably ameliorate or overcome and resolve the deleterious utilitarian character of the site and so certainly avoid material harm to the setting of Effingham Conservation Area. On these terms, this element of the development would accord with paragraph 132 of the Framework which seeks the conservation of designated heritage assets and their settings and with policy HE10 of the GBLP, which seeks the same.

385. The Lodge and its garden context, located to the south of the site, is extensively and almost completely (at on the dates of the site visits) screened from the school precincts. With this verdant green barrier supplemented by additional planting secured through reserved matters (see below) there would be no material adverse effect on the setting of The Lodge as a result of the redevelopment of Site No.1. Thus it would be preserved in accordance with the expectations of section 66 of the Act[256], paragraph 132 of the Framework and saved policy HE4 of the GBLP.

386. The Little Lodge, the former gatehouse to The Lodge, now separated from it and subsumed within the school complex, is also identified by EPC as a locally

[256] Planning (Listed Building and Conservation Areas) Act 1990.

listed building and therefore a non-designated heritage asset, as defined by the Framework. Whilst the indicative layout does not apparently demonstrate any awareness of the former relationship or linkage of the two entities, the redevelopment of the school site clearly represents an opportunity to re-establish this. Whilst this may rightly be seen as a benefit, the weight to be apportioned to it here, in the absence of such tangible details, is limited.

387. Again, the western and northern approaches to the Little Bookham Conservation Area and the group of listed buildings located within are screened by dense, characterful, mature and verdant tree cover. In combination with increased distance from Site No.1 and intervening ancillary structures such as high boundary walls, this cover effectively screens the Manor, Farmhouse and Barn from any direct inter-visibility and in such circumstances there would be no material harm to the setting of these listed buildings. The graveyard, with its scattered monuments and shady wooded cover, is an intrinsic and important constituent of the setting of the church, positively contributing to its significance as a highly graded designated heritage asset. The flashes of the verdant green of playing fields beyond, seen beneath the low tree canopy, offer a sense of pastoral context beyond, enhancing the perception of a separation between the settlements.

388. It is the case that the residential development would extend the eastward extent of built form on the site, bringing it closer to the Little Bookham Conservation Area boundary and the limits of the church graveyard. However, the existing school structures on the eastern periphery of the site are the most substantial within the complex and, with careful consideration of reserved matters, the massing and placement of lesser residential development would effectively mitigate the small encroachment to the east. Moreover, with the addition of appropriate planting to further soften and screen the development when viewed from the west, secured through reserved matters conditions, material harm to the setting of the Little Bookham designated heritage assets could be avoided, also in accordance with the conclusions of Historic England as set out in their initial advice[257]. A constituent of the character of the setting of the church is its relative tranquillity. This is certainly the case in respect of its immediate precincts, where the quiet shade of its enveloping trees provide such respite for those within. However, the presence of traffic on Lower Road is not entirely excluded and the intense activity associated with the school at predicted times is not far away. The comings and goings associated with the proposed residential development are unlikely to be greater, and on balance, this sense of immediate quiet would be maintained. In this regard therefore the development of Site No.1 would preserve the setting of the listed buildings, so according with the requirements of section 66 of the Act[258]and comply with paragraph 132 of the Framework, which affords great weight to the conservation of designated heritage assets and their setting.

389. Site No. 2 (Brown's Field) lies adjacent to a section of flint rubble wall on the eastern side of The Street which is a locally listed building, and therefore defined as a non-designated heritage asset. Whilst proximate to the Brown's Field site, the wall is separated from the residential development by a band of

[257] CD21.7.
[258] Ibid.

mature planting that would be retained when the site is developed. This band of planting would effectively filter views of the development from The Street, ensuring the conservation of the setting of this section of wall, so according with policy HE6 of the GBLP.

390. There is a locally listed Applestore, C19 date, (re) located within the site. As such it is a non-designated heritage asset. Although relocated to its present site in the last Century, this is a picturesque and characterful timber framed and clad structure redolent of its former rural context, and expressing its own modest vernacular architectural interest, making a positive contribution to the conservation area. The building is currently in poor condition. The proposals would incorporate the store within the ambit of the development site, secure its repair and consolidation and adapt it as a bat roost. Although the currently picturesque overgrown setting of the building will be to some degree be formalised as it is incorporated within the development site, the benefits of its restoration would significantly outweigh this effect and indeed its repair and conservation would better reveal its significance. Such an outcome would accord with saved policy HE6 of the GBLP and with paragraph 137 of the Framework which indicates that proposals that achieve such aims should be treated favourably.

391. The Old Hollies, a locally listed detached dwelling located on the eastern side of The Street, dating from the early or mid C19 and set within its own grounds, abuts the site. The main contribution that this property makes to the character of the conservation area is its street-facing elevation. Neither this, or its setting, would be materially affected by the proposed development due to the dense planting cover which would act as a screen in any views from The Street.

392. Site No.3 (Lodge Farm) comprises three elements: the replacement school to the east, the associated playing fields to the north and the residential development to the west. The replacement school is set back from the northern side of Lower Road on the boundary of the Vineries Garden Centre to the east. The easternmost element of this open frontage is occupied by car parking, whist that to the west remains as an expanse of open grassland. Beyond, the radial pavilions and central hub of the replacement school stand in the mid-distance with the playing fields located on the gently rising ground to the north.

393. Because of the extent to which the proposed school is set back from the road, the degree of screening along its frontages to north and south, and the extent of the tree cover around the church, there would be no clear inter-visibility between the replacement school and the group of listed buildings centred on the church. Nor indeed would there be, as a result of the development, any material compromise to the sense of rural tranquillity that defines the character of the setting to the Little Bookham Conservation Area In such circumstances the settings of both designated heritage assets would be safeguarded in accordance with the expectations of the Act (in relation to the former), paragraph 132 of the Framework and saved policies HE4 and HE10 of the GBLP.

394. The western residential component of the site would abut the northern boundary of the Effingham Conservation Area in part along Lower Road then

returning north and west skirting the extended graveyard of the Church of Our Lady of Sorrows (locally listed) after which it extends northward, separated from the conservation area boundary by the playing fields of St Lawrence Primary School. The Red House (Grade II listed), an imposing former dwelling by the unmistakable hand of Sir Edwin Lutyens, is located further to the west along Lower Road at its junction with the Old Forge Road.

395. Despite its extent on the land to the north of the village, this residential development would be substantially obscured from view by the existing screen of built form along Lower Road and Effingham Common Road running north. This would minimise any effect of this part of the development on the setting of the Effingham Conservation Area which abuts Lower Road opposite the entrance to The Lodge. The principle point of direct inter-visibility of conservation area and development here would be through the lichgate of the church, through the graveyard to the residential site beyond. Here the current framed view of gate, church and countryside would be curtailed, with the proposed houses fleetingly visible beyond. As a result, the juxtaposition of the church and countryside, currently forming its setting, would also be curtailed. There would also be views across the replacement school and residential site from very selected points on the footpath running along the eastern border of the site adjacent to the Vineries Garden Centre, where the church can be seen in part above surrounding vegetation in juxtaposition with the open countryside before it. Again, from here the proposed development would be seen in juxtaposition with the tower of the church visible above surrounding vegetation.

396. However, the curtailment of this rural prospect would be fleeting, especially in the kinetic sense as one moves along Lower Lane. In the wider context, despite the scale of the residential development proposed, the existing visual barriers would substantially limit its actual presence in relation to the conservation area on its most northerly boundary. So, although there might be a minor perceptual change to the context of the setting of the conservation area at this point, this would not amount to any measure of material harm. In relation to Site No. 3 therefore, the setting of the Effingham Conservation Area would be conserved in accordance with the expectation of saved policy HE10 of the GBLP and paragraph 132 of the Framework.

397. At the time of its construction the Red House, along with the core of the primary school and church, would have been on the very northern margins of the historic village. However this sense of rural proximity has been progressively diminished over time. The extensive residential enclave of Leewood Way to the west, the enlargement of the school and the extension of the church precincts have all encroached to differing degrees on the setting of the house. More significantly the house, now subdivided, has also accommodated significant development within its immediate context with the construction of Red House Mews immediately to its east. Moreover extensive mature planting on the northern boundary of this site and the church graveyard would comprehensively screen the proposed residential site beyond. With all these factors accounted for the proposed development here would preserve the setting of the listed building in accordance with the expectations of the Act and comply with policy HE4 of the GBLP.

398. The key objection of the Parish Council in this respect is that collectively the proposed development will overwhelm the historic village of Effingham, and that it would be disproportionate and contrary to its natural evolution and pattern of growth which has given rise to its present character [138 and 141]. It has been argued that this would amount to a 'revolutionary change to the shape and morphology of the village which cannot fail to harm its distinctive character' [142]. Such a conclusion is predicated on the argument that with the current number of dwellings within the historic village being 353, the addition of a further 295 dwellings (37 within the conservation area boundary itself) would amount to an increase of some 83% [142].

399. Such a position however fails to take account of a range of other material factors. The dwelling count of the historic village fails to account of those of the wider occluded modern settlement, referred to elsewhere in the Parish Council's evidence as constituting over a 1000 units [272]. Whilst this may not be a definitive number, it is evident from a tour of the greater settlement and reference to the wider location plans, that the historic core of the villages has been extended, in some areas extensively, in the C20. This is most evidently the case to the south east of Brown's Field below the Guildford Road where there are extensive areas of suburban development. Though of lesser extent the ribbon developments along Orestan Lane, Effingham Common Road and the enclave of Leewood Way to the north are all also C20 encroachments on the core historic settlement and indeed within the boundaries of the conservation area.

400. Moreover, whilst the views of the village from the west across open fields still speak clearly of a rural historic settlement, this prospect too is not unencumbered by modern development. Within the boundaries of the conservation area here modern development, such as Yew Tree Court, Middle Farm Place and Court and the now fully converted residential former historic farmsteads of The Street have all, in addition to other infill development, found their place within the core of the historic settlement.

401. The reasoning of EPC also does not take account of the effectively built-up nature and intense function of the school, nor the residual and substantial structures on the school and Lodge farm sites which can by no means be seen in the same way as the open fields that characterise the western setting of the village.

402. It is the case that looked at cartographically (or from a plan-based perspective) that the quantum of development proposed is substantial and when compared to the built historic core (itself considerably less than the sum of the designated conservation area) visually challenging [142]. But this is not an objective or holistic basis on which to assess the quantum of development proposed. On the ground, the three sites cannot be viewed in concert and even in relation to Sites Nos 1 and 3, despite their joint proximity, would be extensively screened from the core of the historic village, and indeed the adjacent settlement of Little Bookham. In conclusion, the proposed development would not have a materially harmful effect on the setting of the Effingham Conservation Area is taken as a whole (not accounting for the harm to it identified in relation to Brown's Field). It would therefore accord with the expectations of paragraph 132 of the Framework and with saved policy HE10 of the GBLP.

403. For the above reasons the development of Site No.2 (Brown's Field), with the resultant loss of open land within the boundary of the conservation area, would harm its character and appearance. In such circumstances it follows that the development would fail to preserve the character and appearance of the conservation area, contrary to the expectations of section 72 of the Act, which requires that it be given special attention as a consideration in the planning process. The Courts have also determined that this duty is a matter of considerable importance and weight for the decision maker in that process. The magnitude of the harm has been found to be less than substantial in relation to paragraph 134 of the Framework. For the purposes of consideration in the Green Belt planning balance, this is termed as a medium degree of weight measuring against the proposal to be considered against any public benefits the development may bring. This exercise is undertaken in the overall conclusions set out below.

Effect of the proposed development on the character and appearance of the settlement of Effingham and its setting

404. This issue is in part covered in respect of the effect on the openness of the Green Belt and the setting of designated heritage assets above. Nonetheless, it is addressed specifically by the Borough Council in its 7th reason for refusal specifically under the terms of policies G5 (G5.1 in relation to character and appearance and context) and CF4 (redevelopment of schools in relation to their surroundings). Of particular concern to both Councils is the contention that the development of Sites Nos. 1 and 3 would lead to the coalescence of the villages of Effingham and Little Bookham and that the proposed enlarged replacement school would have a dominant and dissonant effect on the rural character of the area north of Lower Road.

405. It is the case that the residential development of Site No.1 will extend the built form of the school beyond the existing envelope to the east. However, as indicated above, because of the extensive tree cover along the southern part of Lower road and the remaining area of green space beyond and the dense tree planning around the Church of All Saints, the strong sense of separation between the settlements here would remain. It is accepted that the residential development to the west of Site No.3 is extensive and will result in a significant loss of openness. However, for the reasons set out above the greater part of this enclave would not be highly visible in general views of the greater settlement of Effingham. Its most visually prominent element is the run of dwellings indicatively proposed along the north side of Lower Road opposite the school site. Here these would overlap with those proposed on the north side to create a narrow neck of residential built form on both sides of the road. However, this is well within the existing envelope of built form of the village. Although this would be of a greater density and visibility, the essential urban or semi-urban existing character would not change, and no material harm would result.

406. Similarly fears that the combined residential components of sites Nos 1 and 3, with the new enlarged replacement school, would result in the tangible visual coalescence of the two settlements have some resonance in light of the conclusions on openness set out above. However, the area of open land proposed to the north of Lower Road (though partly covered by car parking to the east) would still serve as a strong visual break to the development as it is

perceived along the road, with the school complex a recessive feature seen behind from this perspective. That being said, more sedentary views from the road at this point to the west of the Vineries Garden Centre looking north, do offer one of the key prospects of the open rising grassland towards Thornet wood where a clear sense of the rural context of both settlements is appreciated.

407. The radial pavilions of the proposed school, arcing across this part of the site, would materially curtail this rural prospect. Moreover, because of their bold and unself-conscious modernity, they would stand in striking contrast to the otherwise naturalistic tableau of the existing grassland and wooded scene beyond. Whilst the new replacement school would in part screen the visible and utilitarian elements of the Vineries Garden Centre, this diminution of wider rural perspective and striking contrast of modern institutional architecture (albeit the designs are in outline) would cause harm to this part of the wider rural context of the settlement and thus conflict with policies G5 and CF4 of the GBLP. However, because the limited extent of erosion of local character and the mitigating effects of the development referred to, this harm is limited in extent, and thus merits a medium degree of weight in the Green Belt planning balance.

