

**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 (AS AMENDED)**

**LAND NORTH OF RALEIGH DRIVE,
CLAYGATE**

**Appeal against the decision of Elmbridge
Borough Council to refuse outline planning
permission for:**

**Construction of up to 60 dwellings with
associated landscaping and open space with
access from Raleigh Drive (Outline
Application with Appearance, Landscaping,
Layout and Scale reserved).**

**PROOF OF EVIDENCE RELATING TO TOWN
PLANNING MATTERS**

Prepared By:

Steven Brown BSc Hons DipTP MRTPI

For:

**Claygate House Investments Ltd & MJS
Investments Ltd**

LPA REF: 2023/0962

PINS REF: APP/K3605/W/23/3334391

MARCH 2024



Woolf Bond Planning
Chartered Town Planning Consultants

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Documents

SB1	Ecology Statement (M Rose, CSA Environmental) (March 2024)
SB2	Highways Statement (P Bell, Motion) (March 2024)
SB3	Flood Risk & Drainage Statement (G Charles, Charles & Associates) (March 2024)

Click on each one to go directly to the document.

QUALIFICATIONS AND EXPERIENCE

Steven Brown will say:

I hold a Bachelor of Science and Post Graduate Diploma in Town and Country Planning and I am a Member of the Royal Town Planning Institute.

I am the Managing Director of Woolf Bond Planning Ltd – Chartered Town Planning Consultants and I have been engaged in town planning with more than 20 years' experience as a private consultant acting for major house builders, development companies, estates and private individuals. House builder clients include Croudace, Barratt David Wilson Homes, Barwood Land, Bellway, City & Country, Cora, Dandara, Fairfax, Foreman Homes, Persimmon, Redrow Homes and Taylor Wimpey, as well as strategic land promoters, including Hallam Land and CEG.

I am an expert planning witness, having appeared at numerous s78 inquires and Local Plan Examinations.

I have visited the Appeal Site and its surroundings and have examined the relevant plans and documents for the purpose of the inquiry. I also acted for the Appellants in connection with the planning application at issue in this Appeal.

The evidence which I have prepared and provide for the Appeal in this proof of evidence is true and has been prepared, and is given, in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

1.0 INTRODUCTION AND STRUCTURE OF EVIDENCE

General

- 1.1. My evidence addresses the town planning issues and overall planning balance with respect to the Appeal by Claygate House Investments Ltd and MJS Investments Ltd (the “Appellants”) relating to land north of Raleigh Drive, Claygate.

The Appeal Scheme

- 1.2. The Appeal has been made following the decision by Elmbridge Borough Council (“EBC”) to refuse outline planning permission on 22nd September 2023 for:

“Construction of up to 60 dwellings with associated landscaping and open space with access from Raleigh Drive. (Outline Application with Appearance, Landscaping, Layout and Scale Reserved).”

- 1.3. The Scheme is in outline with only the principle of developing the Site for up to 60 dwellings, and the means of access to the Site to be determined as part of this Appeal. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 1.4. The Appeal Site is principally located in the Green Belt (although the access is located outside it). As such, and as part of my evidence, I apply the approach at paragraphs 152 and 153 of the NPPF in assessing the very special circumstances I believe exist to justify the grant of planning permission.

The Reasons for Refusal

- 1.5. The Application was refused for four reasons, as set out in the decision notice dated 22nd September 2023. The decision notice is to be found at **CDB.1** and the officer report at **CDB.2**.

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- 1.6. As stated in the Planning Statement of Common Ground (“SoCG”) (**CDD.1**) it is agreed that the satisfactory completion of a legal agreement will ensure that this will address reasons for refusal 2 (unless that is addressed by condition), 3 and 4.
- 1.7. The Council’s only in principle objection to the Appeal therefore concerns the first reason for refusal, by which it alleges that the benefits of the Scheme, when taken as a whole, do not clearly outweigh the harm they consider is occasioned to the Green Belt by virtue of (i) inappropriateness; and (ii) harm to openness and Green Belt purposes, such that very special circumstances to not exist.
- 1.8. In the circumstances, it follows that if the Inspector considers the benefits, when taken as whole, do clearly outweigh the harm to the Green Belt (as my evidence sets out), then planning permission can (and should) be granted for this sustainable and much needed development.
- 1.9. Taken with Mr Self’s separate evidence on Landscape and Green Belt impacts, it is my position that the benefits when taken as a whole do “clearly outweigh” (NPPF, paragraph 153) the harm, sufficient to justify the grant of planning permission.

Addressing the Reasons for Refusal

General

- 1.10. Statements of Common Ground (“SoCGs”) have been prepared between the Appellants and EBC in relation to the following matters:
- (i) Planning (**CDD.1**),
 - (ii) Affordable Housing (**CDD.2**), and
 - (iii) Housing Land Supply (**CDD.4**).
- 1.11. The second and third of these reflect the matters identified in paragraphs 18 and 19 of the Inspector’s CMC Summary Note (2nd February 2024).

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- 1.12. In light of the Council's changed position on housing land supply, issued to me on the morning of the date of exchange, it is expected that an Addendum to the Housing Land Supply SoCG will be produced to reflect changes in the Council's position on housing land supply issues since that SoCG was signed.
- 1.13. The Planning SoCG (**CDD.1**) sets out an extensive list of matters that have been agreed between the Appellants and EBC, summarised at Paragraph 3 of the Executive Summary as follows:
- a) The Appeal Site is within the Green Belt and the proposed development would comprise inappropriate development for the purpose of paragraphs 152 and 153 of the NPPF.
 - b) The Appeal Scheme is acceptable in highway terms both in terms of locational sustainability and (subject to acceptable planning obligations being secured) highway safety.
 - c) The Appeal Site is in a sustainable location, within walking and cycling distance from local services and facilities.
 - d) There are no flood or drainage objections to the Appeal Scheme. The sequential test has been passed.
 - e) The Appeal Site is not within a valued landscape. The Council has no objection to the Scheme on landscape and visual grounds (save in relation to Green Belt impacts).
 - f) The Appeal Scheme has no impact on designated or undesignated heritage assets.
 - g) The proposed density would not conflict with the development plan's policies in respect of density.
 - h) The Appeal Scheme can secure an appropriate mix of dwelling types and tenures.
 - i) The Appeal Scheme delivers 50% affordable housing (subject to acceptable planning obligations being secured).
 - j) In principle, and subject to sufficient information being available, a condition or planning obligation could be used to secure 10% biodiversity net gain.
 - k) The parties have agreed that the Appellants will provide planning obligations in the form of a Section 106 Agreement.

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- l) EBC is a CIL Charging Authority and financial contributions will also be secured at the reserved matters stage once the amount of proposed floorspace is fixed.
 - m) Satisfactory completion of the Section 106 Agreement will ensure that if the Appeal is allowed and planning permission is granted, all of the financial contributions and other compliant obligations required to enable the proposed development to go ahead are in place and/or will be delivered at the appropriate times. This will resolve reasons for refusal 2 (unless that is addressed by condition), 3 and 4.
- 1.14. As set out at paragraph 4 of the Executive Summary to the Planning SoCG (**CDD.1**), there are only five issues where there continues to be disagreement between the Appellant and the Council:
- a) The level of spatial harm to the Green Belt.
 - b) The level of visual harm to the openness of the Green Belt.
 - c) Whether, and if so, the extent to which the proposal conflicts with the purposes of the Green Belt as set out in paragraph 143 of the NPPF.
 - d) Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances for the purposes of paragraphs 152 and 153 of the NPPF.
 - e) Whether the development plan is up to date for the purposes of NPPF paragraph 11(c) and whether the proposal accords with the development plan.
- 1.15. These issues are addressed in my evidence.
- 1.16. It is clear that the Council agrees (subject to the section 106 being agreed) that the Appeal Scheme accords with the NPPF and the Development Plan, save that it considers that the bar for very special circumstances has not been met (leading to conflict with NPPF paragraphs 142, 143, 152 and 153 and Development Management Policy DM17). That is a particularly striking position.
- 1.17. Importantly, for the purpose of determining this Appeal, it is also agreed that the Appeal Site is sustainable in locational and transport terms having regard to accessing local services and facilities (paragraphs 3(a) and (b) of the Executive Summary to the Planning SoCG refers).

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- 1.18. Table 1 of the Housing Land Supply SoCG (**CDD.4**) set out the Council's then position for the Appeal that there is a 4.38 year supply of deliverable housing land. As addressed in my separate proof of evidence on Housing Land Supply, on 18th March 2024, the Council conceded on certain sites, with the result that it contended for only a 3.99 year supply. However, on the morning of 19th March 2024, it changed its position again, contending for a 4.14 year supply.
- 1.19. As also set out in my proof of evidence on Housing Land Supply, it is my position for the Appellants that the Council is only able to demonstrate a 3.51 year supply of deliverable housing land, well below the 4 year minimum requirement that applies by virtue of paragraphs 77 and 226 of the NPPF (and noting NPPF policy to boost the supply of homes).
- 1.20. The separate Affordable Housing SoCG (**CDD.2**) sets out the very considerable agreement that has been reached between the parties on this issue. It is common ground that there is an acute national housing crisis (paragraph 10.17) and that there is a significant need for affordable housing across Elmbridge Borough and the wider south of England, which has not been delivered to date (paragraph 10.18).
- 1.21. It is common ground that the up to 30 affordable dwellings that would be delivered by the Appeal Scheme meet the requirements of Policy CS21 of the Core Strategy and exceed those of policy HOU4 of the emerging Local Plan (paragraphs 10.1 and 10.2).
- 1.22. It is also common ground that this affordable provision is a separate material consideration to be taken into account as a benefit when considering the very special circumstances test (paragraphs 10.19 to 10.21).
- 1.23. The only disagreement between the parties is whether it should be afforded "substantial weight" (as the Council contend) or "very substantial weight" (the Appellants' position) (paragraph 11.1).
- 1.24. For the reasons set out in Mr Stacey's evidence, I consider that very substantial weight is warranted in this case.

- 1.25. The Council's continuing inability to demonstrate a deliverable supply of housing land, and sufficient supply to meet the acute affordable housing need in the Borough, represents a chronic position. Moreover, the housing need is so large, it cannot be addressed through the reuse of land within identified settlements. In the circumstances, I attach very substantial weight to the delivery of housing from the Appeal Site, both in respect of market and (separately) in respect of affordable housing.
- 1.26. I also conclude that the Appeal Site is in an inherently sustainable location in helping to contribute towards meeting the identified housing need. Importantly, County Highways support development of the Site for up to 60 dwellings (subject to the imposition of appropriately worded conditions/obligations) and the locational merits and acceptability of the Site in highway safety terms are both agreed in the Planning SoCG (**CDD.1**) (see paragraphs 3(b) and (c) of the Executive Summary).

Evidence

- 1.27. The acceptability of the Appeal Scheme in Landscape and Green Belt terms is addressed in the Proof of Evidence prepared by Mr Clive Self (CSA Environmental). The affordable housing issues are addressed in the Proof of Evidence prepared by James Stacey of Tetlow King. I rely upon their findings.
- 1.28. Separate Statements relating to ecology, transport, and drainage have been prepared on behalf of the Appellants. They provide the Appellants' position on these issues (noting that the Council has no objection on these grounds, subject to the section 106 being completed) and respond where appropriate to third-party comments received at the Application and Appeal Stage. They are attached to my evidence as follows:
- Ecology Statement – Mark Rose (CSA Environmental) (**SB1**)
 - Highways Statement – Phil Bell, Motion Transport (**SB2**)
 - Drainage Statement – Glenn Charles (Charles & Associates) (**SB3**)

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- 1.29. I rely upon the content of the Statements in so far as they address technical matters, albeit the acceptability of the Appeal Scheme in technical terms is agreed with the Council.
- 1.30. My evidence addresses the overall planning balance in considering the acceptability of the Appeal Scheme.
- 1.31. I also explain by way of the application of paragraphs 152 and 153 of the Framework, that the benefits clearly outweigh the harms. This is the central policy test for this Appeal, both under the NPPF and under policy DM17 of the Development Management Plan.
- 1.32. A similar approach has been adopted by Inspectors in numerous appeal decisions, examples of which are included in the Core Documents list in the **CDH** series.
- 1.33. Given the Appeal Site is greenfield land and in single ownership, the ability of a site to deliver quickly and thus contribute towards the 5 year housing land supply is considered to represent a very substantial benefit of the proposal, as was found in the following decisions:
- 151 residential dwellings at the former Dylon International Premises, Lower Sydenham (26 June 2019) (APP/G5180/W/18/3206569) (paragraph 35 refers) (**CDH.41**);
 - the South of Millfield Lane, York appeal decision (23 Oct 2019) (APP/C2741/W/19/3227359) (paragraph 39 refers) (**CDH.12**);
 - The decision for up to 500 dwellings at Oxford Brookes University, Wheatley Campus (South Oxfordshire) (23 April 2020) (APP/Q3115/W/19/3230827) (paragraph 35 refers) (**CDH.15**);
 - The decision for up to 100 dwellings off Bullens Green Lane, Colney Heath (14 June 2021) (APP/B1390/W/20/3265925) (paragraphs 49 and 78 refer) (**CDH.2**);

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- The decision for 167 dwellings on land south of Heath Lane, Codicote (North Hertfordshire) (28 Sept 2021) (APP/X1925/W/21/3273701) (paragraph 36, 41 and 106 refer) (**CDH.3**);
 - The decision at Kennel Lane, Billericay (Basildon) (APP/V1505/W/22/3298599) (9 Dec 2022) (paragraph 60 refers) (**CDH.27**);
 - The decision for 144 dwellings at Sondes Place Farm, Dorking (28 Nov 2023) (APP/C3620/W/23/3324631) (paragraph 84 refers) (**CDH.13**); and
 - The decision for 269 dwellings at Dunton Road, Basildon (APP/V1505/W/23/3325933) (11 Dec 2023) (paragraph 45 refers) (**CDH.45**).
- 1.34. Their relevance to the determination of the Appeal includes in relation to the weight to be ascribed to market housing (and other benefits) when undertaking a planning judgement as to the acceptability of allowing inappropriate development in the Green Belt in the context of the approach set out at paragraph 153 of the NPPF.
- 1.35. The decisions included in Core Document series **CDH** include examples both of appeals that were allowed within the Green Belt and of those that were dismissed. Each case is obviously determined on its merits. As I have made clear, it is my evidence for this inquiry that the Appeal Scheme should be allowed.
- 1.36. The ability of the site to deliver affordable housing is another very substantial benefit of the proposal, as Mr Stacey demonstrates in his Proof of Evidence (see in particular Section 11, Appendices JS5 and JS6 and the various appeal decisions there referred to).
- 1.37. I address the benefits of market and affordable housing and the other benefits of the Appeal proposal in sections 5 and 6 below.

1.38. It is my evidence that planning permission should be granted because:

1. The harm to the Green Belt by reason of inappropriateness, the limited and localised harm to openness, the limited conflict with purpose (c) under paragraph 143 of the NPPF, and the localised landscape impacts, are clearly outweighed by the benefits I have identified such that very special circumstances exist to justify the grant of planning permission;
2. There is therefore no “clear reason” for refusing planning permission under paragraph 11(d)(i) of the NPPF and, applying paragraph 11(d)(ii), the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole (quite the opposite);
3. As a result of passing the very special circumstances test, the Appeal Scheme complies with policies DM1 and DM17 of the Development Management Plan, and despite some conflict with the out of date settlement strategy established under Policies CS1 and CS2 of the Core Strategy, complies with the development plan overall; and
4. Applying the section 38(6) test, the Appeal Scheme is in conformity with the development plan when taken as a whole and material considerations (including the tilted balance under NPPF policy) lend further support for the grant of planning permission.

The Inspector’s Main Issues

1.39. At the Case Management Call (“CMC”), the Inspector helpfully set out the following main issues to be addressed in evidence, which matters are set out at paragraph 12 of the Inspector’s CMC Summary Note (2nd February 2024) as follows:

1. The effect of the proposal on the openness of the Green Belt, and the purposes of including the land within it;
2. Whether the proposal makes adequate provision of biodiversity net gain, affordable housing, highway improvement schemes, and a car club; and
3. Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

1.40. The main issues identified by the Inspector are addressed in evidence.

Scope and Overview of My Evidence

General

- 1.41. As set out above, my evidence addresses the overall planning balance having regard to the merits of the Appeal Scheme in the context of the development plan (having regard to the application of Section 38(6)) and relevant material considerations. This includes in relation to identifying and giving weight to the Scheme's harms and benefits in the context of the paragraph 153 balance.
- 1.42. In setting out my evidence, I apply the well-trodden approach set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 which sets out a requirement for planning applications and appeals to be determined in accordance with the development plan unless other material considerations indicate otherwise.

Content

- 1.43. The remainder of my evidence is set out as follows:
- i. Description of the Appeal Scheme
 - ii. Description of the Appeal Site and its context: A Sustainable Location
 - iii. The Planning Policy Context
 - iv. Market and General Housing Matters
 - v. Affordable Housing Matters
 - vi. Assessing the Green Belt Harm
 - vii. Assessing the Potential for Other Harms
 - Character and appearance of the area (inc. residential amenity)
 - Trees
 - Ecology
 - Highways
 - Flood/drainage
 - Local infrastructure capacity
 - viii. The Overall Planning Balance
 - ix. Summary and Conclusion

2. DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1. As explained in section 3 of the Planning SoCG (**CDD.1**), it is common ground that the Appeal Site is sustainably located. It is within walking and cycling distance to local services and facilities. Bus services are also available to Esher Town Centre. The locational sustainability of the Appeal Site is also addressed in the Highways Statement of Mr Bell (**SB2**).
- 2.2. As Mr Self explains in his Proof, the Site (which extends to approximately 2.2ha), occupies a single grassland field and includes areas of previously developed land on its western side in the form of a tennis court and bowling green associated with the former use of Claygate House. It is accessed from Raleigh Drive. It is in the Green Belt, but is not covered by any statutory designations for landscape character or quality and is not a valued landscape (all this is common ground – Planning SoCG Executive Summary paragraph 3(e) and main text paragraph 3.8).
- 2.3. The Site has a strong relationship to Claygate, with existing housing stock enclosing the Appeal Site on three sides.

3.0 DESCRIPTION OF THE APPEAL SCHEME

The Appeal Scheme

- 3.1. As explained in the Planning SoCG (**CDD.1**), the Appeal Scheme description is as follows:

“Outline application for up to 60 dwellings, associated landscaping and open space with access from Raleigh Drive”

- 3.2. Only the principle of developing the Site for up to 60 dwellings and the means of access to the Site are to be determined as part of this Appeal.
- 3.3. Appearance, landscaping, layout and scale are reserved for subsequent determination.
- 3.4. The Appeal Scheme is set out on the following plans:

The Scheme

- i. Site Location Plan No. 22071-S101C
- ii. Proposed Crossroads Access Arrangement Plan No. 170822-03 Rev D (Appendix C of Technical response to Surrey County Council dated 03/07/23 produced by Motion)

Supporting Plans

- iii. Proposed Illustrative Masterplan No. 22071/SK08F
 - iv. Proposed Parameter Plan No. 22071/C03H
 - v. Illustrative Landscape Strategy – CSA/3230/106
 - vi. Coloured Sketch Elevations Plan – 22071/SK09A
- 3.5. The Plans at (i) and (ii) comprise the application plans for the purpose of determining the Appeal and are proposed to be approved plans under draft condition 3 (**CDD.3**).
- 3.6. Plans (iii) to (vi) are submitted for illustrative purposes only but provide context for the assessment of the potential impact of the Appeal Scheme upon the Site and character of the area.