The effect of the proposed development on the ecology of Thornet Wood and on protected species

408. As set out in the SoCG, GBC accept, on the basis of additional information presented by the Appellants, that concerns over the ecological impact on Thornet Wood SNCI and protected species (specifically bats, Great Crested Newts and Doremice) have been overcome and the initial reasons for refusal three and four are no longer defended. EPC also accepted during the Inquiry that although they remained concerned at the approach to addressing ecological matters by the Appellants had been flawed, their concerns over the safeguarding of Thornet Wood, newts and Doremice could be mitigated through further measures secured by condition. The detail of the conditions set out in the schedule at the end of the report and the reasoning justifying them where tailored at the Inquiry to refine and address the outstanding concerns of the Parish Council in these specific regards, specifically in relation to the extent of the landscape buffer on the northern boundary of the site.

409. However, EPC maintain their concerns, specifically with regard to bats on and travelling through the sites and the proposed wildlife corridor set out in the SENP running through the eastern part of Site No. 3 (Lodge Farm) as defined by policy ENP-ENV2 of the SENP. The evidence before the Inquiry attests to the presence of bats on the appeal site, specifically Site No. 3 (Lodge Farm) with the majority of registrations being focused on the north eastern boundary of this site [132]. The Parish also referred to evidence of other rare species of bats being recorded by the Surrey Bat Group in Bookham Common to the north of the locality. Whilst the presence of 'unknown' bat types recorded in the Appellants survey may suggest the possibility that these species may venture north, this falls considerably short of a convincing case that such species are or are likely to be present. No such evidence was presented at the Inquiry to suggest otherwise.

410. Moreover, whilst there was disagreement between the respective ecologists over the appropriate methodologies to be applied to survey approaches (either

static surveys advocated by EPC or transect surveys applied by the Appellants) the Bat Conservation Trust Guidelines are not mandatory and in any event give primacy to the judgement of the surveyor in any particular given case. Furthermore, no other Statutory or non-Statutory body has raised strong and convincing concerns with the approach undertaken by the Appellants that would suggest a significant underestimation of the extent of bat activity on the site, nor the specificity of bat species present. Further to this, the extended 15m buffer zone, the further areas of open land to the north of the residential development and the playing fields also to the north would all offer residual open areas for continued bat activity. In addition, the application being in outline, there is also scope to ensure detailed design considerations, particularly immediately to the east of the school building and in the consideration of a detailed lighting strategy for the whole of the site, to secure further bat-friendly mitigation. On the basis of all the above therefore, the proposals would accord with policy NE3 of the GBLP which seeks to safeguard local nature conservation interest, local non-statutory sites and Sites of Nature Conservation Importance.

411. EPC also expressed concern at the early omission and then misidentification of areas of 'marshy grassland' on the northern parts of Site No. 3 [130]. However, the relative value of this non-designated habitat was challenged by the Appellants, who in addition pointed out that such hydrological conditions could be simulated such that such habitat could be developed in residual open areas of the site, specifically in the northern areas proximate to balancing ponds [308].

412. On the face of it the school proposals for Site No.3 would have the capacity to compromise the efficacy of the proposed wildlife corridor which runs along the eastern boundary of the site. This element of the corridor also links up with Thornet Wood to the north and a further section within the plan area links this wood to that of Littlelee Wood to the west, both of which are in turn linked to the wider network as illustrated in figure 7 of the SENP (CD 28.1). However, the full functionality of the corridor is dependent on the completion of the network outwith the boundaries of the SENP, mainly to the south, and the means by which this is to be achieved remains unresolved. Moreover, the constraints to the functionality of the corridor are principally restricted the immediate vicinity of the school. With the northern sections unconstrained along with the section abutting Effingham Common Road. The plans (though indicative) demonstrate there is still scope for some green infrastructure here and this could be supplemented through reserve matters to augment the remaining strip along the eastern boundary through the Vineries Garden Centre complex. On these terms despite the proposals for the school, there is scope for the development to facilitate eco- movement along the limited section affected. There is therefore no fundamental or insuperable breach of policy ENP-ENV2 of the SENP.

413. Taken together then,, there is sufficient mitigation that can be secured by condition to overcome concerns over ecological matters in relation to the local SNCI and protected species. Whilst there are legitimate concerns over the efficacy of the wildlife corridor, these can in good measure be addressed. These matters having been rendered neutral in terms of weight, do not weigh materially in the final Green Belt and planning balance.

The effect of the proposed development on the local highway network and the safety of highway users, including cyclists and pedestrians

414. The Transport SoCG (CD 8.6) confirms that through the submission of further details resolved through discussions between the Appellants and the GBC's highway consultants reason for refusal 11 on the decision notice was no longer defended by the Borough. Whilst EPC at the start of the Inquiry maintained its broad raft of highway objections, through the further iteration of these issues a number of these were further resolved [160]. Such consensus includes the revision to the crossing arrangements on The Street, which, with the appropriate rewording of the relevant obligation, allows for a revision to the submitted scheme to reflect the approach advocated by EPC. There is similar agreement that the double yellow lines proposed for Brown's Lane are also unnecessary and can be managed through any associated Traffic Order. Concerns over deficiencies in parking provision on the Brown's Field site and non-compliance with SENP policies can also be resolved through appropriately worded conditions.

415. Concerns expressed by EPC in respect of crossing opportunities at the roundabouts at the junction of the Street, Effingham Common Road and Lower Road and those using Church Street were not directly addressed during the Inquiry. However whilst EPC maintained the hazard to pedestrians crossing in this area, these are not supported by recorded accident figures and do not account for the mitigating effects of the proposed coach, bus and car drop-off arrangements facilitated by the link road proposed between Lower Road and Effingham Common Road which do have the capacity to deliver some improvement to traffic flows, especially at peak time.

416. Notwithstanding this degree of consensus, EPC still maintain concerns that key data used by the Appellants does not reflect the reality of traffic conditions in Effingham and this was supported by other residents [339]. Chief concerns related to Transport Location Assessments as being 'suburban' or 'edge of town' rather than 'village or 'out of town', an over-estimation of public transport provision in the area and the methodology for que assessment, whether moving or static. Local perceptions of traffic activity do not always fit with technical applied methodologies of detailed transport analysis and sensitivity traffic flows. However, in the absence of robust evidence, beyond the assertions over locational nuance ('village' or 'suburban') there is very little to challenge the conclusions of both other main parties conclusions agreed in the Transport SoCG (CD8.6). This is more the case also in light of these joint conclusions that the mitigation works proposed at Lower Road/Rectory Lane and the Guildford Road/The Street will fully address the identified traffic impacts of the scheme 'irrespective of the application of sensitivity traffic flows' in both cases. In these terms then the proposals would comply with policies G1(1) and G2(2) of the GBLP, both of which seek to ensure an appropriate level of parking provision and to ensure that appropriate access and highway layout is provided to ensure the proposed development is compatible with the local road network. They would also accord with paragraph 23 of the Framework which advises that development should only be prevented or refused on traffic grounds where the residual cumulative impacts of development are severe.

The effect of the proposed development on the continued availability of playing pitches within the village

417. GBC no longer seek to defend their initial objection to the proposals on the basis of loss of sport pitches, although the Parish maintain theirs. There is an understandable emotional loss felt for the development of Brown's Field and its use for rugby practice by the most junior members of the club. It has a long association with that use, it is proximate to the greater complex of pitches on the KGV playing fields and has an associative relationship with the greater recreation Ground. If it were to be lost without mitigation or replacement there would remain the strongest grounds for objection. However, despite such attachments, it is by no means an ideal facility. It is not a secure site, changing facilities are located at the KGV Hall and these, like the junior playing pitches, are separated from the field by Brown's Lane and some physical distance. So whilst notionally proximate with one and other, it is not possible for a parent to supervise children of different ages on both sites at the same time.

418. Whilst at a physical remove from the KGV site, the use of the proposed replacement school's facilities offer on-site changing, purpose- designed facilities and a secure environment in which the children can play. Moreover, the community use agreement offered through planning obligation would secure this function for the club going forward. Whilst these arrangements would result in a change to the functions of the club on balance, the benefits on offer outweigh the losses. On these terms therefore, the proposals would accord with policy R1 of the GBLP, which seeks to resist the loss of land used for sport and recreation facilities unless alternatives are provided and with policy ENP-C2 of the SENP which also seeks an improvement to recreational facilities within the plan area. The absence of harm here therefore renders this issue as neutral a as matter of weight to be afforded it in the overall Green Belt planning balance.

The Effingham Neighbourhood Plan

419. EPC council have argued forcefully that the proposed development conflicts with key policies of the SENP. Principal amongst these are policies ENP-G1 and SA3, the first of which steers development to within the formal settlement boundary set out in the 2003 Local Plan, and the second, a site allocations policy which identifies a diminished Lodge Farm site. Conflict is also identified with policies ENP-ENV2, ENP-ENV1 and ENP-C6, the first of which relates to the wildlife corridor, the second to green space provision and the latter, to school expansion. The plan is a comprehensive document which reflects a great deal of local investment, not least expressed in the defence of its policies at the Inquiry. The vision of the plan, like the long gestated plans for the relocation and expansion of the school, is an emotive thing, and a scheme resulting in a significant effect on its delivery will inevitably be judged in those terms.

420. But that said, to suggest that the proposals can be seen as 'effectively negating and almost totally destroying the considered approach adopted by the SENP' or 'directly contradicted and overridden' [137] is to overstate its effect. It is the case that the outcome of the appeal may require a review of spatial planning policies. But these must be regarded as vulnerable to review in light of the current housing land supply position within the borough which at less than three years of supply, would still render proposed housing numbers potentially out of date in relation to the Framework. Furthermore, much of the

greater plan would remain viable, including the provisions of the wildlife corridor supported by policy ENP-ENV2. Indeed some of the other provisions of the plan, in respect of community facilities would be fulfilled.

421. However, and like the PSLP, this Inquiry is not a pre-run of the examination of this plan, and at the time of the submission of this report, that, and any Referendum on its formal 'making' , is still some time away. So although as the SoCG notes, the SENP has completed the formal draft plan consultation stage and the plan has been submitted to the Borough Council in March for Regulation 16 consultation, as yet, it does not form part of the development plan. As paragraph 216 of the Framework makes clear, decision-makers may inter alia also give weight to relevant policies in emerging plans according to their stage of preparation and the extent to which there are unresolved objections to relevant policies contained within. The SENP has been consulted upon, though it has yet to be formally examined and any objections to resolved. In these terms, whilst self-evidently a material consideration, these circumstances dictate that only limited weight may be afforded its policies, at this stage in the determination of these proposals.

422. EPC also argue that weight be afforded to the PSLP insofar as its emerging housing policies support those of the SENP. However, despite these synergies, the PSLP is, by agreement between the Appellants and GBC, at a very early stage in its development. So in accordance once again with paragraph 216 if the Framework it may too only be afforded very limited weight.

Whether any harm by reason of inappropriateness, and any other harm would be clearly outweighed by other considerations, including in this case but not exclusively the provision of new and enlarged educational facilities, the provision of market and affordable housing. If so, would these amount to the very special circumstances necessary to justify the recommendation that the appeal be allowed?

423. At the heart of these proposals is the provision of a new, relocated expanded school on Site No 3 (Lodge Farm). The arguments in support of this are multi-facetted and complex, and are challenged in their key respects by both Councils. The core components of the Appellants case relate to the suitability and sufficiency of the existing school facilities, their condition and whether there is a need for the expansion for the school. These are addressed below.

Suitability and sufficiency of the school facilities

424. It is the case that the buildings of the school are of varying age and type, some representing the earliest phase of development on the site, others being of relatively recent vintage. It is no surprise then that some of these structures do not comply with the 2012 School Premises Regulations [179]. Moreover, insofar as these apply only to local authority maintained schools and not to academies, the breach of such regulations in this case is of limited relevance. Similarly BB103, Area Guidelines for Maintaining Schools (Clyne Appendices page 72), which again some of these structures may not be in conformity with, are 'non-statutory guidance, and are not mandatory' [69]. Neither is it the case that the Appellants, or indeed either of the other main parties, have sought to put the current state of sufficiency or suitability of the school buildings in the local or even regional context.

425. However, GBC does not 'dispute the unsatisfactory nature of the current school premises' [66b]. Moreover, such an acknowledgement of these deficiencies

was not new; the extract from the 1995 OFSTED Report (Barnfield appendix 5) notes that 'recent admissions have stretched accommodation resources throughout the school' with a 'number of lessons being taught outside their specialised area with a frequent negative effect on learning quality'. The report goes on to note older accommodation as being inadequate for modern equipment or student numbers, with inadequate storage and overcrowded dining rooms. It is the case that these deficiencies have not prevented sequential judgements of the school as 'Outstanding' in both 2006 and 2009.

426. The condition of the school was again set out in terms of inadequate classroom sizes adversely impacting on teaching and learning strategies and reference made to security and transport issues in the ESFA application documents submitted by the school in 2012 [259]. Whilst this document does not explicitly refer to the existing buildings 'not being fit for purpose', it does suggest that the hoped for new school 'will be fit for purpose to meet current local demand… '.

427. It is the case that the arguments put forward by the Appellants in relation to the suitability and sufficiency of the school estate have changed through the course of the evolution of the proposal, none more so than in relation to the evidence for the appeal [43e]. But this has also been in relation to the changing circumstances in which it has evolved. After the failure of the ESFA funding bid and the engagement and support of the GBC planning department and the partnership brokered by them with Berkley Homes the need for such advocacy self-evidently diminished. As the position of the GBC significantly shifted to opposition to the proposals as they were finally presented in the planning application so too has the Appellants' case in seeking to re-emphasise the arguments to support it.

428. The detailed concerns of the Appellants in relation to suitability and sufficiency, and the effect this has on delivery of educational outcomes, as set out above, were made plain and cogent through a visit to the school. Taken together they are compelling.

429. There are significant issues with accessibility such that there is a risk of litigation for failure to comply with the Equality Act 2010 in relation to disabled people. Lift access within the complex is very limited and not directly accessible from the main reception area. Many rooms within the estate remain accessible only via staircases or changes of level, both internally and externally, thus rendering up to 50% of classrooms inaccessible for all those with limited mobility. Ancillary facilities for disabled people such as lavatories are also deficient and there is no assisted access to the main entrance to the school.

430. There are significant concerns over security and welfare, (given substance through previously recorded incidents) with the school not being compliant with the Standards for Schools Premises (2000) guidance. The school site is not secure from intruders and is inadequate in terms of internal surveillance. Many areas of the school suffer from inadequate ventilation and are deficient in terms of lavatory and drinking water provision. There have been issues and concerns over pupil pedestrian/vehicular conflict within the car park at peak

[259] CD21.6.

arrival/departure times. Significant issues over fire safety and fire risk assessment were also identified in the Gleeds report[260].