The Masterplan Approach

General

- 3.7. The Illustrative Masterplan (Paragraph 3.4 above refers) has also been informed by a thorough contextual appraisal of the site and its surroundings. This includes the various supporting technical reports submitted with the original application. The Appeal particulars clearly demonstrate how landscape matters have been pivotal in shaping the Illustrative Layout.
- 3.8. The design approach also responds to the requirement for high-quality development set out in section 12 of the NPPF and the corresponding design approach set out in the National Design Guide.
- 3.9. As paragraph 4.11 of the Planning SoCG (**CDD.1**) records, the approach to the scheme design means that the development is set within a green infrastructure framework and landscaped areas are capable of creating opportunities for amenity, formal and informal play for new and existing residents of Claygate. Furthermore, the Site's landscaped site boundaries and ecological corridors will be strengthened through additional tree planting and the retention of the majority of the existing trees and hedgerows.
- 3.10. As explained in the Design and Access Statement submitted with the Appeal Scheme (**CDA.3**) (page 23 refers), the following design principles have informed the Outline Scheme:
- Delivering a scheme which embodies the characteristics of the area;
 - Making optimum use of the land for the delivery of new homes, with development form and density appropriate to the location;
 - Delivering a development with a range of house sizes, types and tenures in response to local need;
 - Conserving and enhancing the landscape, ecology, heritage and natural resources around the site with green corridors and linkages;
 - Respecting the amenity and setting of neighbouring residential development;

- Maximising the linkages between the site and surrounding area and provide opportunities for walking and cycling;
 - Developing an inclusive, safe and secure residential environment; and
 - Providing adequate on-site arrangements for vehicular access, servicing and parking, including the emergency services and statutory authorities.
- 3.11. The Scheme can secure a mix of dwelling sizes and tenures, with a gross density of 27dph (based on a Site area of 2.2ha) and a net density of 43dph.
- 3.12. Storey heights are proposed at up to 3 storeys.
- 3.13. As set out at paragraphs 4.12 of the Planning SoCG, it is agreed that the detailed scheme design will be assessed at the reserved matters stage. There is no reason why a high quality development cannot be secured at the reserved matters stage.
- 3.14. Overall, the Illustrative Site Layout provides for up to 60 dwellings (including 50% (up to 30no.) affordable homes).
- 3.15. As paragraph 4.10 of the Planning SoCG records, the Illustrative plans also show how the Site could encompass the proposed patterns of streets and spaces, the suburban grain, the location, arrangement and design of the principal development blocks and the green infrastructure that the new development will sit within. This is considered in keeping with the surrounding development.

4.0 THE PLANNING POLICY CONTEXT

General

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. This represents the s.38(6) 'balance'.
- 4.2. As explained at paragraph 3.3 of the Appellants' Statement of Case, the first test, and the statutory starting point is whether the application is *'in accordance with the plan as a whole.'*

The Development Plan

- 4.3. At the local level, the Development Plan comprises the following:
- Elmbridge Core Strategy (adopted July 2011); and
 - Elmbridge Development Management Plan (adopted April 2015)
- 4.4. I address these in turn below.

The Core Strategy (2011)

- 4.5. The Core Strategy ("CS") was adopted in July 2011 and covers the period from 2011 to 2026.
- 4.6. The Appeal Site comprises greenfield (and part previously developed) land principally located within the Green Belt. It is within the settlement area of Claygate shown on the map at page 48 of the Core Strategy, but (apart from its access) it is outside the built up area (though adjacent to it). It is therefore (apart from its access) outside the area to which new development is directed by policy CS1(2) and (3), policy CS2 and policy CS11 of the Core Strategy.

Despite being within the settlement area of Claygate it is therefore outside the settlement policy boundaries defined in the development plan.

4.7. As the Planning SoCG records, applicable policy considerations from the Core Strategy comprise as follows:

- **CS1 Spatial Strategy**
- CS2 Housing Provision, Location and Distribution
- **CS11 Claygate**
- **CS15 Biodiversity**
- CS17 Local Character, Density and Design
- CS19 Housing Type and Size
- **CS21 Affordable Housing**
- **CS25 Travel and Accessibility**
- **CS26 Flooding**
- CS27 Sustainable Buildings

4.8. The policies in bold are agreed between the Appellant and Council as comprising the most important for determining the Appeal (see paragraphs 5.10 and 5.11 of the Planning SoCG). It is common ground that policies CS2 and CS27 are out of date (see paragraph 5.12 of the Planning SoCG). As I explain below, although the Appeal Scheme conflicts with policies CS1 and CS11 (on account of the location of the Site beyond the defined settlement policy boundary), they are also out of date.

4.9. The Core Strategy was adopted on 20th July 2011 and is therefore nearly 13 years old. It was prepared to be in conformity with the South East Plan and against a different planning policy regime of PPGs and PPSs. The requirements of the 2012 NPPF were not a consideration in its preparation (since it predated that document).

4.10. The advent of the NPPF included a requirement at paragraph 47 (2012 version) to “boost” housing supply by, among other things, ensuring each Local Plan “meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework”. The objective of significantly “boosting” the supply of homes has been retained in paragraph 60 of the current NPPF.

4.11. The changed approach to housing in the NPPF was considered by the High Court in *In Gallagher Homes Limited (2) Lioncourt Homes Limited v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin) **(CDG.5)** (upheld on these issues on appeal to the Court of Appeal [2014] EWCA Civ 1610 **(CDG.6)**). The Judge held at [94] that paragraph 47 of the NPPF requires full housing needs to be objectively assessed in some way, and that it was insufficient for NPPF purposes for all material considerations (including need, demand and other relevant policies) simply to be weighed together. He said at [94]:

“Paragraph 47 requires full housing needs to be objectively assessed, and then a distinct assessment made as to whether (and, if so, to what extent) other policies dictate or justify constraint. Here, numbers matter; because the larger the need, the more pressure will or might be applied to infringe on other inconsistent policies. The balancing exercise required by paragraph 47 cannot be performed without being informed by the actual full housing need.”

4.12. Hickinbottom J confirmed that, contrary to the Council's submissions, the principles set out by Sir David Keene in *City and District Council of St Albans v Hunston Properties Limited and the Secretary of State for Communities and Local Government* [2013] EWCA Civ 1610 on the proper approach to interpreting §47 NPPF applies not only to decision-taking but to plan-making. In that context, he said at [91] that:

“in plan-making, full objectively assessed housing needs are not only a material consideration, but a consideration of particular standing with a particular role to play.”

4.13. Policies CS1 and CS2, and so far as Claygate is concerned policy CS11, therefore set out a spatial approach to the distribution of the housing requirements on an out of date policy basis.

4.14. They also do so on a much lower assessment of housing need than the current need. Policy CS2 requires 225 dwellings annually or 3,375 over the plan period. This compares to the 650dpa requirement derived from the Standard Method in so far as the Core Strategy is now (and has been since July 2016) more than five years old.

- 4.15. As paragraph 3.4 of the Core Strategy identifies, 57% of the 37 square mile Borough is Green Belt land with a further 10% designated as open space. The majority of the Borough's residents (suggested to total 130,000 in paragraph 3.4) live in the settlements identified in Policy CS1, which include Claygate. As such all land outside the existing settlement policy boundaries is designated as Green Belt, but to meet current housing needs some of this will need to be developed.
- 4.16. As the settlement policy boundaries in the Core Strategy were not identified in relation to the current needs for market and affordable housing, they operate as a significant constraint to development. The spatial application of the policies for the supply of housing are therefore substantially out of date given their lack of consistency with the NPPF and its approach to boosting market and affordable housing.
- 4.17. In *Suffolk Coastal DC v Hopkins Developments Ltd* [2017] UKSC 37 Lord Carnwath's **(CDG.2)** judgment confirms at paragraph 63 that the weight to be attached to restrictive policies, such as countryside and landscape policies, can be reduced where they are derived from settlement policy boundaries that in turn reflect out of date housing requirements. There are obvious parallels with Elmbridge.
- 4.18. The restrictive approach to providing for development within the settlement policy boundaries is failing to satisfy current housing needs based on the definition of built-up areas as defined in the development plan. In addition, there remains an acute and unmet need for affordable housing.
- 4.19. I conclude, by operation of the approach set out at paragraph 225 of the NPPF, that the policies for the supply of housing are inconsistent with the NPPF.
- 4.20. The Council acknowledges that Policy CS2 is out of date, but nonetheless contends that the policies that are most important for determining the appeal are not out of date (see paragraphs 5.11 and 5.16 of the Planning SoCG). I

cannot understand this. The spatial strategy, so far as Claygate is concerned, is established by Policies CS1, CS2 and CS11.

- 4.21. The Council rightly accepts that policy CS2 is out of date (paragraph 5.11 of **CDD.1** refers), but so are policies CS1 and CS11, since the spatial strategy established by these policies was prepared against out of date national and regional policy, planned for out of date needs and does not meet the full objectively assessed market and affordable housing needs.
- 4.22. Whilst the Appeal Site is beyond the settlement policy boundary for Claygate, as defined in the development plan, the Council cannot reasonably dispute that to meet housing needs, this will have to be met outside the existing scope of the spatial strategy.
- 4.23. In the circumstances, it is my opinion that policies CS1, CS2 and CS11 are all out of date (as is Policy CS27). As a consequence, the development plan is not up to date for the purposes of NPPF paragraph 11(c), and the policies that are most important for determining the appeal are out of date, regardless of the housing land supply position.
- 4.24. Moreover, as I address below, my view is that the Council cannot demonstrate an up-to-date four year supply of deliverable sites for housing. As such, and in accordance with paragraph 11(d) and footnote 8 of the 2023 NPPF, the most important policies (including those relating to settlement policy boundaries) are also to be regarded as out of date on this basis.
- 4.25. For this Appeal, I conclude that the conflict with the settlement policy boundaries derived from Policies CS1, CS2 and CS11 attracts only limited weight. This is on account of the settlement policy boundaries having been tightly defined to meet a long out of date and non-NPPF compliant requirement and the worsening market and affordable housing land supply position which I consider to be chronic. I consider the supply of housing within Elmbridge Borough to be anaemic.

4.26. The Council's Decision Notice also identifies the Appeal Scheme as being in conflict with policies CS15, CS21 and CS25 of the Core Strategy. However, as detailed in the Planning SoCG (**CDD.1**), reasons for refusal 2, 3 and 4 have effectively fallen away. I agree that (subject to completion of the section 106) there is no breach of these policies.

Development Management Plan (2015) (DMP)

4.27. The Development Management Plan was adopted in April 2015 and implements the spatial policies from the CS. It reflects the requirements of the National Planning Policy Framework in place at that time, noting that Policy DM1 applies the Presumption in Favour of Sustainable Development.

4.28. Importantly, the Development Management Plan did not review the housing requirement or reconsider any amendments to the Green Belt to reflect a more up to date housing requirement.

4.29. As recorded at paragraph 5.14 of the Planning SoCG (**CDD.1**), the following Development Management Plan policies are considered relevant to the Appeal:

- **DM1 Presumption in Favour of Sustainable Development**
- **DM7 Access and Parking**
- DM10 Housing
- **DM17 Green Belt (Development of New Buildings)**

4.30. The policies highlighted in bold have been agreed with the Council as being the most important policies from the Development Management Plan for determining the Appeal. It is agreed that the four policies are up to date (paragraph 5.15 of the Planning SoCG).

4.31. As stated in the Planning SoCG, the Appellants and the Council are now in agreement that reasons for refusal 2, 3 and 4 can be satisfactorily addressed. As such, Policy DM17 is also the only policy from the Development Management Plan with which the Council alleges the Appeal Scheme to be in conflict.

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- 4.32. Because the Appeal Scheme involves new buildings which are deemed to be “inappropriate development” in the Green Belt, it is common ground that the provisions at Policy DM17 of the Development Plan and the tests at paragraphs 152 and 153 of the NPPF are engaged.
- 4.33. In the circumstances, it is my opinion that the Scheme’s substantial benefits clearly outweigh its harms, such that the test at policy DM17 and paragraph 153 of the NPPF is passed.
- 4.34. Because the paragraph 153 test is passed, on account of the identified benefits clearly outweighing the harms, the Scheme automatically satisfies the paragraph 11(d) test. This is because satisfying the paragraph 153 test means the Scheme passes the 11(d)(i) test and could not then fail the test at 11(d)(ii).
- 4.35. The Scheme therefore benefits from the presumption in favour of sustainable development, and accordingly with policy DM1 of the Development Management Plan.
- 4.36. Notwithstanding the conflict with the spatial strategy established under the out of date Core Strategy, it is my opinion that the Appeal Scheme is in accordance with the development plan when taken as a whole. This is on account of the Appeal Scheme’s conformity with Development Management Policies DM1 and DM17, which operate as an exception to the otherwise restrictive approach to development in the Green Belt.

Summary

- 4.37. The conclusions drawn from the above assessment are as follows:
- In relation to the s38(6) starting point, the location of the Appeal Scheme, within the Green Belt and beyond the settlement policy boundary conflicts with Policies CS1, CS2 and CS11.
 - However, the Core Strategy was prepared against now out of date national and regional policy (and before the first version of the NPPF) and is out of date in relation to the housing requirement set out in the Spatial Strategy and this means that Policies CS1, CS2 and CS11 are out of date (along with the associated settlement policy boundaries).

- The Core Strategy and Development Management Plan do not seek to identify the full objectively assessed needs for market housing (derived from the standard method) and affordable housing for the purpose of the NPPF.
- The settlement policy boundaries defined in the Core Strategy relate to the out of date housing requirements in Core Strategy Spatial Strategy.
- The Development Plan did not revisit the spatial strategy established by the Core Strategy and does not provide for full objectively assessed needs for market housing (derived from the standard method) and affordable housing for the purpose of the NPPF.
- As a result of policies CS1, CS2 and CS11 being out of date, the development plan is not up to date for the purposes of paragraph 11(c) of the NPPF and the policies which are most important for determining the appeal are out of date for the purposes of paragraph 11(d) of the NPPF.
- The Council cannot demonstrate a four year supply of deliverable housing land and this reduces the weight to be attached to the conflict with the location of the site beyond the settlement policy boundary for Claygate. By application of footnote 8 of the NPPF, it is an additional reason why the paragraph 11(d) presumption is engaged.
- Although I identify conflict between the Appeal Scheme and Policies CS1, CS2 and CS11 (being located beyond the settlement policy boundary), I maintain the Scheme accords with Policies DM1 and DM17 (which operate as an exception to the otherwise restrictive approach to development in the Green Belt).
- I conclude that the Appeal Scheme accords with the development plan when taken as a whole.

Material Considerations

4.38. Material considerations include the following:

- The NPPF
- The Local Plan Review (and the supporting evidence base)
- Housing Land Supply
- Affordable Housing

4.39. I introduce these considerations below and expand upon the implications arising in sections 5, 6, 7, 8 and 9 of my evidence.

National Planning Policy Framework (2023)

- 4.40. The current version of the National Planning Policy Framework (NPPF) was issued in December 2023 (**CDJ.3**). It is a material consideration of significant standing in the determination of planning applications and appeals.
- 4.41. The content of the NPPF as it relates to the proposed development of the appeal site is addressed in the order set below:
- The presumption in favour of sustainable development
 - Decision making
 - Delivering a sufficient supply of homes
 - Promoting sustainable transport
 - Achieving well-designed places
 - Protecting Green Belt land
 - Conserving and enhancing the natural environment

The Presumption in Favour of Sustainable Development

- 4.42. Paragraph 11 of the NPPF provides a presumption in favour of sustainable development. I have explained above why I consider the development plan is not up to date for the purposes of paragraph 11(c) and why the paragraph 11(d) presumption is engaged.

Decision Making

- 4.43. Section 4 of the NPPF sets out the approach to decision-making. Paragraph 38 makes it clear that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 4.44. The Appeal Site is sustainably located and will improve the economic and social conditions of the area. It will also help to provide public open space and enhanced biodiversity habitats (securing an overall total BNG exceeding 10% (including through off-site enhancements)).

- 4.45. Paragraph 48 refers to the weight to be given to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the NPPF.
- 4.46. In the context of Elmbridge, the Regulation 19 Draft Local Plan has been submitted to the Planning Inspectorate for examination and is currently being examined. However, it is common ground that it carries only limited weight (paragraph 5.20 of the Planning SoCG).

Delivering a Sufficient Supply of Homes

- 4.47. Paragraph 60 sets out the Government's objective of significantly boosting the supply of homes which reflects paragraph 8b.
- 4.48. Paragraph 61 sets out the approach to determining the minimum number of homes needed, which should be informed by a local housing need assessment conducted using the Standard Method in national planning guidance – unless an alternative approach is justified. It is also added that any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.
- 4.49. Paragraph 69 sets out the need to plan for a five year supply of deliverable sites for housing. It also requires sites for years 6-10 and beyond. By paragraph 77, authorities generally have to identify and update annually a minimum 5 year supply of housing. However, since Elmbridge's emerging Local Plan is being examined, by paragraphs 77 and 226, the minimum is reduced to a 4 year housing land supply.
- 4.50. This Appeal Scheme for up to 60 dwellings would make an important contribution towards the shortfall in supply. In the circumstances of this case, it represents a material consideration of very substantial weight in support of the Appeal Scheme.

Promoting Sustainable Transport

- 4.51. The Appeal Site is located immediately adjoining an identified settlement (within the Claygate settlement area), within safe and convenient walking distance to local services and facilities (NPPF, paragraph 147).
- 4.52. The supporting Transport Statement demonstrates the acceptability of the scheme in sustainability terms, as does Mr Bell's Highways Statement (**SB2**).
- 4.53. Section 9 of the NPPF sets out the approach to providing for sustainable transport.
- 4.54. Paragraph 108 requires transport issues to be considered from the earliest stages of development proposals in order that, *inter alia*, opportunities to promote walking, cycling and public transport use are identified and pursued.
- 4.55. Paragraph 109 requires the planning system to actively manage patterns of growth in support of these objectives, with development focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 4.56. Paragraph 114 requires applications for development to take opportunities to promote sustainable transport modes, achieve safe and suitable access and to mitigate the impacts of trip generation on the highway network.
- 4.57. Paragraph 115 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 4.58. In highway and accessibility terms, the Site is located within walking distance to local services and facilities, and within reach of larger settlements via readily accessible public transport. The supporting TS and Mr Bell's Highways Statement (**SB2**) also demonstrate the acceptability of the Scheme in sustainability and highway terms. Accordingly, the Scheme is consistent with

section 9 of the NPPF. It is also common ground that the scheme is locationally sustainable and (subject to planning obligations and conditions) entirely acceptable in highways terms (see the Planning SoCG).

Achieving Well-Designed Places

- 4.59. Section 12 sets out the approach to achieving well-designed places.
- 4.60. Paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It is added that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 4.61. Paragraph 136 adds that trees make an important contribution to the character and quality of urban environments, with planning policies and decisions to ensure opportunities are taken to incorporate trees within developments. The outline scheme incorporates a number of trees
- 4.62. The detailed design is a matter that can be controlled at the reserved matters stage.
- 4.63. As paragraphs 4.9 to 4.12 of the Planning SoCG refer (**CDD.1**), the Council has no objection on design grounds, and a good standard of design is achievable.

Green Belt

- 4.64. Section 13 sets out the policy basis for protecting Green Belt land. It states that Green Belt boundaries can only be reviewed in exceptional circumstances, through the local plan-making process.
- 4.65. Paragraph 143 sets out the five purposes of the Green Belt.

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- 4.66. Policy guidance in respect to the assessment of applications which affect Green Belt land starts at paragraph 152, which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (“VSCs”).
- 4.67. Paragraph 153 requires local planning authorities (and in this case the Inspector) to ensure that substantial weight is given to any harm to the Green Belt. It is added that VSCs will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 4.68. Paragraphs 154 and 155 set out a limited number of exceptions to inappropriate development in the Green Belt. It is accepted that the Appeal Scheme does not meet any of those exceptions listed.
- 4.69. On the basis of the foregoing, the Appeal Scheme falls to be determined on the paragraph 153 test, which is set out in full as follows:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”. (My emphasis underlined)

- 4.70. As with any proposal for inappropriate development, there will be definitional harm. There will also be a degree of harm to openness and to the third Green Belt purpose, though such harms are limited in this case. Green Belt considerations are set out in section 7 of my evidence (below) as well as in the proof of evidence prepared by Clive Self.

Natural Environment

- 4.71. Section 15 sets out the approach to conserving and enhancing the natural environment.

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- 4.72. As to landscape considerations, the site is not located within any formal designations and is not a valued landscape (agreed at paragraph 3(e) of the Executive Summary to the Planning SoCG). Accordingly, paragraph 180(a) of the NPPF is not a constraint to development in this case.
- 4.73. Paragraph 180(e) requires planning decisions to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution. No noise or other pollution issues have been identified as being of relevance in the determination of the Appeal.
- 4.74. As Mr Rose demonstrates in his statement (**SB1**), although the statutory requirement for biodiversity net gain does not apply to the Appeal Scheme, it will nonetheless secure net gains of over 10%. Indeed, to satisfy the Biodiversity Metric's trading rules, the gains will in fact be far higher than 10%. Although illustrative at this stage, the Scheme can secure +33.76% for hedgerow units and +86.72% for river units on-site, and although there will be on-site losses in habitat units, off-site mitigation at a site in West Clandon, Surrey (in the same National Character Area as the Appeal Site) can secure an overall gain in habitat units of 45.41%.
- 4.75. As per paragraph 4.21 of the Planning SoCG (**CDD.1**), as long as acceptable mitigation for off-site biodiversity net gain is secured through a Grampian condition / S106, the Council agrees that the Appeal Scheme is acceptable in ecology terms. The parties are working towards agreeing a Section 106 Agreement that will secure the biodiversity net gain.