431. Many of the classrooms do not meet basis standards of size, there is chronic congestion in the main and secondary arterial corridors and facilities for meal provision are so constrained as to require extensive queuing. Outdoor play space for the lower years, as a result of progressive encroachment by additional teaching space, is limited. Whilst the school has access to the KGV playing fields for sports purposes, these are separated from the school site and there is no long term assurance as to their continued availability.

432. Some of these issues may in part be mitigated for example through the closure of the Public Footpath running through the grounds (a measure vigorously opposed locally on previous consideration), and the provision of security fencing in part to limit access in relation to this area. However, these would not render the site secure as other elements of the site perimeter would remain permeable to unauthorised intrusion.

433. It may be said that the school would carry on using the existing buildings if dismissal of the appeal were an outcome [71]. The suggestion was also made that these generic circumstances may not really be very much different to a great number of other schools [71]. But such opinion cannot wish away the very real deficiencies inherent in the complex of buildings that have been pragmatically adapted to fit changing and growing needs that, whether mandatory or not, substantively fail to meet published standards for school buildings across a wide range of very significant considerations. These are factors, which, day to day, have a material bearing on the ability of the school to deliver the educational outcomes all desire it to. The school remains an 'Outstanding' one, but manifestly this is despite, and not because of, the challenging environment in which this is achieved. The existing school premises are not fit for the purpose of meeting the modern educational and social needs of the children who attend it. The replacement of the school in order to facilitate this is a matter of very substantial weight in the Green Belt and planning balance.

Condition

434. GBC state that the condition assessment (of the school) is not disputed [68]. However they, and EPC, suggest that the Gleeds Survey (1st edition) (CD10.12) appears on its face to be of 'similar content to the assessment undertaken for the Property Data Survey (PDS) (CD9.1 pt3) made of the school after exterior visual inspection in 2013. Furthermore, it is the case that school management have in part focused on a failure/replace rather than lifecycle renew methodology as an approach to conserving funds. In addition there has been no attempt to split the Gleeds assessment into either capital or maintenance, thus allowing a more refined targeting of the General Grant moneys to meet specific need [70d].

435. It is also the case that opportunities for the school to secure funding either through the Building Schools for the Future (BSF 2003) programme or the Priority Schools Programme Building Programme (PSBP 2012 and 2014 bidding

[260] CD10.12, CD10.01

rounds) were not secured, through ineligibility, or not pursued, however poor the prognosis for success in the regional context [123].

436. However, whilst there may be commonalities between the 1st edition Gleeds assessment and that of the PDS, both these assessments had their separate and common shortcomings. As the updated Gleeds survey[261] demonstrates, the first edition took no account of the school's Asbestos Survey Report, a limitation expressly identified in the PDS survey. Moreover this survey relied on external assessment of the readily accessible areas of the property and also explicitly excluded consideration of accessibility related issues, fire risk assessment, health and safety issues, improvement and upgrading works, works relating to functional suitability and sufficiency and day to day maintenance works.

437. The updated Gleeds survey does account for the school's Asbestos Survey and also concludes that the costs of 'making the building safe and in a condition, which meets basic statutory requirements, has increased[262]'. The report goes on to advise that the maintenance budget and capital costs estimate for 0-10 years should now be £4,368,700 compared with the previous figure of £3,902,060 initially stated. With further preliminaries, contingencies and project fees, including capital costs associated with the survey, the final figure is £5,931,316.

438. It is further stated by the Appellants that the main body of this expenditure needs to be undertaken in the first half of that 10 year period [209]. In order to front load the programme, sums approaching one million a year are forecast. This also implies that if such an approach were not undertaken repairs requiring redress now, but not undertaken, would result in a further escalation in costs, increasing the overall budget. Such an approach would have to account for the cyclical replacement of plant and infrastructure as and when unaccented failures occur. Addressing the latter consideration through the more realistic approach of assessing costs by lifecycle analysis over a longer 25 years period, adds significantly further to the costs, bringing the total costs nearer to £24.8m, or around £1 million per year to keep the buildings repaired and maintained [210].

439. Notwithstanding the total income of the Trust of c£79 million and an operational surplus for the Trust (including a significant amount in transfers to the on other schools joining) of c£1.4 million [124], the current School Capital Allowance which is awarded on a per pupil basis with a condition element [206] is for the current year £2.483m for the whole of the Trust's nine schools. If allocated on a per capita basis this would allow an annual allocation of around £550,000 for the HoE School. The other schools within the Trust also have capital and infrastructure demands that total more than the annual allocation. On this basis therefore there is no equitable mechanism to reasonably allow the HoE School to receive more than its apportioned share without compromise to the other schools within the Trust. The simple maths therefore, based on the broadly accepted condition assessment [68] is that the school cannot afford to meet its current maintenance and repair requirements.

[261] CD10.01
[262] CD 10.10 page 3.

440. Whilst it may be possible that, should the appeal fail, there may be future opportunities for grant funding for repair or replacement from the Department of Education, no evidence has been presented to suggest these would meet with any greater success than hitherto. This pessimistic conclusion was borne out by the response of the Appellants to the assurance by the Parish that, in conversation with the Constituency MP, once the appeal had failed money could be found [211 - 212]. However, it was apparent that Sir Paul Beresford, the Constituency MP, brokered a meeting between the school and the then Secretary of State for Education who, according to the Appellants witness, 'wrung his hands[263]' and advised there was no funding available for the school.

441. The school's pursuit of funding has included trying to secure the money to purchase a new site and consider rebuilding on the existing one. This and the assessment of the current funding situation for the existing school has prompted a detailed analysis of the options available to them and these are set out in the Appellants evidence[264]. This sets out seven costed options ranging from maintenance and repair of the existing, through partial reorganisation and restructuring of the existing site, to rebuilding the school on the existing site, rebuilding on Site No.2 and finally to the rebuilding and enlargement of the school on Site no. 3. EPC argue that the retention and selective replacement on the existing site is the more sustainable option[265]. However the Appellants detailed analysis of the options available suggests that such options, if they were to fully address the issues of suitability, sufficiency and condition already identified, would prove more costly than the reconstruction of the relocated school [215]. This conclusion has not been challenged by the other parties and there is no substantive reasons to doubt such a conclusion

442. Moreover, as part of this options analysis the Appellants have undertaken a further Alternative Sites Assessment. Such analysis revealed no suitable alternatives, and this has been recognised by the GBC in its Committee Report[266]. Other immediately local sites have been rejected on planning grounds and no alternative sites have been suggested by either of the other main parties [223]. If it is concluded that a new school is justified in relation to the above, there are no other obvious locations for it, a circumstance materially different to that found in the outcome of the Bishop's Stortford Appeal[267] where the Secretary of State agreed with the Inspector in relation to Appeal A in respect of 'alternative options' that there were indeed a range of alternative scenarios that could have potentially met the needs of the subject school.

443. It is plain on the basis of the evidence before the Inquiry, notwithstanding past assessments of condition, that there are very significant issues with the fabric of the institution and the ongoing funding of its repair and maintenance in the current budgetary context. It is evident that in seeking to address condition as well as suitability and sufficiency, the least expensive option is the rebuilding of the school on the only other available identified site. In this context these

[263] Inspector's note.
[264] Olliff, PoE2.4.
[265] Cornwell, PoE3.2 paragraph 3.12 page 8.
[266] CD3.1
[267] CD21.14

matters too merit being afforded very substantial weight in favour of the proposals in the Green Belt Planning balance.

Need

444. As part of the proposals it is intended to increase the capacity of the school from 1600 to 2000 pupils, effectively requiring a further two Forms of Entry (FE). [226]. Both the Councils, whilst accepting a level of increased need within the Effingham and adjacent Leatherhead Planning Areas, maintain this can be met through existing and temporarily expanded capacity in accordance with the forecasts set out in the SCC February 2017 Statement[268][45c, 48 &53] and [107-113].

445. The issue of need for additional school places, is significant as it not only defines the proposals as a new enlarged replacement school (as opposed to a straight replacement) but also because it requires a bigger school and also determines the final extent of the enabling development necessary to fund it. Both these latter factors have key implications for the effect of the development on the openness of the Green Belt and to an extent the effect of the development on the character and appearance of the area.

446. The term 'need', as the GBC point out [48] is used in a number of contexts in the evidence of all parties. GBC and EPC are keen to focus its meaning in terms of demographic or basic need, as defined by SCC in their statement of January 2017[269]. Simply put this means the need to provide additional school places because there is a forecast and sustained deficit between the number of children requiring a school place and the number of school places available. Both Councils argue, 'properly understood', [45c, 48-59-110] and [107-113], this need can be accommodated without expanding the school.

447. The SCC forecasts for places are defined over a 10 year period and indicates that the Effingham Planning Area has 240 places available in year 7 each year. Their analysis shows there would be a shortage of places however from 2017 to 20124. The neighbouring Leatherhead planning area also indicates an availability of 420 places with forecasts indicating there will be vacancies, or a surplus of places within that planning area for the majority of years. This indicates either that places are available or that 'bulge' classes maybe required in three particular years across the two planning areas during this period to ensure a sufficiency of places across the combined areas.

448. Although EPC also furnish further arguments in relation to the dynamics of preferences for places within the respective planning areas [111-114] the nub of the objection to the expansion of the school is that increased demographic need can reasonably be accommodated within the adjacent planning areas through 'bulge' class provision over the acute years. Moreover, according to EPC, there is no evidence to suggest that any school within the joint catchments would refuse to cooperate with the County to ensure the temporary increase is met [114].

449. However, the SCC analysis acknowledges the effective need for two further forms of entry within the Effingham Planning Area, though offers no further

[268] Dobson PoE2.3 Appendix 9.
[269] Ibid.

detail on the allocation of the 'bulge' classes within it, or in the adjacent one of Leatherhead. As the HoE is the principal secondary school within the Planning Area the expectation must in part be that it should accommodate some or all of the increased capacity over the identified years. This would entail the school accommodating even greater numbers than at present in terms of accommodation that have been demonstrated not to meet standards of suitability and sufficiency as set out above. The other alternative would be to direct additional pupils to Therfield within the Leatherhead Planning Area, which, notwithstanding its lesser popularity than the Howard and its apparent capacity, would necessitate considerably greater travel distances for all pupils within the greater western catchment area of the Howard of Effingham School. Neither outcome can be held to be in the interests of the pupils and parents faced with such a choice, or whom are thus compelled to consider alternative choices further afield still.

450. But meeting 'need' in the educational context goes beyond addressing a narrow demographic necessity, even if that were to be demonstrated. If this were not the case, than the SCC Statement of January 2017, written by one of the authority's area Schools Commissioning Officers, (having determined that combined demand for places in Effingham and leatherhead can be satisfied adequately) should have logically concluded with a clear objection to the unnecessary expansion of the school. It should have also objected on the basis that such an expansion may disrupt the County's 'wider cohesive plan for education provision across the County' as EPC put it [116].

451. But it does not, nor could it in the context of the consistent level of support for the replacement and expansion of the school expressed by the County over the course of the genesis and evolution of the plan. This commences, from the evidence before the Inquiry, with a letter from the Assistant Director of Schools and Learning that states that 'while there is no Basic Need funding available for this project, SCC is committed to working with the …Trust to manage the increase in the availability of places at the Academy as the future projected need arises in the area'. The letter goes on to note that the County also 'recognises that parents will continue to exercise their parental choice and will be attracted towards successful popular schools which achieve outstanding judgements from Ofsted. As a consequence, the historic applications data shows the HoE School is consistently over-subscribed'. The letter concludes with a declaration of support for the project[270].

452. This is followed by a further letter in 2016 from the same Assistant Director, co-signed by the Cabinet member stating that the 'expansion of the HoE School will add to the capacity of the Guildford Borough secondary schools', going on 'these additional places will benefit Guildford pupils and their families, thus enhancing the local educational offer to meet, as far as possible, parental preferences for a school place which is an issue held as a priority by the DfE'. The County submitted a further letter in 2016 this time by the Deputy Chief Executive and Director of Children's services, co-signed by the Cabinet Member, assuring GBC that it had 'not moved from a position of support for the rebuilding and expansion of the school', asserting that the 'expansion at the Howard will provide the local authority with flexibility to meet future

[270] Appendix D Educational Needs Assessment CD 1.11

demand and we may also support the potential for a larger expansion of this school for future unmet demand.'

453. These formal position statements demonstrate that, notwithstanding the utilitarian assessment of demographic need set out at regional school commissioning level, SCC, at the highest level, understand and support the expansion of the school, not only to accommodate future demand outside of the County's own defined planning area in which it is located, but also to accommodate parental choice, seen as a national departmental priority.

454. National departmental interest in the proposals encompasses a) the formal approval for the land exchange between the Appellants to secure the rebuilding, expansion and funding for the replacement school[271], b) support for the increased Published Admissions Number for the school on the basis that the 'academy is currently oversubscribed'[272] and c) in the form of support for the proposals by Lord Nash, the Parliamentary Under Secretary of State for the School System, who aside form confirming the land disposal approved above and commending the prospect of improved facilities and the Cullum Centre, notes they 'will ensure the school will have sufficient building and outside space to facilitate aspirations to expand pupil numbers to meet the growing needs of the local community[273]'.

455. 'Need' can then indeed encompass a range of definitions, which inform opinion at a range of levels. But how does local and national policy help in furthering that understanding?

456. It should be noted at the outset that in relation to 'need' it is also the case here, as the Secretary of State himself confirmed (agreeing with the Inspector) in the Perry Beeches decision[274], that 'planning policies (whether local or national) do not require need to be demonstrated'. This was the basis on which he concluded the matter was not a determining factor in that case.

457. Paragraph 72 of the Framework makes clear that 'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities (and therefore decision makers) should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education'. The paragraph continues 'they (the decision maker) should give great weight to the need to create, expand and alter schools…'.

458. The Framework does not offer a definition of 'need' in its Annex 2 Glossary. However, a reasonable basis for interpretation is suggested in the use of the word 'needs' in the plural rather than singular sense in the first sentence of the paragraph. Thus the use of the term as applied by the Framework can, without difficulty, accommodate the principle of basic need set out in SCC's January 2017 statement and SCC's aspirations for accommodating growth in the wider Guildford area. Moreover, the Framework explicitly refers to a 'choice of school places' to meet those needs. Emphasising this point, the Secretary of State, in

[271] Letter from the Educational Funding Agency 16 March 2017,Appendix 10, Barnfield.
[272] Letter from the Regional Schools Commissioner, 31 march 2017, Barnfield Appendix 11.
[273] Letter dated 6 April 2017, Barnfield Appendix 12.
[274] CD11.5 at DL13 and IR108

the Ingleby Barwick decision[275] , makes clear that 'the loss of opportunity to widen choice would be regrettable and harmful' in the context of paragraph 72 of the Framework, which 'makes it obvious that widening choice in education is the critical consideration', a consideration that resonates with the priorities of the DfE referred to by SCC above [450].

459. The Framework, and the expectations set out in paragraph 72 therein, was prefigured by the JPS – planning for schools and development, published jointly by the Secretaries for State for Communities and Local Government and Education in 2011[276]. This document makes clear at the outset that the Government is firmly committed to ensuring there is sufficient provision to meet growing demand and increasing choice and opportunity in state-funded education. It also makes clear that it wants, inter alia, good schools to expand and all schools to adapt and improve their facilities. The purpose is unambiguous: this is to allow for more provision and greater diversity to meet both demographic need and drive increased choice and higher standards. Clearly anticipating the publication of the Framework in the following year, the Statement anticipates that 'with immediate effect' that there 'should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework'.

460. Taken together, these Governmental policy positions offer very compelling support for the provision of an expanded replacement school. It is not disputed that The HoE School has repeatedly been judged an 'Outstanding' school by Ofsted, and that it has been recognised as consistently over-subscribed. Moreover, there is, as set out above, a broadly defined need for its expansion and a convincing case made for its improvement. Accordingly it is appropriate in their context to give great weight to the school proposal and indeed to presume in favour of its development, subject to any final balanced consideration in relation to any harms that may also collaterally result. The Borough Council rightly points out that the 'presumption in favour of the development of state-funded schools', set out in JPS, is not in fact reflected in the wording of paragraph 72 of the Framework, and that the Framework now 'provides a more recent expression of Government planning policy' as the then Secretary of State concluded in the Bishop's Stortford appeal[277] [50].

461. Whilst this may be the case, there is nothing in the Framework that suggests the wording of the Statement has been expressly superseded, indeed the Statement, in its full form, remains an extant expression of joint departmental Government policy. Moreover, that the two strands of policy can be read concurrently is confirmed in the Secretary of State's own conclusions in respect of the Steart Farm appeal (CD11.4). Here, agreeing with the Inspector, he confirms he has 'had regard to paragraph 72 of the Framework which says that the Government attaches great importance to ensuring a sufficient choice of school places is available to meet the needs of existing and new communities, and agrees with the Inspector that the presumption in favour of state-funded schools and the need to establish and develop them attracts significant weight'. This decision, published in February 2016, also significantly post-pates the Bishop's Stortford by some four years.

[275] Paragraph 1119 of the decision of appeal Ref:APP/H0738/A/13/2192538
[276] Dobson PoE2.3 Appendix 6.
[277] CD21.14 at DL27

462. It should also be noted in respect of the Bishop's Stortford case that the purpose of the Secretary of State in drawing attention to the policy expression of the Framework was to justify his conclusion that that 'great weight', rather than the 'moderate weight' apportioned by the Inspector, was the appropriate judgement to make. This suggests a greater emphasis on the 'great weight' of the Framework against the 'presumption in favour' set out in the Statement. Notwithstanding this, taken together there is little basis for misunderstanding that the both policy strands justify great weight being afforded the replacement and expansion of the HoE School in this case. Accordingly such an apportionment needs to be considered in the Green Belt planning balance.

463. It should also not be overlooked that the proposals received very considerable support from respondents in relation to the consultation on the planning application[278]. This level of support was also reflected in the written and oral statements made to the Inquiry eloquently stating why the expansion and replacement of the school should be supported [340]. Such views, as well as those opposing the scheme need also to be accounted for in the final planning judgement.

464. There is a demonstrated demographic need for additional places within the joint planning areas of the school and its expansion to meet that need and wider need has received consistent support from the local authority, SCC. This support has been echoed by the Parliamentary Under Secretary for the Schools System. Moreover, Government policy across the JPS and carried though in the policy of the Framework, attaches great importance to ensuring sufficient choice of school places is available and meeting that requirement should be given great weight. JPS also anticipates 'a presumption in favour of the development of state-funded schools'. Both strands of Government policy have been concurrently applied by the Secretary of State in a subsequent decision. Taken together, in conjunction with the considerable support voiced in support of the proposals by members of the community, and specifically in light of the national policy support for such proposals fulfilling these expectations, this consideration merits very substantial weight.

Cullum Centre

465. It is not disputed by either of the Councils that provision of facilities for autistic students in the mainstream sector is much needed and that SCC has supported their provision, with the aim of one of them being at the school, for some time. That this integrated approach is supported is evidenced both in the letter dated the 6 April 2017 from Lord Nash[279] and that from and the Deputy Chief Executive and Director of Children's Services and the Cabinet member for Schools, Skills and Educational Achievement at SCC dated the 3 March 2016[280], who, in addition to their stated continued support for the rebuilding and expansion of the school, declared the Local Authority was 'proud to support the four Cullum Centres within Surrey, the host schools, including the HoE, were chosen for their outstanding provision of education and community inclusivity'.

[278] Officer Committee Report.CD3.1
[279] Appendix 12 Barnfield
[280] Appendix 12Dobson.

466. EPC argue that the Centre could be provided on the existing site, though do not identify where with any certainty. The Appellants argue, in the context of their options appraisal for the future of the school, that there is no space for it that would meet its optimal requirements. The provision of the Centre, optimally located within the new complex to maximise its effectiveness for the students who will use it is a clear benefit of the scheme and to deepening the educational and community inclusivity of the school. In the context of this appeal therefore its provision on these terms merits substantial weight in the Green Belt planning balance.

The delivery of market and affordable housing

467. GBC accept in evidence[281] that significant weight should be afforded to the delivery of 295 homes, of which 61 are now defined as affordable housing, (nearly 20% of the total). The Parish are also agreed that this provision may be viewed as a benefit of the scheme [153]. This is understood through the acknowledgement in the SoCG that, as confirmed by the Council's own 2016 Annual Monitoring Report[282] that the current supply of housing land in the Borough, at the time of the Inquiry, was 2.1 years. The Appellants also point out, unchallenged, to a 'chronic, serious and persistent under supply of housing in Guildford over a protracted period of time', with average completions over the 10 year period 2005-2015 having been 261, against a total of 461 derived from the former South East Plan [247]. The SoCG identifies 2.1 years against 693 homes per year, taking account of a buffer of 20% and an accrued deficit. There is a similar degree of underperformance in affordable housing, also identified by the Appellants and again unchallenged by the Council, with BGC delivering an average of 62 affordable homes per annum over a seven year period against an annual requirement of 455 annually [247].

468. The housing policies of the GBLP were not saved by Government Direction, the plan period having ended in 2006. As the SoCG records, work is ongoing on the PSLP, with the latest iteration being a targeted Regulation 19 consultation proposed for the summer of 2017 with submission intended for December of this year. Again without challenge, the Appellants state this pre-consultation document 'relies for much of its housing delivery on a limited number of difficult, long-term strategic sites which themselves were the subject of significant objection when proposed in the previous pre-submission draft' [250]. Whilst the GBC is right to say in closing that this appeal is not the forum for a 'pre-run of Local Plan debates' [43b] (in respect of housing sites or revisions to the Green Belt boundary), it is very clear that GBC is some very considerable way off arriving at a housing number reflecting objectively assessed need, let alone one reflecting a dialogue with adjacent authorities or one determined by a review of the planning constraints within the Borough. It is little surprise therefore that the SoCG affords the PSLP very limited weight at this time. The Parish Council dissent from this view [412]and this is considered, along with a consideration of weight to be attached to the SELP, in the Green Belt Planning balance below.

469. The net effect of these circumstances is that GBC is only able to demonstrate less than half the annual supply of housing land anticipated as a minimum as

[281] Paragraph 5.38 Sherman Proof of Evidence p19.
[282] CD4.8

required by paragraph 47 of the Framework. Moreover, with the formal adoption of a deliverable annual housing number and a framework for sustained delivery of that number some considerable way off, there is very limited prospect of a recovery of that position in view. As paragraph 47 of the Framework made clear form its publication in 2012, the Government anticipates a significant boost to the supply of housing nationally. That position has not changed. In this context, and the very significant under-delivery of housing in the Borough over an extended period, it is right that the delivery of 295 homes proposed here is given very substantial weight.

470. Whilst the 20% proportion of affordable housing is below the 35% anticipated by the GBC's adopted standard, this number has been calibrated and accepted against the viability consideration necessary to allow for the delivery of the school. Notwithstanding this shortfall, and the expectation of policy, the delivery of over 60 units of affordable housing, when considered against past delivery, and in the context of a significant decrease in the affordability of market homes in the area in the last 15 years identified by the Council's Strategic Housing Market Assessment[283], is also a consideration that merits substantial weight in the Green Belt Planning balance.

Community and highway benefits

471. The provisions of the section 106 agreement in respect for off-site highway works and community facilities provided will fully mitigate any planning harms that result from the development [510]. In addition however, both Councils accept that benefits to the community, specifically in relation to the KGV Hall, and transport matters, specifically the amended works to the management of traffic on The Street would accrue form the development [513]. It is also the case that with the Community Access Agreement in place residents of Effingham, and indeed beyond, will have access to considerably improved facilities at the new school. Because these benefits have to be calibrated against the underpinning purpose of mitigation the weight to be apportioned them in the Green Belt planning balance may rightly be measured as medium.

SANG mitigation

472. The SoCG makes clear that as seven of the proposed dwellings would be located within the 400m to 5Km buffer of the TBHSPA and the remaining 288 being located within in the 5 to 7 KM buffer as defined by the TBHSPA Avoidance Strategy, full mitigation for their effects on the SPA is anticipated. This matter is agreed by all parties. Moreover it is also accepted by the parties that the concerns of both Councils, as articulated in the second reason for refusal on the decision notice, could be overcome by a suitabe negatively worded Grampian condition. Such a condition was agreed at the time of the Inquiry. It was also the position at the time of the Inquiry that there were two potential options for the SANG were available, the first being the use of Effingham Common, though this would require the provision of parking, and the second, provision of a SANG at Long Reach, West Horsley. However during the event, and as framed in closings and supplemental evidence by the Appellants, (Securing the SANG-CD21.15) it was the second option that became the preferred mechanism for delivery. The provision of the Long Reach

[283] This is in CD4.22 and referred to in paragraph 6.9 of Rhodes proof, page 40.

SANG was contingent on the appeal against its refusal by Guildford Borough Council being supported by the appointed Inspector.

473. That appeal has subsequently been allowed and planning permission granted subject to conditions, including the standard three year commencement condition, a compliance with plans condition, a condition also requiring the submission of a SANG Management Plan and one requiring public access, in addition to others seeking further details[284]. In such circumstances the Appellants in this case set out a subsequent 'sequence of events' in their document CD21.15, which charts the submission and approval of the SANGMP, the submission of a SANG Strategy, the implementation of the planning obligation triggering payment of SANG contributions, the implementation of works with the limitation on occupation of dwellings until such time as the SANG has been completed. Subsequent to the Long Reach appeal being allowed, the Appellants have reaffirmed these commitments, indicating that the physical delivery of the SANG will commence in early 2018 with the SANG being available for use by the HoE scheme by March/April 2018 [287]. The appellants also supply a letter from AECOM on behalf of Green Reach Ltd (the Appellant in the Long Reach appeal) indicating that they have reached agreement with the Berkley Homes (Southern) Ltd that the residential developer of the HoE site will be granted the ability to utilise SANG mitigation at Long Reach. A separate letter is supplied from Green Reach confirming that they have exchanged an unconditional contract for the sale of the land at Long Reach to Berkley Homes (Southern) Ltd.

474. With these terms and the condition suggested for this appeal, the conditions attached to the Long Reach appeal and the terms of the obligations set out in the section 106 agreement in respect of mitigating the SANG, there is every prospect that the SANG will be delivered within the lifetime of this permission, were it to be granted. The effect of the development on the TBHSPA would therefore be fully mitigated in respect of this appeal, thus neutralising its effect and the weight it may be apportioned in the Green Belt planning balance.

Green Belt Planning Balance

475. There is consensus that the development proposed is inappropriate development within the Green Belt and thus in conflict with policy RE2 of the GBLP. This policy advises that new building will be considered inappropriate if it is not for the purposes of agriculture or forestry, essential facilities or outdoor sport and recreation, cemeteries and other uses of land which would preserve the openness of the Green Belt and which does not conflict with the purposes of including land within it. However, this policy is inconsistent with paragraphs 89 and 90 of the Framework which defines not inappropriate development in terms of a closed list and which makes provision for the consideration of very special circumstances which would outweigh any harm.

476. Nevertheless, notwithstanding this frailty, the key purpose of the development plan policy is to restrict very significantly the forms of development permitted in the Green Belt. Despite the nuance of the 'closed list' in paragraph 89 of the Framework and the lack of an explicit reference to very special circumstances in the policy, the purpose of both is ostensibly the same, and that is that

[284] Appeal Ref: APP/Y3615/W/16/3165858, CD11.10.

development should be restricted[285]. As such, and for the avoidance of doubt, the fourth bullet point of paragraph 14 of the Framework is not engaged and the 'tilted balance it requires, not applied. In such circumstances the relevance and therefore weight to be apportioned to the Richborough Estates decision in the Supreme Court[286] is very limited.

477. So, as set out at the outset, the proposals are commonly considered to be inappropriate development which is, by definition, harmful to the Green Belt and to which the Framework requires that **substantial weight** be given to this harm.

478. With regard to openness, each of the sites has been considered separately. In respect of Site No1 (the school site) only very limited harm to openness has been found and this has been accorded a **medium measure** of weight. In respect of site No2 (Brown's Field), where a significant reduction in openness has been identified, such harm has been afforded **substantial weight**. The development of Site No. 3 (Lodge Farm), being the largest of the three sites, has the greatest effect on the openness of the Green Belt, being determined as having a significant degree of impact on openness, also merits **substantial weight** being afforded to it. Taken together and accounting for the degrees of harm and mitigation, the harm to openness is significant **overall** and should be awarded **substantial weight** in the planning balance.