The Regulation 19 Consultation Draft Local Plan

General

- 4.76. Paragraphs 5.17 to 5.20 of the Planning SoCG record the position in relation to the Regulation 19 consultation draft Local Plan which was submitted to the Secretary of State for examination on the 10th August 2023 (**CDE.16**).

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- 4.77. The draft Local Plan does not meet the full identified housing needs in the Borough across the plan period and does not redraw the settlement and Green Belt boundaries to accommodate the future housing requirement needed in the Borough.
- 4.78. Based upon the housing requirement derived from the standard method ("SM"), paragraph 3.19 of the draft Local Plan calculates a minimum housing requirement of 9,705 homes (647 dpa) across the plan period. However, policy SS3 of the draft Local Plan only plans for at least 6,785 dwellings in the period 2021 to 2037, equating to a minimum of 424 dwellings per annum, an under provision of 30% (2,920 dwellings less than required by the SM (9,705-6,785)).
- 4.79. Taking the figures above, it is clear that housing need can only be met through development on Green Belt sites. Importantly, the extent of the housing need is so large it cannot be met through the reuse of urban land alone.
- 4.80. Given the constrained nature of Elmbridge, which comprises 57% Green Belt, and a further 10% open space, it is surprising that the draft Local Plan does not cite exceptional circumstances to justify the release of land from the Green Belt for housing. Indeed, the Council's decision that exceptional circumstances do not exist is contrary to the advice of its officers (see the *Exceptional Circumstances Case: Green Belt* paper dated January 2022 – but published by the Council in the Examination Documents section of its Local Plan Examination webpages on 10th November 2023 (OTH043) (**CDE.52**)).
- 4.81. Section 4 of **CDE.52** provides an overview of the potential development options that have evolved during the preparation of the Local Plan. Paragraph 5.1 summarises the options as relating to the following:
- Option 4a – optimisation
 - Option 5a – optimisation and small-scale Green Belt release
 - Option 6 – optimisation and intensification in more sustainable locations
- 4.82. Paragraph 5.2 explains that Option 5a includes an element of small-scale Green Belt release. It is added that exceptional circumstances need to exist for this option to form the basis of the preferred spatial strategy.

- 4.83. The remainder of the Paper considers the justification for Green Belt releases in this context.
- 4.84. As section 5 of the paper records, the 12 sites proposed to be released from the Green Belt in helping to meet identified housing needs (including the Appeal Site), could provide 50% of the total affordable housing provision across the 15 year plan period. The stark reality is, absent these site releases, the affordable housing need will simply not be addressed.
- 4.85. In selecting sites to be allocated for housing, paragraph 6.60 refers to the LPA's assessment of site accessibility in relation to facilities and services and/or public transport nodes (bus service and railway station). This paragraph refers to the Green Belt areas proposed to be allocated for housing, with Table 5 summarising their accessibility score. Of the 15 Green Belt sites included in the table, the Appeal Site is one of five sites with an overall score of "good". The remaining sites had an overall score of "fair".
- 4.86. Paragraph 6.79 identifies that the allocation of Green Belt sites would allow for a mix of housing to be delivered, and most importantly, the affordable housing needed (the need for larger units as opposed to flatted developments providing 1 & 2 bedroom units).
- 4.87. Paragraph 8.7 states that the supply of potential development sites in the existing urban area is limited.
- 4.88. Paragraph 8.9 identifies that the option relying upon intensification of built up areas to meet needs (option 6) will not deliver the type of homes required e.g. 3 and 4 bedroom affordable homes, which is said to be a significant issue for the Borough, and a priority for the Council.
- 4.89. Paragraph 8.10 summarises the LPA's consideration of the *Calverton* case in reviewing the justification for Green Belt releases.
- 4.90. Paragraph 8.11 concludes that exceptional circumstances can be "fully evidenced and justified."
- 4.91. Paragraphs 8.12 and 8.13 state in full as follows:

“In assessing Option 5a (optimisation and small scale Green Belt release) officers also consider a merit of this approach, to be providing a balance between meeting our development need, with the need to ensure that the overall integrity of the wider-strategic Green Belt is maintained. Overall, officers consider that the benefits of releasing land from the Green Belt outweigh the harm.

In considering the requirements of the NPPF, officers have sought to identify for potential allocation / development, those Green Belt areas which are accessible and / or contain previously developed land. In addition, the officers have looked at and considered carefully how each Green Belt site could build on the success of our existing communities and places, taking into account their identities and their ability to accommodate new growth.”

- 4.92. Appendix A comprises a schedule of “Sites to be removed from the Green Belt and allocated for development”. It includes the proposed allocation of the Appeal Site under Site Ref SA-59. I include the relevant extract below:

Local / Sub-Area Ref. & Status	Site	Settlement Area	GB Purpose 1 Score	GB Purpose 2 Score	GB Purpose 3 Score	Overall Score (Local Areas only)	Categorisation (Sub-Areas only)	Other comments (Sub-Areas only)
SA-59 (allocate)	Land east of Claygate House	Claygate	Fails	Weak	Very Weak	N/A	Meets Purpose assessment criteria weakly, and makes a less important contribution to the wider strategic Green Belt. Recommended for further consideration	Recommended that SA-59 is considered further for release in its entirety.

- 4.93. The Council’s assessment concludes that the Appeal Site performs weakly in Green Belt terms and is recommended to be considered further for release in its entirety (allocated). I agree with this assessment.

- 4.94. Given the Council’s failure to adopt the advice of their officers (relating to the need for Green Belt releases to help meet the identified need for housing, in a scenario where exceptional circumstances have been demonstrated to exist), the persistence in pursuing a substantially reduced housing requirement in the emerging Local Plan means that the draft Local Plan only provides for approximately 70% of the 9,705 dwellings the standard method has identified the Borough Needs. This means approximately 30% of the housing requirement goes unmet.

- 4.95. That statistic provides the clearest possible demonstration that EBC has no prospect of seriously addressing current and future housing needs in the short, medium, or long-term, save by releasing Green Belt sites.
- 4.96. Policy SS3 of the emerging Local Plan identifies Claygate as a location capable of facilitating “good growth”, reaffirming the settlement’s sustainability credentials.
- 4.97. Policy SS3 anticipates the growth of Claygate for up to 320 dwellings. However, as evidenced by page 94 of the draft Local Plan, provision is only made for 64 dwellings through site allocations.
- 4.98. The evidence base to the draft Local Plan includes a number of technical reports, including, but not limited to a Green Belt Review, the LAA assessment and a Settlement Assessment. I summarise the content of the documents below.

Elmbridge Settlement Assessment

- 4.99. This Technical Study (**CDE.56**) identifies that Claygate is well serviced by public transport (paragraph 4.262) and offers excellent educational opportunities (paragraph 4.270). It also acknowledges the chronic issue of housing affordability in Claygate, stating:

“Average rents are also significantly beyond the reach of those employed in the area. This clearly highlights the issues of affordability in the housing market in the settlement.

The situation is not helped by the lack of affordable housing being in the settlement. For Claygate, this is largely due to the small sites that become available in the area. The rate of affordability and sustainability is an issue that faces the housing market in Claygate.”

- 4.100. This assessment supports my view that Claygate is an eminently sustainable location for housing that is suffering from ever increasing property prices due

to the current settlement policy boundaries being incapable of meeting housing requirements.

Green Belt Review

- 4.101. As identified in the evidence base to the Local Plan, the Appeal Site is well related to the urban area and is well contained from the wider Green Belt, which conclusion is supported by the Council's assessment of the site as set out in Appendix A of the Council's Green Belt Review (December 2018).
- 4.102. Sub-area SA-59 (which includes the Green Belt area of the Site) was assessed on pages 46-50 of the Council's Annex 1C Report (**CDE.40**) which sensibly assessed the site as a sub-area of wider site 45. This responded to the Appellants' submissions as part of the earlier issues and options consultation in 2017 where they specifically made the submission to the Council that the Site performed a completely separate function to the wider area 45.
- 4.103. Page 47 of the Council's 1C Report assessed SA-59 against Green Belt purposes 1-3. Page 48 then assessed wider impact as follows:

“Local Area 45 was identified as performing strongly against Purpose 2, preventing the merging of Claygate, Esher and Greater London (Hinchley Wood). It was noted that the gap is particularly narrow here. Local Area 45 also performs moderately against Purposes 1 and 3. The sub-area is not at the edge of the large built-up area of Greater London, neither physically nor perceptually, thus plays no role in relation to Purpose 1. Additionally, in the context of the wider Local Area, it plays a lesser role against Purposes 2 and 3 as a result of its small scale, semi-urban character and relative self-containment and separation from the wider Green Belt to the north.

SA-59 is adjacent to SA-60 to the north, both of which are part of Local Area 45. As a result of the strong separation between these sub-areas, both physically and visually, as well as the configuration of surrounding development (which wraps around SA-59 to the east, south and west), it is judged that the removal of SA-59 is unlikely to impact upon the performance of surrounding sub-areas. SA-60 to the north, as well as the wider Local Area, would continue to perform strongly against Purpose 2, maintaining separation between Claygate and Esher, and Greater London (Hinchley Wood).

Overall, SA-59 plays a lesser role in the context of the wider Green Belt and, as a result of its self-containment and severance from the Green Belt further north, would not affect the performance of surrounding Green Belt sub-areas or the wider Local Area.”

4.104. It added in relation to the consideration of Green Belt boundaries as follows:

“The northern boundary of the sub-area comprises a well - established tree belt / hedgerow, which could feasibly be subject to further strengthening to provide greater visual buffering from the Green Belt to the north.

The existing Green Belt boundary is of similar strength to the south and east, aligned with the backs of residential gardens, but is poorly defined to the west, cutting across hard-standing and through existing structures. The subarea would therefore result in the designation of a stronger and more readily recognisable boundary for the Green Belt.”