479. Heritage harm has been identified as a result of the loss of the open land at Brown's Field, so failing to preserve the character or appearance of the conservation area. When considered against the sum of significance of the conservation area as a whole however, the magnitude of that harm, fully accounting for the requirements of section 72 of the Act and paragraph 132 of the Framework, has been judged as less then substantial. Accounting for the consideration of public benefit required by paragraph 134 of the Framework, for the purposes of the Green Belt Planning balance, this has been judged as meriting a **medium measure of weight** against the proposals.

480. Whilst the sum of development proposed is considerable, the contexts in which it would be experienced are pluralistic and their visual impact in respect of the character and appearance of the area would be relatively limited. Nevertheless, particularly with regard to Site No.3 (Lodge Farm) the sum of development here would cause harm to the rural character of this northern fringe of the settlement. Taken as a whole however, the sum of this harm may be judged as meriting **medium weight** in the Green Belt planning balance.

481. There is conflict with the emerging strategy of the SDLP and more specifically with the policies of the SENP. However both are currently subject to consultation, each have yet to be subjected to examination and may both yet be the subsect to objection. The Framework is very clear, notwithstanding the degree of local investment thus far, that in accordance with paragraph 216 of the Framework, that in these circumstances, both plans may be afforded only **very limited weight**. For the same reasons, these identified conflicts must also merit only **very limited weight** in the Green Belt Planning balance.

[285] Paragraph 14 of the Framework fourth bullet point, footnote 9.
[286] Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG [2017] UKSC37.

482. No measure of material harm has been identified in respect of the ecology of Thornet Wood nor protected species on the site that cannot be reasonably be mitigated through the attachment of appropriate conditions and the detailed treatment of reserved matters. Similarly in respect of concerns over highway matters, there are no issues that cannot be reasonably resolved through management of reserved matters (particularly in respect of Site No.3 (Lodge Farm) or conditions in respect of Site No.2 (Brown's Field) or through detailed execution of the relevant obligations of the section 106 agreement in respect of traffic management on The Street and Lower Road. Whilst it is the case that the development will result in the loss of Brown's Field for local sports teams, this will be fully mitigated through access to the new facilities at the relocated school. These matters therefore garner **neutral weight** in the Green Belt planning balance

483. The potentially significant effect of human activity associated with the development on the TBHSPA, the increased pressure on early years learning and Primary school places and provision of affordable housing have all been successfully mitigated through the provisions of the obligations of the section 106 agreement, and can all therefore be held as being of **neutral weight** in the Green Belt planning balance.

484. GBC argue in Closing that to allow such a scheme of enabling development to fund a replacement school within the Green Belt would be to open 'Pandora's box', and it may be naive to think that others might not want to use the grant of planning permission in this case to support other proposals in the constrained policy environment of Green Belt-based development management.

485. However, all parties showed restraint in offering other cases to support their own as some form of precedent. Where such cases have been presented, and referred to in evidence and submissions, such as the Bishop's Stortford appeal[287] and the grant of planning permission for a replacement school at Broxbourne, Herts, by Broxbourne Borough Council[288] it quickly became evident that there were significant differences between each and the case the subject of this appeal. It is clear that in respect of the former case, the Inspector very significantly concluded that there were other options open to the Appellant other than that before him; this is not the case here. In respect of the latter school proposal the matters of Green Belt policy appeared resolved through the progressive assessment of the case, with members of the Council lifting of the Green Belt Deed on the western part of the site 8 months before the final determination of the planning application. Moreover the extended period over which these proposals have evolved, the very specific circumstances that have led to the appeal and the very extensively detailed factors in respect of the arguments on both sides, make it clear that there is very limited chance of such circumstances being replicated elsewhere. The claim that to grant planning permission in these circumstances would be to provide a form of precedent such as to open Pandora's Box, is not justified, and may be afforded only **very little weight** in the consideration of this case.

[287] See previous ref
[288] Committee Report CD21.12 and Decision Notice CD21.13.

486. Set against the considerable weight of these identified other harms are a range of other considerations set out in support of the proposals.

487. The heart of this case is the proposal to replace and enlarge the existing school. This argument is predicated on three key elements, the suitability and sufficiency of the existing buildings and infrastructure, their condition and the need that underpins enlargement. The detailed evidence provided on the shortcomings of the existing complex and the challenges this puts in place for sustaining and improving educational standards is compelling, and is afforded **very substantial weight**. The evidence presented also demonstrates that the condition of the school estate and its continued repair and maintenance present formidable and indeed insuperable financial challenges it the current budgetary circumstances. In these circumstances, which have driven the approach presented in this appeal, the condition of the school and the financial shortfall in maintaining its present condition are also a matter that merits **very substantial weight** in the determination of the case. The matter of need for an expanded school is robustly contended by both Councils, each relying on the assessment of basic need presented by the Schools Commissioning Office of Surry County Council in response to the appeal. However, this statement did not object to the proposals as such, nor did it withdraw the strong support for them expressed at the highest level within the County Council. The facts are that there is a broadly defined need of additional places at the school and this of itself merits **substantial weight** being afforded it in favour of the proposals.

488. Taken together, these tripartite elements of suitability/sufficiency, condition and need, in conjunction with the very broad level of support for the proposals at local, county and national level in conjunction with the very clear and strident support expressed in Government policy targeted at improving standards and choice in state-funded education, these considerations merit **very substantial weight** in the final consideration of this case.

489. The provision of the Cullum Centre, allowing the attendance of autistic students at the school is a modest component of the proposals. However, as current constraints of the site impede its provision, the opportunity to provide this facility and the opportunities for learning it would provide for these young people (again supported at the highest levels of education authority) is a consideration that merits **substantial weight** in the final balancing judgement.

490. The proposals would bring forward 295 units of housing now, of which 20% are to be affordable. In the context of the Council only being able to demonstrate a 2.1 years' worth of housing land supply, chronic past under-delivery and the prospect of the identification of a credible annual housing number in an adopted development plan some way off, this is an important consideration. Whilst such circumstances suggest that relevant housing policies are not up-to-date ,or, in the case of an annual housing number are absent, the engagement of policies of the Framework (and the development plan), specifically in relation to the Green Belt, indicating that development should be restricted, stipulates that the tilted balance facilitated by paragraph 14 of the Framework is not engaged. Be that as it may, the provision of such numbers of houses in these circumstances is a consideration meriting **very substantial weight** in the final balance.

491. The appellants offer a range of other benefits, including community benefits, highway improvements and proposals that collectively offer to better reveal the significance of non-designated heritage assets in accordance with Framework expectations. Taken altogether these merit a **medium degree of weight** being afforded them.

Whether any such permission, should it be allowed, be subject to any conditions or obligations, and if so, the form these should take

492. The need for conditions and their wording should properly be considered in the light of the advice contained in the relevant section of the Planning Practice Guidance. The Condition numbers in this section refer to the Schedule of Conditions attached to this report. Given the hybrid nature of the scheme the schedule is divided up to reflect the respective elements of the scheme and those conditions common to both elements. For ease of understanding the reasoning for recommending their inclusion is set out in like manner below.

Conditions in respect of the outline component of the scheme

493. Otherwise than as set out in any decision and conditions, it would be necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 1). Approval of details of appearance, landscaping, layout and scale is necessary pursuant to the relevant articles of the General Development Procedure Order 2006 in respect of outline applications (condition 2) whilst approval of these matters is required pursuant to Section 92 of the Act (condition 3) and it is also necessary the development is commenced within two years of the approval of the last reserved matters, to be approved on this site (conditions 4 &5) in order Section 92 of the Act is complied with.

494. To ensure that the Thornet Wood SNCI is fully safeguarded from any effects of the development a condition (condition 6) is required to secure a scheme of mitigation measures, including a timetable for implementation and the provision of a minimum 15m buffer zone along the southern boundary of the wood, extending along the eastern border of the appeal site. Such provisions, including the extension of the buffer zone to the east, will also safeguard habitats suitable for Dormice, should they be present in the environs of the wood and boundary cover. Similarly, on a precautionary basis, a condition is also necessary to secure a Great Crested Newt Mitigation Strategy to fully safeguard such a protected species, should any specimens be identified on the site (condition 7).

495. In order that full and permanent access to sports and recreational facilities for members of the surrounding community are secured in perpetuity on the new school site and that the loss of access to the playing field facility on Brown's Field is appropriately mitigated conditions are required to secure a Community Use Agreement CAM) and continued access to Brown's Field maintained until such alternative provision is secured. The CAM shall include details of pricing policy, management responsibilities and mechanisms for its review, details of which will be required to be submitted to the Council for approval (conditions 8&9).

496. Also in ensure that the proposed sports hall on the new school site complies with all Sport England guidance on such provision, including 'Sports Hall Design and Layouts – Updated and Combined Guidance 2012', and is thus of an appropriate standard, a condition is necessary to secure full design details for the facility (condition 10). Similarly, also to ensure that the proposed MUGA on the new school site is provided to a satisfactory standard also in accordance with Sport England guidance, such as 'Artificial Surfaces for Outdoor Sport Updated Guidance for 2013' and 'Comparative Sizes of Sports Pitches and Courts (OUTDOOR) September 2015 Update', a further condition is attached for this purpose (condition 11).

497. To ensure that the proposed replacement playing fields on the new school site are provided to an acceptable standard, and that any physical constraints are properly identified, a condition is attached first requiring that a detailed assessment of ground conditions is undertaken and that, based on these results, a detailed scheme for the layout (including drainage provisions) is submitted to and approved by the Council. Similarly, in order to ensure the appropriate maintenance of these facilities and appropriate replacement of artificial surfaces a further condition is necessary to secure a Management and Maintenance Scheme (including management responsibilities, maintenance schedules and mechanisms for review) (condition 12&13).

498. In order to mitigate the effects of any increased traffic levels as a result of the development, to mitigate existing traffic outcomes, and to promote and increase the use of sustainable modes of transport to the school a condition is required to secure an updated School Travel Plan for the new school facility. For similar transport related reasons and to specifically fully mitigate the demand for additional parking on the site as a result of the development, a further condition is necessary to secure a Car Park Management Plan demonstrating the quantum of car parking on the site and how it will be managed (conditions 14 & 15).

499. For related reasons and to safeguard the safety of highway users in respect of the residential development proposed on the existing school site, a condition is also necessary to ensure the provision for sufficient space for car parking and the manoeuvring of vehicles within the site (condition 16).

500. Lastly in respect of outline matters relating to the existing school site and that of Lodge Farm, in order to fully safeguard the safety of all highway users, conditions are required to stop-up existing and now redundant access and egress points and to secure the making good of kerbs and footways (conditions 17-19).

Conditions in respect of the full component of the scheme

501. To reflect the phasing of the delivery of the development across sites No. 1 and No. 3 the period for the commencement of site No.2 (Brown's Field) has been extended to seven years. Although this is an exceptional commencement period it does realistically reflect the lead-in chronology of the other two sites (condition 20).

502. As before it is also necessary to attach a condition requiring that the development be carried out in accordance with the submitted plans, should it be approved, in order to assure certainty (condition 21).

503. In light of the concerns expressed by the Parish Council in respect of the potential for additional car parking on Brown's Lane, it is necessary to attach a condition securing further details of the final parking layout for the development here, notwithstanding that arrangement set out on the plans referred to above. Such provision will satisfactorily mitigate any potential for on-street parking as a result of the development (condition 22). To consolidate and secure measures to safeguard highway safety in the area more generally a condition is also necessary to prohibit the creation of any further vehicular access points to the site, ensuring the Brown's Lane access remains the only point of vehicular ingress and egress to the site (condition 30).

504. Critical to the success of this development's integration into the built form and fabric of the conservation area will be the quality of architectural detail applied to the dwellings and associated structures, the materials with which they are built, the nature and detail of boundary treatments, the quality of how it is lit at night and also the quality and longevity of the landscaping treatment that will be so important to integrating it with its context. For these reasons, ensuring a satisfactory appearance to the development and the continued preservation of the character and appearance of the conservation area, a series of conditions are attached to secure the necessary details (conditions 23 – 28).

505. Also related to the aesthetic integration of the development to its context is the need for its physical integration. To ensure this, through securing the prior-provision of the footpath linking the development with The Street, a further condition is attached requiring such provision (condition 29).

Conditions necessary in respect of both elements of the scheme

506. Notwithstanding the provisions of condition 20, it is also necessary to attach a condition securing a detailed phasing programme for all three sites so that the site delivery and development managements may be properly understood and fully mitigated (condition31).

507. Given the diversity of the sites and the need to ensure that the effective management of on-site drainage and surface water management based on a comprehensive geotechnical understanding to fully manage and mitigate any threat of local flooding a condition is necessary to secure a full Scheme for the provision of a Sustainable Urban Drainage System (SuDS) for each phase of the development. This needs to be secured prior to the commencement of all development with no dwelling or building being occupied therein until it is confirmed the SuDS has been constructed in accordance with the approved scheme (condition 32). Similarly, in order to ensure the effective management of foul water drainage across the sites, including on and off-site works, a condition is required to secure an appropriate drainage strategy in this regard (condition 34).

508. As indicated at the outset of this report and below [2, 5 and 520] the provision of a SANG is necessary in order to fully mitigate the effects of the development on the SPA. As such provision cannot be made on the site the appellants have acquired rights of access to the proposed SANG at Long Reach, now allowed on

appeal following the Hearing in June of this year.[289] In order that this mitigation is delivered prior to the first potential impacts on the SPA a condition is required ensuring that the SANG has been secured prior to the commencement of development and that prior to first occupation of the dwellings that the works necessary to bring the land up to the necessary standard have been undertaken. In the circumstances of this case such a negatively worded condition is appropriate as there is now a very strong likelihood of the SANG being brought forward within the lifetime of the relevant planning permissions (condition 33).

509. In order to ensure the ongoing management and maintenance of the sites after completion for a period of five years, and thus the safeguarding of the character and appearance of the respective sites, it is necessary for a condition to be attached to secure a Landscape Management and Maintenance Plan for each phase of the development (condition36). Similarly, in order the safeguard the character and appearance of the respective sites, and to ensure the continued wellbeing of trees and established hedge boundaries on the respective sites, a condition is necessary to secure an Aboricultural Method Statement and Tree Protection Plan for each phase of the development (condition 37).

510. Because of the concerns expressed by the Parish Council and local residents and to ensure the living conditions of those living in immediate and greater proximity to the site are fully safeguarded and the effects of site preparation and construction are fully mitigated, it is necessary to attach a condition requiring the submission for each phase of the development of a Construction Method Statement. For the same reasons, specifically to safeguard living conditions of adjacent occupiers a further condition is necessary limiting the hours of operation on each of the sites (conditions 35 & 41).

511. To complement the School Travel Plan secured above, and to contribute to the full mitigation of the effects of the development on highway infrastructure, a condition is required to secure a Residential Travel Plan to cover the respective sites; the plan will require implementation prior to the occupation of each phase of the development to achieve this objective (condition 38).

512. Because of the nature of the former uses of the respective sites and the potential for below ground contamination, conditions are required to secure an appropriate land Contamination Assessment and Remediation Strategy for each phase of the development. Any remediation scheme required as a result of the strategy must be implemented prior to first occupation with proof furnished to the Council in order that future occupiers and users of the land are fully safeguarded from any such contamination sources (conditions 39 & 40).

513. In order that all key development datum levels are fully understood, thus giving certainty to the parameters of the respective phases of development and their final effect on the character and appearance of the area controlled, a condition is required to secure details of existing and proposed ground levels across the sites. Details secured should also include those indicating proposed slab levels for proposed buildings (condition 42).

[289] Appeal Ref: APP/Y3615/W/16/3165858.

514. Given the diversity of the respective sites and the need to appropriately safeguard the living conditions of future and adjacent occupants, a condition is necessary in order to secure a refuse strategy for each relevant phase of the development (condition 43).

515. As in the case of the other phases of the development, in order that the effects on the local highway network are fully mitigated, a condition is necessary to secure details in respect of the residential development to ensure that sufficient space is made available for the parking and manoeuvring of vehicles within the sites (condition 44).

516. Given part of the Brown's Field sites location within an area of archaeological potential and the proximity of both other sites to the periphery of the greater medieval settlement a condition is required to secure a programme of archaeological investigation in accordance with an Archaeological Written Scheme of Investigation in order that any archaeological interest in relation to these sites is safeguarded (condition 45).

517. Finally, and accounting for the evidence presented by the Parish Council in respect of ecological matters on the School and Lodge Farm sites a condition is necessary to secure a Biodiversity, Mitigation, Management and Enhancement Plan (BMMEP) incorporating measures to include biodiversity enhancement, a detailed timetable for the implementation of such measures and details of future management of same. These are necessary to both safeguard and enhance the biodiversity of the developed sites.

Section 106 agreement

518. The Framework sets out policy tests for the seeking of planning obligations, and there are similar statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations (2010) which must be met for obligations to be given weight. There are also relevant development plan policies, including policies P4 (affordable housing), P8 (promoting green travel) P20 (new and improved open space) and P21 (developer obligations). The submitted obligations have been considered in the light of these requirements and the joint evidence put forward in support of them.

519. The agreement facilitates contributions to pedestrian and cycle infrastructure improvements and required Traffic Regulation Orders, including the works to traffic management in The Street, totalling £300,000. These are an acknowledgement that the proposed developments, notwithstanding their attendant Travel Plans, will have an effect on the existing highway network. The works proposed will enhance pedestrian and cyclist safety in the vicinity of the sites and help managed traffic flows within the settlements. They are therefore necessary to make the development acceptable in planning terms. The Transport SoCG also establishes agreement on their scope and they can therefore also be considered proportionate to meeting the mitigatory need. The funded works are also directly related to the development proposed insofar as they are targeted within the settlement and the adverse effects that may arise as a result. On all three accounts therefore they may properly be taken into account.

520. A contribution is also offered for the provision a SANG and SAMM (as set out by Natural England / the Council's adopted Thames Basin Heaths Special

Protection Area Avoidance Strategy) to mitigate the effects of the development on that European Site. It has been long accepted that the proposed development would give rise to levels of human activity likely to have an adverse effect on the ecology and biodiversity of the TBHSPA. It is also accepted that the Long Reach SANG, with its Management Plan and SAMM in place, in accordance with the avoidance strategy, will achieve the effective mitigation of these effects. The contributions to the SANG and SAMM are therefore necessary to make the development acceptable in planning terms, have been calibrated in accordance with the adopted avoidance strategy and so are proportionate and are directly related to the development by virtue of their locational proximity. This obligation too may also properly be taken into account.

521. The development will result in the loss of 66 early learning places both on the existing school site and as a result of the loss of the Little People's Nursery on the Lodge Farm site. The school proposed a replacement on site facility offering 25 early years places. As the development will give rise to a demand for primary school places a contribution towards such provision is also necessary to make the development acceptable in planning terms. The sum agreed, £1,022,873, has been calibrated on the basis of this need. As such joint provision shall be made in proximity to the development proposals both provisions can be help to directly relate to it. Again therefore they may rightly be taken into account.

522. The agreement also facilitates a financial contribution towards improvements to KGV Hall (£2,645,000) on the basis that the proposed development will place increased demand on community facilities. The contribution will allow for a considerable improvement to this important community hub, which would lie in close proximity to each element of the proposals. This will mitigate the effects of the development, be proportionate to the numbers of units involved, and be directly related to the development. It may therefore properly be taken into account.

523. As anticipated above, the agreement also facilitates the provision of 37 affordable dwellings on the greater site (mix of 26 affordable rent and 11 shared ownership dwellings). In addition, 24 discount market sale dwellings would be provided. The spread of the above dwellings will be agreed in consultation with the Council at reserved matters stage in the event the appeal is allowed. Again as this will meet demonstrated need, is agreed as proportionate in policy and guidance terms and will be located within the sites, this provision too may be rightly taken into account.

Overall conclusions

524. The Government attaches great importance to Green Belts [63a, 349, 353, 365 and 360]. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances [244 and 348].

525. The proposals would be inappropriate development and this harm warrants substantial weight. Moreover, substantial weight should be given to the significant harm to the openness of the Green Belt. A medium degree of weight should be added for the harm to the character and appearance of the Effingham Conservation Area as a whole. Medium weight should be afforded to the harm to the character and appearance of the settlement of Effingham and its setting. Taken together, this is a significant quantum of planning harm.

526. Against this harm, the proposals would bring a significant number of homes, both affordable and otherwise, to the market now. This would be in the context of a prolonged and significant period of undersupply and at a time of increasing unaffordability in the region's housing market. These are considerations of very substantial weight. Also for the purposes of paragraph 134 of the Framework, these considerations and the very substantial weight they garner, do constitute public benefits that, notwithstanding the full and due consideration required by the Act and Framework, would clearly outweigh the identified heritage harm in this case.

527. The provision of a new and expanded school on the basis of the significant shortcomings of its current infrastructure, its condition and current financial circumstances for its maintenance and repair, the demonstrated need for its expansion, and very strong Government policy support for such a proposal for which there are no credible or sustainable alternatives, all together merit, in the particular circumstances of this case, very substantial weight being given to them. Moreover, the further benefits to the community and benefits to locally listed heritage assets, modest though they may be, also weigh in support of the proposals in that measure. The obligations of the section 106 agreement and the provisions of the conditions also fully mitigate the other effects of the development, neutralising them in the planning balance. Taken together, all these considerations would clearly outweigh the harm to the Green Belt, heritage and character and appearance so that very special circumstances exist sufficient to justify that the appeal should be allowed.

Recommendation

528. It is recommended that the appeal be allowed, and planning permission be granted for hybrid planning application for outline permission (only access to be considered) for the erection of a replacement secondary school for Howard of Effingham and up to 258 residential dwellings with means of access to Howard of Effingham School and Lodge Farm, Lower Road following demolition of all existing buildings; and full permission for the erection of 37 dwellings, with access, parking and landscape works on land at Brown's Field, Brown's Field Lane, Effingham at Howard of Effingham School and Lodge Farm and Brown's Field, Browne's Lane, Effingham KT24 5JR, subject to the attached Schedule of Conditions.

David Morgan

Inspector

Schedule No.1

Conditions – Outline

1. The development hereby permitted in outline shall accord generally with the following approved parameter plans:

Land at Lower Road Land Use Parameter Plan	2176-A-1500-H
Land at Lower Road Building Heights Parameter Plan	2176-A-1501-H
Land at Lower Road Density Parameter Plan	2176-A-1502-F
Land at Lower Road Landscape and Ecology Parameter Plan	2176-A-1503-H
Land at Lower Road Movement and Access Parameter Plan	2176-A-1504-J

2. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") in relation to the Lodge Farm and existing HoE School sites shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

3. Applications for the approval of reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.

4. The development hereby permitted on the Lodge Farm site shall begin no later than two years from the date of approval of the last of the reserved matters to be approved on this site.

5. The development hereby permitted on the existing HoE School site shall begin no later than two years from the date of approval of the last of the reserved matters to be approved on this site.

6. Prior to the commencement of any development on the Lodge Farm site, details and timetable of mitigation measures to protect the Thornet Wood Site of Nature Conservation Importance (SNCI), (during the construction and operational phases, as well as occupation) shall be submitted to and approved in writing by the Local Planning Authority, implemented and subsequently maintained in accordance with a scheme to be agreed in writing with the Local Planning Authority, which is to include a minimum 15m buffer zone along the

southern edge of the woodland, continuing along the eastern boundary of the appeal site, terminating at the point to the east of the attenuation pond.

7. Prior to the commencement of the development, a Great Crested Newt Precautionary Mitigation Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The development shall only be carried out in accordance with the agreed details.

8. The new HoE School shall not be occupied until a community use agreement has been submitted to and approved in writing by the Local Planning Authority. The agreement shall include details of pricing policy, hours of use, access by non-education establishment users/non-members, management responsibilities and a mechanism for review. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

9. Development at Brown's Field shall not commence until the sport and recreation facilities provided as part of the new HoE School are completed and in operation. Prior to this time, facilities at Brown's Field must remain at least accessible and at equivalent in terms of size, usefulness, attractiveness and quality to the existing facilities.

10. No development shall commence until details of the design and layout of the sports hall has been submitted to and approved in writing by the Local Planning Authority. The details shall include how the sports hall complies with the standards and methodologies set out in the relevant Sport England guidance such as 'Sports Halls Design and Layouts – Updated and Combined Guidance 2012', or any other relevant guidance which may be in force at the time. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity.

11. No development shall commence until details of the design and layout of the Multi-Use Games Area (MUGA), artificial turf pitch and natural turf pitches have been submitted to and approved in writing by the Local Planning Authority. The details shall include how the MUGA and pitches comply with the standards and methodologies set out in the relevant Sport England guidance such as 'Artificial Surfaces for Outdoor Sport Updated Guidance for 2013' and 'Comparative Sizes of Sports Pitches and Courts (OUTDOOR) September 2015 Update', or any other relevant guidance which may be in force at the time. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity.

12. No development shall commence unless and until:
    a. a detailed assessment of the ground conditions of the land proposed for the replacement playing field land shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
    b. based on the results of this assessment, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The development shall only be carried out in full accordance with the agreed detailed scheme, any such scheme to be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

13. Before the sports facilities are brought into use, a Management and Maintenance Scheme including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. In relation to the artificial turf pitch, this Scheme should set out measures to ensure the replacement of the artificial turf pitch surface within a specified period. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

14. Prior to first occupation of the new HoE School, an updated School Travel Plan shall be submitted for the written approval of the Local Planning Authority. The details of the submitted School Travel Plan shall include measures to promote sustainable modes of transport and provisions for the maintenance, monitoring and review of the impact of the Plan and its further development. The development shall thereafter be carried out in all respects in accordance with the approved details.

15. Prior to first occupation of the new HoE School, a Car Park Management Plan demonstrating how the quantum of agreed parking provision will be managed shall be submitted to and agreed in writing by the Local Planning Authority. Any agreed measures shall be implemented before the first occupation of the new HoE School and retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

16. The houses on the development on the land known as the Existing HoE School site and the Lodge Farm site hereby approved shall not be occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to park and for vehicles to turn within the site so that they may enter and leave the site in forward gear and thereafter the parking and turning area(s) shall be retained and maintained for their designated purpose(s).

17. The residential development hereby approved on land known as the HoE School shall not be first occupied unless and until any existing redundant highway accesses from the site to Lower Road have been permanently closed and any kerbs, verge, footway fully reinstated and any existing redundant school related markings have been removed, in accordance with a scheme to be agreed in writing with the local planning authority.

18. The residential development hereby approved on the land known as Lodge Farm shall not be first occupied unless and until any existing redundant highway accesses from the site to Lower Road and Effingham Common Road have been permanently closed any kerbs, verge, footway fully reinstated, in accordance with a scheme to be agreed in writing with the local planning authority.

19. The education development hereby approved on the land known as Lodge Farm shall not be first occupied unless and until any existing redundant highway accesses from the site to Lower Road have been permanently closed and any

kerbs, verges, footway fully reinstated, in accordance with a scheme to be agreed in writing with the local planning authority.

Conditions – Full

20. The development hereby permitted on Browns Field shall be begun before the expiration of seven years from the date of this permission.