4.105. The final step in the assessment (step 5) concluded in relation to SA-59 as follows:

“Meets Purpose assessment criteria weakly, and makes a less important contribution to the wider strategic Green Belt. Recommended for further consideration.”

4.106. In addition to the above, and as confirmed in the Council’s Green Belt Boundary Review Accessibility Assessment (June 2019) (**CDE.42**), SA-59 was assessed as having ‘good’ overall accessibility. As such, it is one of the best performing Green Belt sites in sustainability terms. This lends support for the proposed development of the Site for 60 dwellings.

4.107. SA-59 was also assessed in the Council’s subsequent Green Belt Boundary Review 2019 – Assessment of Previously Developed Land (**CDE.57**).

4.108. The Site is subsequently identified (together with land to its immediate west) within the Council’s Green Belt Review 2019 – Minor Boundary Amendments (**CDE.43**), to be removed from the Green Belt, with page 86 of the Council’s study stating:

“The Green Belt does not follow a logical or recognisable feature along the western boundary (cutting through a car park, part of the building etc.). It is recommended that it is

relocated to remove the entirety of the curtilage of Claygate House, with the boundary running along the tree belt at its northern edge.”

- 4.109. The Council’s findings make it clear that the Site does not perform an important Green Belt function. This is a material consideration of particular significance in support of the development of the Site for up to 60 dwellings as proposed through this Appeal.
- 4.110. Notwithstanding the evidence base, the Council decided not to make any changes to the Green Belt boundary under the emerging Local Plan. As a consequence, the Appeal Site remains in the Green Belt and countryside in the submission version of the emerging Local Plan and is not allocated for development.
- 4.111. On 10th November 2023, the Council uploaded various additional Green Belt documents onto the emerging Local Plan Examination website (documents OTH039 to OTH043 – **CDE.48** to **CDE.53**).
- 4.112. Document OTH040 (**CDE.49**) is dated 2021 and provides Green Belt Assessment Proformas for a range of sites including the Appeal Site (Site Ref:SA-59) (pages 72-77 refer).
- 4.113. The assessment of green belt performance and integrity for SA-59 was set out on page 75 as follows:

“The sub-area plays a lesser role in the context of the wider Green Belt and, as a result of its self-containment and severance from the Green Belt further north, would not affect the performance of surrounding Green Belt sub-areas or the wider Local Area. Sub-area would result in a stronger and more readily recognisable boundary for the Green Belt. Meets purpose assessment criteria weakly and makes a less important contribution to the wider strategic Green Belt.”

- 4.114. The LPA’s assessment of the Site under the sub-heading ‘Sustainability Appraisal quantitative assessment of the development potential’ states, among other things:

“The land parcel has the capacity to considerably contribute to meeting the housing and affordable need.”

4.115. Consistent with the earlier Green Belt evidence base, the overall conclusion for SA-59 (on page 77) includes the following:

“the sub-area meets purpose assessment weakly and makes a less important contribution to the wider strategic Green Belt. Sub-area’s release would result in a string and more readily recognisable boundary for the Green Belt.”

“the land parcel could be considered for a release from the Green Belt designation”.

4.116. Document OTH042 (**CDE.51**) is entitled “Exceptional Circumstances: Green Belt” and is dated January 2022. The document, which I address in detail at paragraphs 4.80 to 4.95 above, provides a detailed justification for the view of Council officers (applying relevant policy, guidance and case law) that exceptional circumstances existed to make Green Belt releases including of SA-59. Although the Council has subsequently decided that exceptional circumstances do not exist (see paragraph 3.31 of the submission draft emerging Local Plan (**CDE.16**)) it has provided no update to document OTH042 to justify its changed position.

4.117. Document OTH041 is dated “2022 (Updated 2023)” (**CDE.50**) but as far as the Appellants are aware was not published prior to 10th November 2023, and so was not available for comment as part of the Regulation 19 consultation.

4.118. The document is entitled “Green Belt Site Assessment Proformas – Sites no longer considered suitable for release”. Among other things, it provides an updated Proforma for SA-59. The assessment of the site (at pages 89-95) is strikingly different from the Council’s previous assessments (including the assessment in OTH040 (**CDE.49**), concluding as follows:

“The sustainability appraisal of the development potential of the land parcel identifies positive impacts associated with the housing, accessibility, economic growth, water, the use of low grade quality soils and pollution objectives. However, it would also result in negative outcomes associated with the flooding and biodiversity objectives.

The land parcel sits within and contributes to a strategically important arc of Green Belt that can be traced from Heathrow Airport through to Epsom, providing a narrow

break between Outer London and several Surrey towns (including Esher, Hersham, Claygate and Walton-on-Thames within Elmbridge), and preventing further coalescence between the Greater London built-up area and settlements in the Borough and the wider Surrey area. This strategic area of Green Belt is identified in the Council's Green Belt Boundary Review, 2016 (GBBR) as 'Strategic Green Belt Area A'. The GBBR states that this area of Green Belt performs very strongly against purpose 1 and 2 of the Green Belt – checking unrestricted urban sprawl of large built-up areas and preventing neighbouring towns merging into one another.

At the Borough level, the sub area (SA-59) sits within Local Area 45 (LA-45), which also performs strongly against Purpose assessment criteria. The local area is connected to the large built-up area of Greater London along its eastern edge and prevents its sprawl into open land. LA-45 forms much of the essential gap between the non-Green Belt settlements of Hinchley Wood (Greater London), Claygate and Esher, preventing development that would significantly reduce the actual distance between the settlements. The gap is particularly narrow here and any development is likely to result in coalescence. In addition, despite a relatively urban context, only 3% of the LA-45 is covered by built development and the land parcel remains largely open, consisting of open fields and pony paddocks. And a golf course to the south. Development is restricted to a small number of farm buildings and facilities for the rugby club.

Whilst the sub-area itself is not free from development and its level of openness has been reduced, only 19% (approximately) of the sub-area is covered by built form (e.g. open car park). Development of the land parcel would therefore have a level of impact on the countryside. In addition, the LSA 2023 notes that the landscape of SA-59 has a medium to low sensitivity to change and that development would inevitably have a direct effect on the countryside and narrow the gap between settlements.

It is the Council's position that, on the whole, the Ove Arup assessment in regard to the Green Belt sites undervalues their 'performance' against the purposes of Green Belt as well as ensuring the fundamental aim of Green Belt in preventing urban sprawl by keeping land permanently open. In addition, the Council considers that, all of the sites, either via Ove Arup's assessment or the Council's own, performs some degree (weakly, moderately, strongly) of function when considered against the purposes of Green Belt. It is the Council's view that whilst some areas are considered to perform 'weakly' in the Ove Arup assessment in regard to the purposes of the Green Belt, they still perform some function. Neither the GBBR 2016 or 2018, identified any part

of the Green Belt as no longer performing against the purposes overall.

In conclusion, the land parcel is not considered suitable for a release from the Green Belt designation.”

- 4.119. As can be seen, therefore, the Council has had a recent volte-face in its consideration of SA-59.
- 4.120. The Council’s new position is without reasonable justification and is in stark contrast to the position recorded at paragraph 4.102 above (namely the Council’s new assessment fails to recognise that SA-59 performs a completely separate function to the wider area 45).
- 4.121. The Council is now contending, contrary to its previous position, that the site is not suitable for a release from the Green Belt designation. I strongly disagree with that conclusion. As Mr Self demonstrates in his Proof, the Appeal Site is an eminently suitable candidate for Green Belt release.

Land Availability Assessments

- 4.122. Land Availability Assessments were produced in 2021 (**CDE.23**), 2022 (**CDE.24**) and 2023 (**CDE.14**).
- 4.123. Whilst the Appeal Site is not assessed in the LAAs, despite the Site being submitted as part of the Council’s call for sites to inform the emerging plan, both reports conclude that current housing needs cannot be met solely within the urban area.
- 4.124. Whilst not submitted as part of the evidence base for the draft Local Plan, the Council’s 2023 LAA (**CDE.14**) also reaches the same conclusion, stating:

“The LAA assessment shows that there is a shortfall of housing and the borough’s housing need of 650 per year cannot be met in the urban area. This finding is based on the assessment carried out and densities indicated for this version of the LAA.”

- 4.125. It is clear from the three continuous LAAs that the housing requirement of Elmbridge cannot be met within the urban area.

Other Matters Concerning the Emerging Local Plan

- 4.126. As noted above, the Submission Local Plan does not plan for the full Local Housing Need derived from the application of the Standard Method.
- 4.127. The Appellants objected to this approach in their Regulation 19 representations.
- 4.128. This is a matter that has been raised in the Local Plan Inspector's Letter of 14th September 2023 (**CDE.45**, with paragraph 10 stating as follows:

“The evidence base sets out that utilising 2022 as the base date, the standard method indicates a requirement for 9,705 dwellings to be delivered to 2037. This would equate to 647 dwellings per annum (dpa). The Council’s preferred strategy (termed option 4a within the Sustainability Appraisal) is to deliver 6,785 dwellings across the Plan period, at 452dpa, this represents a shortfall of some 2,918 dwellings¹. This would provide only 70% of the identified housing need for the borough across the Plan period. From my initial review of the evidence submitted, a fundamental issue for the examination will be whether this approach is a sound one, namely whether it has been positively prepared, is justified and is consistent with national policy.” (My emphasis underlined)

- 4.129. The Inspector's letter (at paragraph 8) also raises concerns about the plan period, "strongly" suggesting the Council consider extending it from 2037 to 2039 in order to look ahead over a minimum 15 year period from adoption. This would add a further two years' worth of housing requirement to the overall requirement figure. In its response letter of 10th November 2023 (**CDE.47**), the Council has indicated that it does not wish to extend the plan period, notwithstanding the Inspector's "strong suggestion".
- 4.130. Paragraph 11 of the Inspector's letter of 14th September 2023 (**CDE.45**) refers to the Plan's acknowledgement that the Borough is one of the most expensive places to live in the country, with too many young people and families moving

¹ A footnote here states "I note the main modifications put forward seeking to reduce this figure by a further 105 units as there are sites which the Council now consider to be not deliverable".

out of the Borough in order to have a realistic prospect of owning or renting their own home, as well as older residents struggling to downsize.