21. The development hereby permitted shall be carried out in accordance with the following approved plans:

Browns Field Site Plan	2176-C-1108-J
Browns Field Location Plan	2176-A-1001-A
Browns Field Site Sections A-A and B-B	2176-A-1530.1-A
Browns Field Site Sections A-A and B-B	2176-A-1530-A
Browns Field Site Sections C-C and D-D	2176-A-1535.1-A
Browns Field Site Sections C-C and D-D	2176-A-1535-A
Browns Field Plots 1-3 House Types 3H9(G).1 & 3H1(B).1 Plans and Elevations	2176-A-3000-E
Browns Field Plot 4 House Type 4H11 Plans and Elevations	2176-A-3005-D
Browns Field Plots 28 House Type 4H5 – Render Plans and Elevations	2176-A-3010-F
Browns Field Plots 32 House Type 4H5 – Render Plans and Elevations	2176-A-3011-F
Browns Field Plots 5, 34 House Type 4H5 – Tile Hanging Plans and Elevations	2176-A-3013-C
Browns Field Plot 6 House Type 2BFOG Plans and Elevations	2176-A-3015-F
Browns Field Plot 7-10 House Types 3H9(G).1 & 2H2 Plans and Elevations	2176-A-3020-D
Browns Field Plots 11-16 Affordable Flats Plans and Elevations	2176-A-3025-D
Browns Field Plots 17-19 House Types 3BH-R2.1+ & 2BHA Plans and Elevations	2176-A-3030-D
Browns Field Plots 20122 House Types 3H6.1, 3H9(G).1 and 3H9(G).2 Plans and Elevations	2176-A-3035-D

Browns Field Plot 23 House Type 3H10(G) Plans and Elevations	2176-A-3040-F
Browns Field Plot 27 House Type 3H10(G) Plans and Elevations	2176-A-3041-F
Browns Field Plots 24 & 25 House Types 3H6.1 Plans and Elevations	2176-A-3045-D
Browns Field Plots 29-31 House Types 3H1(B).1 and 3H6.2 Plans and Elevations	2176-A-3050-E
Browns Field Type 4H7 – Plot 33 Plans and Elevations	2176-A-3055-D
Browns Field Type 4H7 – Plot 26 Plans and Elevations	2176-A-3056-B
Browns Field Plot 35 House Type 5BH1 Plans and Elevations	2176-A-3060-D
Browns Field Plot 37 House Type 5BH1 Plans and Elevations	2176-A-3061-D
Browns Field Plot 36 House Type 5BH2 Plans and Elevations	2176-A-3065-C
Browns Field Combined Hard and Soft General Arrangement Plan (Sheet 1 of 3)	D2184_L120
Browns Field Combined Hard and Soft General Arrangement Plan (Sheet 2 of 3)	D2184_L121
Browns Field Combined Hard and Soft General Arrangement Plan (Sheet 3 of 3)	D2184_L122
Browns Field Detailed Hard Landscape General Arrangement Plan (Sheet 1 of 3)	D2184_L200
Browns Field Detailed Hard Landscape General Arrangement Plan (Sheet 2 of 3)	D2184_L201
Browns Field Detailed Hard Landscape General Arrangement Plan (Sheet 3 of 3)	D2184_L202
Browns Field Detailed Soft Landscape General Arrangement Plan (Sheet 1 of 3)	D2184_L300
Browns Field Detailed Soft Landscape General Arrangement Plan (Sheet 2 of 3)	D2184_L301
Browns Field Detailed Soft Landscape General Arrangement Plan (Sheet 3 of 3)	D2184_L302

22. Notwithstanding the parking arrangement shown in the approved plans, the final parking layout shall be submitted and agreed in writing with the local planning authority. The approved parking layout shall be implemented in accordance with the approved details prior to the occupation of the final unit.

23. Prior to the first occupation of the Browns Field development, details of a lighting strategy 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.

24. Prior to the commencement of above ground development at Browns Field, details and samples of the proposed hardstanding, external facing and roofing materials (including bond for the former and means of fixing for the latter), including colour and finish 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.

25. Prior to the occupation of the dwellings on the Browns Field site detailed drawings and/or samples of all external windows (depth of reveal, method of opening, details of heads, cills and lintels) bargeboards, eaves and soffit details and doors have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

26. Prior to the occupation of the dwellings on the Browns Field site, details of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

27. All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the Local Planning Authority, shall be replaced in the next available planting sooner with others of similar size, species and number, unless otherwise agreed in writing by the Local Planning Authority.

28. Prior to the occupation of the dwellings on the Browns Field site, details of all boundary treatments (both within and around the site) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of Browns Field and shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

29. The homes on the development on the land known as Browns Field hereby approved shall not be occupied unless and until the path link between the site and The Street shown on the approved application plans has been constructed in accordance with details submitted to and approved in writing by the local planning authority. The link path shall be retained for that purpose thereafter.

30. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 2015, no additional access points from the Browns Field site shall be created and the means of vehicular access to the development on the land known as Brown Field hereby approved shall be from Browns Lane only.

Conditions – General

31. Prior to the commencement of any development, a phasing plan shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the agreed details.

32. The development hereby approved shall not be commenced until a full scheme for the provision of a Sustainable Urban Drainage System (SuDS) for each phase has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied in that phase until the SuDS has been constructed in accordance with the approved scheme. The scheme shall include the following details:

    a) a full geotechnical report to ascertain if infiltration devices (in part) may be acceptable
    b) full details of the proposed system including pipe positions, dimensions and levels, manhole levels and details of flow control devices
    c) full details of the balancing pond including levels, gradients of banks, flow controls for discharge and full details of any other attenuation proposed
    d) calculations demonstrating a reduction in surface water runoff rates and volumes up to the 1 in 100 plus climate change storm events
    e) demonstration that there will be no on site flooding up to the 1 in 30 storm event and any on site flooding between the 1 in 30 and 1 in 100 storm events will be safely contained on site with mitigation of the residual risk / overland flows
    f) details of how the Sustainable Drainage System will be protected and maintained during the construction of the development shall be submitted
    g) a detailed maintenance schedule for the SUDS drainage system including ownership responsibilities demonstrating that the future maintenance of the SUDS has been secured

33. No residential development shall take place until written confirmation has been obtained from the local planning authority that Suitable Alternative Natural Green Space (SANGS) has been secured and no dwelling shall be occupied before written confirmation has been obtained from the local planning authority that the works required to bring the land up to acceptable SANGS standard have been completed.

34. The development hereby approved shall not be commenced until a foul water drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved drainage works have been completed in full.

35. Prior to the commencement of development on each relevant phase, a Construction Method Statement relating to that phase shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
    a) the parking of vehicles of site operatives and visitors, including measures for traffic management
    b) details of the routing of construction and delivery vehicles to the sites
    c) loading and unloading of plant and materials
    d) storage of plant and materials used in constructing the development

e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
f) wheel washing facilities
g) measures to control the emission of dust and dirt, and plant exhaust fumes, during construction
h) a scheme for recycling/disposing of waste resulting from demolition and construction works
i) precautions to be taken in order to control noise emissions from any fixed plant, including generators, on-site demolition/construction activities, and any piling works (to be in accordance with BS 5228 parts 1 & 4) if necessary
j) The avoidance of the movement of and by heavy goods vehicles, plant and equipment on Lower Road Effingham during the weekday periods when pupils arrive and depart from the schools in Effingham Village.

36. Prior to the occupation of above ground development on each relevant phase, a Landscape Management and Maintenance Plan for each phase of development shall been submitted to and approved in writing by the Local Planning Authority. This shall include commitment to the maintenance of landscaping 5 years from completion of the development.

37. Prior to the commencement of the development on each relevant phase, an Arboricultural Method Statement and Tree Protection Plan for each phase of development shall been submitted to and approved in writing by the Local Planning Authority. At all times until the completion of each of the phases of development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.

38. Prior to commencement of the residential development a Residential Travel Plan shall be submitted for the written approval of the Local Planning Authority. The approved Travel Plan shall be implemented prior to first occupation an each and every subsequent occupation of the development, thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

39. Prior to the commencement of above ground development on any relevant phase, a Land Contamination Assessment and Remediation Strategy for each phase of development shall be submitted to and approved in writing by the Local Planning Authority.

40. Any remediation scheme submitted in accordance with Condition 39 (above) shall be carried out as approved. Prior to the first occupation of the approved building, documentary proof shall be provided to and in approved in writing by the Local Planning Authority together with a quality assurance certificate to show that the works have been carried out in full accordance with the approved remediation strategy. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site.

41. Demolition and/or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor

at any time on Sundays or Bank or National Holidays, unless otherwise agreed in writing with the local planning authority.

42. Prior to the commencement of the development on each relevant phase, a full survey drawing to show existing and proposed ground levels across the development sites, together with details of the slab levels of the proposed buildings, shall be submitted to, and approved in writing by, the Local Planning Authority. The constructed development shall not vary from the approved levels.

43. Prior to the commencement of the development on each relevant phase, a refuse strategy shall have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

44. The residential development hereby permitted shall not be occupied unless and until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for vehicles to park and for vehicles to turn within the site so that they may enter and leave the site in forward gear and thereafter the parking and turning area(s) shall be retained and maintained for their designated purpose(s).

45. No development in each phase shall take place until the applicants or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with an Archaeological Written Scheme of Investigation for each phase of development, which has been submitted to and approved in writing by the Local Planning Authority.

46. Prior to the commencement of the development, a Biodiversity Enhancement Plan (BEP) shall be submitted to and approved in writing by the Local Planning Authority. The BEP shall set out the measures to be included in the development for biodiversity enhancement, a timetable for the implementation of the measures, and details of the future management of the sites in the interest of securing areas of long term biodiversity value. The approved scheme shall be implemented in accordance with the approved details unless previously agreed in writing by the Local Planning Authority.

Core Documents List submitted by Appellant

	Section 1
CD 1.1	Application Form
CD 1.2	Planning Statement
CD 1.3	Design and Access Statement
CD 1.4	Drawings Existing Elevations
CD 1.5	Drawings Landscape
CD 1.6	Drawings Residential
CD 1.7	Drawings School
CD 1.8	Affordable Housing Statement
CD 1.9	BREEAM Strategy
CD 1.10	CFSH Strategy
CD 1.11	Educational Needs Statement (2014)
CD 1.12	Energy Strategy
CD 1.13	Landscape Proposals DAS Contribution
CD 1.14	Open Space Assessment
CD 1.15	Statement of Community Involvement
CD 1.16	Sustainability Statement
CD 1.17	Transport Assessment
CD 1.18	Utilities Statement
CD 1.19	Waste Management Strategy
CD 1.20	Environmental Statement
CD 1.21	Viability Report
CD 1.22	Letter from Berkeley containing revised drawings in relation to Browns Field
CD 1.23	Brown's Field Amended Drawings
	Section 2 – Post-Submission Documents
CD 2.1	Letter from GBC returning drawings in relation to Browns Field
CD 2.2	Natural England objection to planning application (December 2014)
CD 2.3	Guildford Borough Council Decision Notice – Refusal
CD 2.4	Validation Letter
CD 2.5	Site Notice
	Section 3 – Committee Documents
CD 3.1	14/P/02109 Officer's Report to Committee
	Section 4 – Adopted Policy Documents and Guidance
CD 4.1	NPPF (March 2012)
CD 4.2	Guildford Borough Local Plan (January 2003)
CD 4.3	Historic Environment Good Practice Advice in Planning Note 2 (GPA 2): 'Managing Significance in Decision taking' (March 2015)

CD 4.4	Historic Environment Good Practice Advice in Planning Note 3 (GPA 3): 'The Setting of Heritage Assets' (March 2015)
CD 4.5	Results of the 2012/13 Visitor Survey on the Thames Basin Heaths Special Protection Area (SPA)
CD 4.6	Guildford Borough Council Thames Basin Heaths Special Protection Area Avoidance Strategy 2009 – 2016 (January 2015)
CD 4.7	Thames Basin Heaths Joint Strategic Partnership Board. Thames Basin Heaths Special Protection Area Delivery Framework (2009)
CD 4.8	Guildford Borough Council Annual Monitoring Report 2015-16 (October 2016)
CD 4.9	Guildford Green Belt and Countryside Study (Extracts) (2013 and 2014)
CD 4.10	Guildford Borough Land Availability Assessment (February 2016)
CD 4.11	Guildford Borough Duty to Cooperate Topic Paper (June 2016)
CD 4.12	Guildford Borough Strategic Housing Land Availability Assessment (June 2014)
CD 4.13	Guildford Borough Housing Topic Paper (June 2016)
CD 4.14	Sustainable Design and Construction SPD (2011)
CD 4.15	Vehicle Parking Standards SPD (2006)
CD 4.16	Planning Contributions SPD (2011)
CD 4.17	Guildford Borough Local Development Scheme (2013)
CD 4.18	Guildford Borough Council: Issues and Options Local Plan (October 2013)
CD 4.19	Local Development Scheme 2015
CD 4.20	Guildford Borough Council Settlement Hierarchy (May 2014)
CD 4.21	Guildford Borough Council Settlement Profiles (July 2013)
CD 4.22	The Joint West Surrey SHMA (September 2015)
CD 4.23	Guildford Borough Council Annual Monitoring Report 2014-15 (October 2015)
CD 4.24	The South East Plan (2009)
CD 4.25	National Planning Practice Guidance (NPPG 2014 & amended) Design
CD 4.26	National Planning Practice Guidance (NPPG 2014 & amended) Travel Plans, Transport Assessments and Statements
CD 4.27	National Planning Practice Guidance (NPPG 2014 & amended) Transport evidence bases in plan making and decision taking
CD 4.28	National Planning Practice Guidance (NPPG 2014 & amended) Viability
CD 4.29	National Planning Practice Guidance (NPPG 2014 & amended) Conserving and enhancing the historic environment
CD 4.30	National Planning Practice Guidance (NPPG 2014 & amended) Housing and economic land availability assessment
CD 4.31	National Planning Practice Guidance (NPPG 2014 & amended) Housing and economic needs assessment
CD 4.32	National Planning Practice Guidance (NPPG 2014 & amended) Open Space, sports and recreation facilities, public rights of way and local green space
CD 4.33	National Planning Practice Guidance (NPPG 2014 & amended) Duty to Cooperate
CD 4.34	Surrey County Council Vehicular and Cycle Parking Guidance (Jan 2012)
CD 4.35	Manual for Streets, Department for Transport (2007)

CD 4.36	Local Transport Advice Note 1/07 ' Traffic Calming', Department for Transport (March 2007)
CD 4.37	Surrey Transport Plan (2011 – 2026)
CD 4.38	Design Manual for Roads and Bridges TD 54/07
CD 4.39	Local Development Scheme 2017
CD 4.40	Technical Briefing Note Mitigation in relation to Thames Basin Heaths Special Protection Area (August 2014)
CD 4.41	Annual Updating of Off-site Contributions to Special Protection Area Mitigation and Open Space (March 2011 – Update 1 April 2016 to 31 March 2017)
CD 4.42	Guildford Borough Council Housing Delivery Topic Paper 2016
CD 4.43	Woking Borough Council Adopted Core Strategy (2012)
CD 4.44	Waverley Borough Council Five Year Housing Supply (January 2017)
CD 4.45	Woking Five Year Housing Supply Position Statement (April 2016)
CD 4.46	NAO Report – Capital Funding for Schools (February 2017)
CD 4.47	Department for Education, 2016. Green Paper: Schools that work for everyone.
CD 4.48	Department for Education / Department for Communities and Local Government, 11 March 2016. Letter to Local Authorities on Funding for New Schools to Support Housing Growth.
CD 4.49	Department for Education / Department for Communities and Local Government, August 2011. Joint Policy Statement – Planning for Schools Development.
CD 4.50	Department for education, December 2016. Non-statutory guidance: Multi-academy trusts – Good Practice guidance and expectations for growth
CD 4.51	Department for Education / Sebastian James, April 2011. Review of Education Capital.
CD 4.52	Scott Brownrigg Compendium of Extracts relating to buildings standards, legislation and regulations for schools [to be updated]
CD 4.53	West Surrey SHMA Guildford Addendum Report (March 2017)
	Section 5 – Draft Policy Guidance and Consultations
CD 5.1	Effingham Neighbourhood Plan 2016-2030: Draft for Consultation Agreed by Effingham Parish Council on 19 April 2016
CD 5.2	Guildford Borough Council Draft Local Plan (2016)
CD 5.3	Guildford Borough Council Draft Local Plan (2014)
CD 5.4	Guildford Borough Council Draft Thames Basin Heaths Special Protection Area (SPA) Avoidance Strategy SPD (2016)
CD 5.5	Guildford Borough Council Draft Infrastructure Delivery Plan (June 1016)
CD 5.6	Draft Planning Contributions SPD Update (2016)
CD 5.7	Draft South East Plan (2006)
CD 5.8	Effingham Neighbourhood Plan: First Draft September (2015)
CD 5.9	Guildford Proposed Submission Local Plan (June 2017)

	Section 6 - Other relevant planning decisions and documents
CD 6.1	Long Reach SANG Officer's Report (November 2016)
CD 6.2	Wisley Airfield Decision Notice (2016)
CD 6.3	Long Reach SANG Decision (November 2016)
	Section 7 - Appeal Documents (Local Planning Authority)
CD 7.1	GBC's Statement of Case
	Section 8 –Appeal Documents (Applicant)
CD 8.1	Statement of Case and Appendices
CD 8.2	Draft Statement of Common Ground
CD 8.3	Online Appeal Form
CD 8.4	Questionnaire
CD 8.5	SoCG signed
CD 8.6	Transport SoCG signed
	Section 9 – Appeal Documents (Parish Council)
CD 9.1	Statement of Case
	Section 10 –Miscellaneous
CD 10.1	Gleeds letter update (April 2017)
CD 10.2	Artelia Howard of Effingham School options appraisal April 2017
CD 10.3	Tersus Type 2 Asbestos Survey June 2006
CD 10.4	[DOCUMENT MOVED]
CD 10.5	[DOCUMENT REMOVED]
CD 10.6	Natural England Pre-app Letter (August 2014)
CD 10.7	Effingham Parish Council's Chairman Report (2015-16)
CD 10.8	The Howard Partnership Trust Representations Draft Effingham Neighbourhood Plan April 2016 (July 2016)
CD 10.9	Berkeley Homes (Southern) Ltd Representations Guildford Borough Council's Proposed Submission Local Plan: Strategy and Sites (June 2016)
CD 10.10	The Howard Partnership Trust Representations Guildford Borough Council's Proposed Submission Local Plan: Strategy and Sites (June 2016)
CD 10.11	Scott Brownrigg Education Needs Report (Rev 4) 15th January 2016
CD 10.12	Gleeds Condition Survey and Suitability Report Howard of Effingham School (September 2015)
CD 10.13	Surrey County Council, December 2016. School Organisation Plan.
CD 10.14	Scott Brownrigg Howard of Effingham School Options Appraisal Revision 01 April 2017

CD 10.15	Ecology Position Statement (September 2016)
CD 10.16	Lord Nash
CD 10.17	THPT Response to Effingham Neighbourhood Plan (28.04.17)
CD 10.18	Effingham Residents Association statement against Berkeley Homes and Howard School Appeal Appendices 1-2
CD 10.19	Effingham Residents Association statement against Berkeley Homes and Howard School Appeal Appendices 3-5
CD 10.20	Effingham Residents Association statement against Berkeley Homes and Howard School Appeal
CD 10.21	Statement of case prepared on behalf of Guildford Borough Council for Long Reach Appeal APP/Y3615/W/16/3165858
CD 10.22	Email JB to DG 27/8/15
	Section 11 – Case Law and Appeal Decisions
	Cases
CD 11.1	Davis v Secretary of State [2016] EWHC 274 (Admin)
CD 11.2	Timmins v Gedling BC [2015] EWCA Civ 10
	Appeal Decisions
CD 11.3	Department of Communities or Local Government, September 2013. Decision Letter, Ingleby Barwick: APP/H0738/A/13/219538
CD 11.4	Department of Communities or Local Government, February 2016. Decision Letter, Steart Farm: APP/W1145/A/14/2228355
CD 11.5	Department of Communities or Local Government, November 2016. Decision letter, Perry Beeches: APP/P4605/W/15/3141154
CD 11.6	Foreham Road, Ash Decision (2013)
CD 11.7	South Lane, Ash Decision (2016)
CD 11.8	Horsham Road Appeal (February 2016)
CD 11.9	Frensham Vale Appeal (April 2016)

Core Documents Submitted by Guildford Borough Council

	Section 12 – Application Documents
CD 12.1	Gleeds Condition Survey and Suitability Report
CD 12.2	[NOT USED]
CD 12.3	Educational Needs Report (dated 15/01/16)
	Section 13 – Post-Submission Documents
CD 13.1	Natural England Appeal Statement
CD 13.2	Statement on behalf of the Education Authority January 2017 (including Annex 1)

	Section 14 – Committee Documents
CD 14.1	
	Section 15 – Adopted Policy Documents and Guidance
CD 15.1	The Planning Inspectorate Common Land Guidance Sheet 1a
CD 15.2	Little Bookham Conservation Area Appraisal and Management Plan June 2011
CD 15.3	Conservation principle, policies, and guidance for the sustainable management of Historic Environment (Historic England 2008)
	Section 21 –Miscellaneous
CD21.1	Formal Notice re: Designation of Effingham Conservation Area – 23.09.1971
CD21.2	Plan No. CP/70/539 - setting out the original boundaries of Effingham Conservation Area
CD21.3	Minutes of Surrey County Council and Guildford Borough Council's respective Committee's confirming designation of Effingham Conservation Area
CD21.4	Guildford Borough Council Planning Committee Minute of 07.01.1992 in relation to the revision of the boundaries of Effingham Conservation Area
CD21.5	Academies Capital Maintenance Fund Application Documentation (as set out in Rhona Barnfield's Proof Of Evidence – Table 2)
CD21.6	EFA Application Documentation (as referred to in Rhona Barnfield's Proof of Evidence – Appendix 10)
CD21.7	Letter from English Heritage
CD21.8	Email from CD to JB 12.05.2017 Re Education Documents
CD21.9	Department for Education - Educational Excellence Everywhere (2016) [Extracts]
CD21.10	Email from Pegasus to LH 05.11.2014 Re Green Belt Boundaries
CD21.11	SCC School Places Forecast Statement May 2017
	Section 22 - Legislation, Case Law and Appeal Decisions
	Cases
CD22.1	Suffolk Coastal District Council v Hopkins Homes Ltd and another; Richborough Estates Partnership LLP and another v Cheshire East Borough Council [2017] UKSC 37

Core Documents Submitted by Effingham Parish Council

	Section 23 – Application Documents
CD 23.1	Objection from Effingham Parish Council to planning application 14/P/02109
CD 23.2	Appendices to EPC objection to planning application 14/P/02109
CD 23.3	Pre-application consultation documents

	Section 24 – Post-Submission Documents
CD 24.1	[NOT USED]
	Section 25 – Committee Documents
CD 25.1	Speech to GBC Planning Committee by parish councillor Keith Cornwell
CD 25.2	Speech to GBC Planning Committee by parish councillor Paula Moss
	Section 26 – Adopted Policy Documents and Guidance
CD 26.1	[NOT USED]
	Section 27 – Draft Policy Guidance and Consultations
CD 27.1	[NOT USED]
	Section 28 - Other relevant planning decisions and documents
CD 28.1	Submission Effingham Neighbourhood Plan (March 2017)

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Findlay QC	Cornerstone Barristers, London
	Instructed by Solicitor to Guildford Borough Council
He called:	Mr Paul Sherman BA (Hons) MSc MRTPI
	Ms Mariana Beadsworth BA (Hons) Dip TP, Dip Bldg Cons, MRTPI
	Mr Stephen Clyne LCP (Dip.SMS) Cert Ed MAE

FOR THE APPELLANT:

Mr Timothy Corner QC	Landmark Chambers, London
	Instructed by Mr Quod CTP
He called:	Ms Helen Pennington BSc (Hons) PGCE NPQH
	Ms Rhona Barnfield BSc (Hons) MA PGCE
	Mr Tom Dobson BA (Hons) MRTPI
	Mr Michael Olliff Architect RIBA
	Mr Philip Grover BA (Hons) BTP Dip Arch (CONS) MRTPI IHBC
	Mr Derek Finnie BSc (Hons) Dip Cons MSc CEnv MCIEEM
	Mr Tim Foxall BSc MCIHT

Mr John Rhodes BSc RICS OBE

FOR THE PARISH COUNCIL:

Mr Scott Stemp of Counsel	No 5 Chambers, London
and Ms Leanne Buckley-Thompson of Counsel	No 5 Chambers, London

Instructed by Direct Public Access

They called: Mr Cliff Hackett BA (Hons)

Mr Keith Cornwell CEng FBCS MIOD

Ms Paula Moss BA

Mr Paul Whitby BSc MCIEEM CEcol

Mr Peter Bell BA MA PDD IHBC

Councillor Mrs Hogger BSc BA MSc DIC ARCS

INTERESTED PERSONS:

Councillor Mrs Julie Iles	Surrey County Council, Horsleys Division
Mr Jonathan Brown	Local resident
Mr Mark Swyny	Local resident
Mrs Rebecca Darling	Local resident
Mrs Victoria Moss	Local resident
Mrs Julia Dickinson	Local resident

Proofs of Evidence

Guildford Borough Council

PoE1.1	Mr Paul Sherman BA (Hons) MSc MRTPI
PoE1.1.1	Mr Paul Sherman Rebuttal

PoE1.2	Ms Mariana Beadsworth BA (Hons) Dip TP, Dip Bldg Cons, MRTPI
PoE1.3	Mr Stephen Bernard Clyne LCP (Dip.SMS) Cert Ed
PoE1.3.1	Mr Stephen Bernard Clyne Rebuttal

Appellant

PoE2.1	Ms Helen Pennington BSc (Hons) PGCE NPQH
PoE2.2	Ms Rhona Barnfield BSc (Hons) MA PGCE
PoE2.3	Mr Tom Dobson BA (Hons) MRTPI
PoE2.3.1	Mr Tom Dobson
PoE2.4	Mr Michael Olliff Architect RIBA
PoE2.5	Mr Philip Grover BA (Hons) BTP Dip Arch (CONS) MRTPI IHBC
PoE2.6	Mr Derek Finnie BSc (Hons) Dip Cons MSc CEnv MCIEEM
PoE2.6.1	Mr Derek Finnie REbuttal Mr Tim Foxall BSc MCIHT
PoE2.7	Mr John Rhodes BSc RICS OBE
PoE2.8	Mr John Rhodes Rebuttal
PoE2.8.1	

Parish Council

PoE3.1	Mr Cliff Hackett BA (Hons)
PoE3.2	Mr Keith Cornwell CEng FBCS MIOD

PoE3.3	Ms Paula Moss BA
PoE3.31	Ms Moss Rebuttal
PoE3.4	Mr Paul Whitby BSc MCIEEM CEcol
Poe3.5	Mr Peter Bell BA MA PDD IHBC
Poe3.6	Councillor Mrs Hogger BSc BA MSc DIC ARCS
PoE3.6.1	Councillor Hogger Rebuttal

Documents submitted at the Inquiry

ID1 Openings – appellant
ID2 Appearances - Parish
ID3 Openings - Parish
ID4 List of residents wishing to appear in support of the proposal
ID5 ESFA application documents (CD21.6)
ID6 Letter from Effingham Parish Council in respect of the site visit
ID7 E mail from J Busher (GBC) in respect of Brown's Field proposals
ID8 Core document list
ID9 Letter form Effingham Residents Association
ID10 Survey questionnaire – Councillor Iles
ID11 List of residents wishing to appear in support of the proposal
ID12 Written Statement - Rebecca Darling
ID13 Draft section 106 Agreement from Appellants
ID14 List of draft conditions
ID15 Written Statement – Mr Harry Eve
ID16 Written Statement surrey County Council School Commissioning
ID17 Written Statement – Securing the SANG – Appellants (CD21.15)
ID18 Written Statement - Mr Jonathan Brown - Parent
ID19 Written Statement – Julia Dickinson – local resident
ID20 Borough of Broxbourne planning decision notice (CD21.13)
ID21 Borough of Broxbourne planning officer report (CD21.12)
ID22 Secretary of State's decision – Bishop's Stortford case
ID23 Written Statement – Mark Swyny – local resident
ID24 Closing submissions – Guildford Borough Council
ID25 Closing submissions – Effingham parish Council
ID26 Closing submissions – Appellants

List of Abbreviations

1. ACMF - Academies Capital Maintenance Fund
2. BMMEP - Biodiversity, Mitigation, Management and Enhancement Plan
3. BSF – Building Schools for the Future
4. CD – Core Document
5. CIF – Condition Improvement Fund
6. DCLG – Department of Communities and Local Government
7. DfE – Department of Education
8. EPC - Effingham Parish Council
9. ES – Environmental Statement
10. ESFA – Education and Skills Funding Agency
11. FE – Forms of Entry
12. GB – Green Belt
13. GBCS – Breen Belt and Countryside Study
14. GBC – Guildford Borough Council
15. GBLP – Guildford Borough Local Plan
16. HoE - Howard of Effingham
17. JPS – Joint Policy Statement
18. KGV – King George V
19. LBA – Listed Building Act
20. LP – Local Plan
21. MUGA - multi-use games area
22. MVDC – Mole Valley District Council
23. NAO – National Audit Office
24. NP – Neighbourhood Plan
25. NPPF – National Planning Policy Framework

26. NPPG – National Planning Practice Guidance
27. OAN – Objectively Assessed Need
28. PDA – Potential Development Areas
29. PDS – Priority Data Survey
30. PSBP – Priority Schools Building Programme
31. PSLP – Proposed Submission Local Plan
32. RSC – Regional Schools Commissioner
33. SAMM – Strategic Access Management Monitoring
34. SANG – Suitable Alternative Natural Greenspace
35. SCC – Surrey County Council
36. SENP – Submission Effingham Neighbourhood Plan
37. SHLAA – Strategic Housing Land Availability Assessment
38. SHMA – Strategic Housing Market Assessment
39. SNCI - Site of Nature Conservation Importance
40. SoCG – Statement of Common Ground
41. SOP – School Operational Plan
42. SoS – Secretary of State
43. SPA – Special Protection Area
44. TBHSPA - Thames Basin Heaths Special Protection Area

Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand,London,WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.