- 4.131. Paragraph 12 of the Local Plan Inspector's letter refers to affordable housing need being in the region of 269dpa, with the evidence submitted identifying that affordable housing delivery to 2018 has only averaged 64dpa.
- 4.132. As can be seen, the Local Plan Inspector has raised fundamental concerns relating to the soundness of the emerging Local Plan, which concerns are to be explored in a staged process. This will have serious implications for the ability to progress expeditiously with adoption of the emerging Local Plan.

Summary

- 4.133. What is clear is that the Local Plan is not expected to be adopted any time soon. In the interim, the existing policies for the supply of housing are out of date and the Council is not able to demonstrate a four year supply of deliverable housing land.
- 4.134. In the circumstances, I am of the view that the Regulation 19 draft Local Plan and the accompanying evidence base (in particular to include the judgments and reasoning of Council officers and Council instructed consultants as to the suitability of the Appeal Site, and as to the Council's dire predicament in seeking to meet identified housing needs) are material considerations in the determination of the Appeal. However, as is common ground, the emerging Local Plan itself commands only limited weight (paragraph 5.20 of the Planning SoCG).
- 4.135. In my opinion, any strategy in Elmbridge which aims to meet housing need must inevitably require Green Belt releases. For a Borough covered by 54% Green Belt – essentially everything outside existing settlement policy boundaries – that is no more than stating the obvious.

Five Year Housing Land Supply Statement

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- 4.136. The Council's Annual Monitoring Report 2022/2023 (Dec 2023) (**CDE.13**) was published in December 2023 and purported to be able to demonstrate a supply of 2,977 dwellings at the 1st April 2023 base date.
- 4.137. The Council subsequently published its LAA on 9th February 2024 (**CDE.14**) which also purported to be able to demonstrate a supply of 2,977 dwellings.
- 4.138. The Appellants reviewed the sites listed in appendices 1 to 3 of the LAA, and concluded that the total deliverable supply was actually only 2,808 dwellings (Table A of the Housing Land Supply Statement of Common Ground refers (**CDD.4**)).
- 4.139. As indicated in footnote 1 (page 6 of **CDD.4**), the reason for this difference was the Council's miscalculation of the total of the sites with planning permission where construction had not commenced at 1st April 2023 (listed in appendix 2 of the LAA – **CDE.14**). This miscalculation was confirmed by the Council in an email dated 22nd February 2024 (See **WB2** to my separate housing land supply evidence). This confirmed the Council's revised position and a supply figure of 2,808 dwellings.
- 4.140. As recorded in the Housing Land Supply SoCG (**CDD.4**), when that document was signed on 8th March 2024, the Council purported to be able to show a supply of only 2,357 dwellings at the 1st April 2023 base-date. That is some 620 dwellings fewer than recorded in the AMR (2,977-2,357). On 18th March 2024, the Council made further concessions, contending for a 2,297 dwelling supply at the base-date.
- 4.141. Comparing the Council's supply figure of 2,977 dwellings relied upon in their AMR (**CDE.13**) and LAA (**CDE.14**) as at the 1st April 2023 base-date, where they claimed a 4.58 year supply (2,977/650dpa), on a like for like basis with the 2,297 dwellings now relied on by the Council at the 1st April 2023 base date, on their own case, they are only able to show a 3.53 year supply of deliverable housing land at the base date (2,357 dwelling supply/650dpa).
- 4.142. However, the Council is now relying upon new sites, post the base date, not relied upon at the base date (and not included in the AMR or LAA). In the Housing Land Supply SoCG (**CDD.4**) the Council relied on such sites for a

supply of an additional 489 dwellings. On 18th March 2024 they reduced this to 299 dwellings. But on the morning of 19th March 2024, they increased it again to 396 dwellings.

4.143. This is an unedifying spectacle of how not to undertake a five year housing land supply assessment, which matter(s) I address in my separate housing land supply evidence.

Affordable Housing

4.144. The need for affordable housing in Elmbridge is acute as set out in the Proof of Mr Stacey.

4.145. The Appeal Scheme secures the on-site provision of 50% affordable homes (up to 30 dwellings), thus meeting the policy CS21 requirement for a greenfield site (notwithstanding that parts of the site are previously developed) and significantly exceeding the emerging requirement of policy HOU4.

4.146. Paragraphs 20(a), 60 and 63 of the NPPF sets a strong emphasis on the delivery of sustainable development including affordable homes, within the context of the Government's aim to "boost significantly the supply of homes".

4.147. The acute affordable housing need reinforces the merits of the Appeal Scheme with the on-site provision of up to 30 affordable dwellings.

4.148. I consider the position further in section 6 below.

5.0 MARKET AND GENERAL HOUSING MATTERS

Five Year Housing Land Supply

- 5.1. As my evidence has already explained, I am of the view that the Council is not able to demonstrate a four year supply of deliverable housing land set against its requirement for the five year period 1st April 2023 to 31st March 2028.
- 5.2. The respective supply positions for the Appellants and Council were recorded in Table 1 of the Housing Land Supply SoCG (**CDD.4**). However, as already noted, on 18th March 2024, the Council adjusted its position and then adjusted it yet again on the morning of 19th March 2024 (See **WB7** attached to my separate housing land supply evidence). The current position of the parties is as follows:

	Council	WBP
Local Housing Need for 2023 (dpa)	650	650
Requirement for 5 years (Apr 2023 – Mar 2028)	3,250	3,250
Requirement for 4 years	2,600	2,600
Deliverable supply at 1 st April 2023	2,297	2,279
Supply Position at the 1 st April 2023 base-date	3.53yrs	3.51yrs
Difference against a 4 year supply	-303	-321
Units granted permission or with resolution to grant since 1 st April 2023 not included in LAA	396	0
Total Supply	2,693	2,279
Years supply	4.14yrs	3.51yrs
Difference compared to 5 year requirement	-557	-971
Difference compared to 4 year requirement	+93	-321

- 5.3. As can be seen from the above table, I discount the Council's latest supply figure by a total of 414 dwellings (LPA's supply figure of 2,693 dwellings vs my figure of 2,279 dwellings).
- 5.4. My position is explained in my separate housing land supply evidence. However, and in short, the Council's position on housing land supply has frequently changed. On 18th March it briefly accepted that it lacked a 4 year supply (its figure then was 3.99 years) but it has now reasserted that it can demonstrate over 4 years. However, when one applies the deliverability tests

from the NPPF, PPG and findings in various appeal decisions, it is clear that the Council does not have the evidence to justify even its current position.

- 5.5. I attach very substantial weight to the delivery of housing from the Appeal Scheme.

Housing Delivery: Past Performance

- 5.6. There has been a recent history of under delivery of housing in Elmbridge against the local housing need derived from the standard method.
- 5.7. The Core Strategy was adopted in July 2011. The NPPF was first published in 2012 and has been revised since. The 2018 NPPF introduced the requirement for local housing need to be calculated using the standard method (“SM”) where (as here) strategic policies are more than five years old and have not been updated.
- 5.8. For the purpose of paragraph 77 of the NPPF, the Core Strategy is more than five years old. As such, I have compared the dwelling completions from 2018 (I am using this date as it is the base for the introduction of the SM test) against the LHN for each monitoring year since. The completions figures are taken from Table 8 of the Council’s AMR (**CDE.13**)
- 5.9. This results in a cumulative shortfall of 1,113 dwellings, calculated as follows:

Year	Local Housing Need	Completions	Shortfall/Surplus
2018/19	623	353	-270
2019/20	626	398	-228
2020/21	633	302	-331
2021/22	641	768	+127
2022/23	647	236	-411
Total	3,170	2,057	-1,113

- 5.10. As the table shows, completions in the last five monitoring years have resulted in a cumulative shortfall of 1,113 dwellings. Only 65% of the LHN was met in this period.

5.11. This persistent under delivery has influenced the affordable housing position addressed in Mr Stacey's separate affordable housing evidence, which matter I summarise in section 6 below.

6. AFFORDABLE HOUSING MATTERS

6.1. The provision of affordable housing is a key important part of the planning system with the NPPF setting out a strong emphasis on the delivery of sustainable development, including affordable homes, at paragraphs 20, 61 and 62.

6.2. The Affordable Housing SoCG (**CDD.2**) sets out the following agreed position (among other things):

- The appeal proposals seek outline planning permission for up to 60 dwellings, of which 50% are proposed as affordable homes, equivalent to up to 30 affordable dwellings. This level of provision meets the requirements of Policy CS21 of the Core Strategy (2011) which requires 50% affordable housing provision on greenfield sites delivering 15+ dwellings.
- The provision is also in excess of the emerging requirements under policy HOU4 of the emerging Local Plan 2037 (which prescribes 30% for brownfield sites of 10 or more units and 40% for greenfield sites of 10 or more units).
- The agreed tenure split is 25% First Homes (up to 8 dwellings), 12% social rented (up to 3 dwellings), 41% Affordable Rented (up to 12 dwellings) and 22% intermediate (up to 7 dwellings), (subject to being agreed between both parties in the Section 106).
- The proposed affordable housing will be secured by way of a Section 106 ("S106") planning obligation.
- The median affordability ration of 20.04 in Elmbridge Borough stands significantly above the national average of 10.75 (+86%) and significantly above the South East average of 8.28 (+142%).
- There is an acute national housing crisis.
- The Council accepts that the benefits arising from providing affordable housing accord with the sustainable development definition in the NPPF and the provision of the affordable housing, to deal with the identified need, is a benefit weighing in favour of the development, the extent of which is not agreed.

6.3. As Mr Stacey's evidence for the Appellants explains, he attaches very substantial weight to the delivery of affordable housing from the Appeal Scheme. As the SoCG records, the Council attaches substantial weight.

6.4. Section 6 of Mr Stacey's evidence considers the delivery of affordable housing in Elmbridge. I repeat the conclusions from this section of his evidence as follows:

- Across Elmbridge Borough, the delivery of affordable housing has fallen persistently short of meeting identified needs.
- In the 12-year period since the start of the Core Strategy (2011) period in 2011, net of Right to Buy affordable housing delivery represented just 19% of overall housing delivery, equating to just 66 affordable dwellings per annum².
- The 2016 SHMA sets a need of 332 affordable dwellings per annum between 2011/12 and 2022/23. Against this level of identified need, the Council has a shortfall of -2,153 affordable dwellings, equivalent to -269 affordable dwellings per annum³.
- Against the most recent assessment of affordable housing need contained within the 2020 LHNA, the Council has a shortfall of -717 affordable dwellings in the first four-years of the period, equivalent to -179 affordable dwellings per annum⁴.
- It is clear that a 'step change' in affordable housing delivery is needed now in Elmbridge Borough to address these shortfalls and ensure that the future authority-wide needs for affordable housing can be met.
- In light of the identified level of need there can be no doubt that the delivery of up to 30 affordable dwellings on the proposed site will make an important contribution to the affordable housing needs of Elmbridge Borough.

6.5. Mr Stacey addresses affordability indicators in section 7 of his evidence, recording Elmbridge Borough's mean affordability ratio of 20.04. That means, average house prices are 20.04 times average earnings. This is the highest median house price to income ratio across all 64 Local Authorities in the South East. This statistic is startling and unsustainable.

² As agreed in the Affordable Housing Statement of Common Ground – **CDD.2** p.9, [10.6]

³ As agreed in the Affordable Housing Statement of Common Ground – **CDD.2**, p.9, [10.7]

⁴ As agreed in the Affordable Housing Statement of Common Ground – **CDD.2** p.9, [10.8]

- 6.6. Mr Stacey addresses the future supply of affordable housing in section 8 of his evidence, finding that there can be no confidence that the Council can see a sufficient step change in the delivery of affordable housing to meet annual needs, and highlighting the importance that suitable sites, such as the appeal site, are granted planning permission now in order to boost the supply of affordable housing.
- 6.7. Mr Stacey analyses the weight to be given to the benefit of affordable housing from the Appeal Scheme in section 10 and 11 of his evidence (and his Appendices JS5 and JS6), concluding that, against the scale of unmet need and the lack of suitable alternatives in the private rented sector across Elmbridge Borough, the provision of up to 30 affordable homes will make a substantial contribution to affordable housing, which should be afforded very substantial weight in the determination of this Appeal.
- 6.8. Informed by Mr Stacey's evidence, I consider that the delivery of up to 30 affordable homes from the Appeal Site, in a location that enjoys excellent access to a range of services, attracts **very substantial weight**.
- 6.9. The lack of affordable housing delivery across Elmbridge Borough and the lack of action identified to remedy and address this very substantial shortfall has resulted in both an acute and chronic need for the delivery of affordable housing.

7.0. GREEN BELT CONSIDERATIONS

General

- 7.1. This section of my evidence considers the impact of the Appeal Scheme upon the Green Belt. My findings are supported by the evidence of Mr Self.
- 7.2. As I have identified, I accept the Appeal Scheme (as “inappropriate development”) is by definition harmful to the Green Belt and should only be allowed in very special circumstances (NPPF, paragraph 152 refers).
- 7.3. In this section I analyse the impact of the scheme in Green Belt terms. I apply the very special circumstances test in my planning balance in section 9 below.

Addressing Reason for Refusal (1)

- 7.4. The alleged conflict with the Green Belt policies can be further broken down into the following main issues:
- (i) Whether or not the proposed development would represent inappropriate development in the Green Belt;
 - (ii) The effect of the proposal on the openness of the Green Belt;
 - (iii) The effect of the proposal on the purposes of including land in the Green Belt; and
 - (iv) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
- 7.5. I consider the Appeal Scheme in the context of points (i) to (iii) below. I address point (iv) in sections 8 and 9 below.

(i) Whether or not the proposed development would represent inappropriate development in the Green Belt

- 7.6. Except for the limited number of exceptions set out at paragraphs 154 and 155 of the NPPF, development within the Green Belt is to be regarded as inappropriate.

7.7. The proposed development does not fit into any of the exceptions listed in the aforementioned paragraphs. As such, I conclude **the Appeal Scheme would represent inappropriate development in the Green Belt**. In accordance with paragraph 153 of the NPPF I attach substantial weight to that harm.

7.8. However, it is an “in-principle” harm established as a matter of policy which applies to all inappropriate developments in the Green Belt regardless of their specific circumstances.

7.9. I now look at the circumstances of the Appeal Site to assess the overall Green Belt harm.

(ii) The effect of the Appeal Scheme upon the openness of the Green Belt

7.10. This matter is addressed in Mr Self’s evidence and he concludes as follows:

1. The Site is visually very well contained being surrounded by neighbouring development and boundary vegetation (which will be further strengthened) with very few opportunities for views into the site from the surrounding area.
2. The Site has a strong relationship to Claygate with housing along Rythe Road and Raleigh Drive adjoining the eastern and southern site boundaries respectively and the apartments at Esher Park contain the western boundary, all are within the settlement policy boundary of Claygate. It is only the vegetated northern boundary (which is to be retained and enhanced) that backs onto the neighbouring countryside.
3. Development of the Site will inevitably change its character from that of a grass field to that of residential development with generous areas of open space. Given the Site’s physical and visual containment and the scale and density of the Appeal Scheme, the Site is considered to be capable of accommodating a residential development in a manner causing strictly limited and localised harm to the wider landscape.
4. The new housing on the Site will read as a logical continuation of Claygate, following the existing pattern of development in a manner compatible with the scale and nature of development in the village. Retention of the Site’s boundary vegetation will be further augmented by new planting, which will further assimilate the proposals into their surroundings.
5. Public views of the Appeal Scheme will be possible from near distance vistas at Esher Park Gardens, Raleigh Drive and Rythe Road. Where there are such views the view will be heavily filtered by boundary vegetation and

surrounding development. It will therefore complement the existing pattern of development in this part of the settlement and be at a similar scale.

6. The impact on physical openness will be limited to the Appeal Site itself. In terms of the visual aspect of openness, there is currently no public access onto the Appeal Site and as such no public views from within it. Views from the wider public domain are extremely limited and as such the proposed development would have minimal visual impact on the wider Green Belt.

7.11. I therefore conclude that the harm to openness is **largely limited to the Site itself, with only strictly limited and localised impacts on visual openness beyond the Site. I consider that the overall harm to openness is therefore minor.**

(iii) The effect of the proposal on the purposes of including land in the Green Belt

7.12. Informed by my review of the Appeal Scheme, the relevant supporting documents, as well as numerous visits to the Appeal Site, I adopt Mr Self's assessment of the Site's performance against the first four of the Green Belt purposes as set out in paragraph 143 of the NPPF (paragraph 6.10-6.31 of Mr Self's evidence).

7.13. As Mr Self's evidence explains, the only conflict he has identified between the Appeal Scheme and the first four of the Green Belt purposes is a limited impact in relation to (c) (safeguarding the countryside from encroachment). However, as Mr Self shows, the site performs weakly against this purpose, and any harm from this impact is in part mitigated by virtue of the existing landscape conditions, with the site being well contained and well related to the urbanised character of the suburban influences. The harm in relation to purpose (c) is therefore minor.

7.14. On the fifth purpose (to assist in urban regeneration, by encouraging the recycling of derelict and other urban land), Mr Self defers to me.

7.15. My view is that the fifth purpose would not be conflicted with, as there is insufficient previously developed land available to meet the Council's housing requirements, such that the Site (which is itself partly previously developed, and

recognised as such in the Council's Green Belt Boundary Review 2019) can be developed while not prejudicing the recycling of derelict and other urban land).

Summary of Green Belt Considerations

- 7.16. As the Appeal Scheme does not fit into any of the exceptions listed in paragraphs 154 and 155 of the NPPF, I conclude **the Appeal Scheme would represent inappropriate development in the Green Belt**. There would therefore be definitional harm to the Green Belt. In addition, as set out above, there would be minor harm to openness and minor harm to the third Green Belt purpose.
- 7.17. Any harm (definitional and actual) to the Green Belt must be given substantial weight under paragraph 153 of the NPPF. However, it is nonetheless important in conducting the balance to recognise that the Green Belt harm in this case is minor and also that land that is currently Green Belt will inevitably be required to meet the Council's needs for market and affordable housing.
- 7.18. Section 8 of my evidence goes on to consider whether the Appeal Scheme would result in 'any other' harms for the purposes of the paragraph 153 test.

8.0. ASSESSING THE POTENTIAL FOR 'OTHER HARMS'

General

- 8.1. Paragraph 153 of the NPPF requires substantial weight to be given to any harm to the Green Belt. It is added that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and **any other harm** resulting from the proposal (my emphasis in bold) is clearly outweighed by other considerations.
- 8.2. As I have identified in section 8 of my evidence above, development of the Site for housing is by definition inappropriate. I have then gone on to conclude that the Appeal Scheme would result in harm to openness and encroachment of the countryside. This would be the case for the development of any largely or wholly greenfield site outside the settlement policy boundary. However, and in this instance, the harm to openness and the encroachment would be limited by virtue of the site being well contained from the wider countryside beyond.
- 8.3. The actual Green Belt harms are therefore minor, as I set out in section 7 above. However, in accordance with paragraph 153 of the NPPF, I give substantial weight to the definitional and (albeit limited) actual Green Belt harm I have identified.
- 8.4. I now go on to assess whether the Scheme would result in any other harms. My assessment includes consideration of the issues raised by interested parties.
- 8.5. The 'potential' harms I have assessed comprise as follows:
- Character and appearance of the area
 - Residential amenity
 - Trees
 - Ecology
 - Highways
 - Flood/drainage
 - Local infrastructure capacity

8.6. I now assess each issue in turn.

Character and Appearance of the Area

- 8.7. Mr Self's conclusions as set out in his evidence, the supporting Green Belt Assessment (CSA) (Nov 2022) (**CDA.7**) and the Design & Access Statement (OSP) (December 2022) (**CDA.3**) identify that the Site is well contained, both physically and visually by established boundaries. This would ensure that the impacts on landscape character and visual amenity would be highly localised.
- 8.8. The Site is relatively flat. the eastern boundary is demarcated by a watercourse with residential gardens on the opposing bank.
- 8.9. The western boundary is shared with Claygate House whilst the southern boundary and access road is flanked by residential development along Raleigh Drive.
- 8.10. The surrounding area is characterised by built form and the proposed dwellings would be seen in the context of existing buildings. Moreover, the Site is contained by a tree belt, which is to be enhanced as part of the Appeal Scheme, to the north and existing residential development on all other sides. Indeed, all current views into, and out of the Appeal Site, are heavily filtered by surrounding development and vegetation. This will help assimilate the scheme into its context (residential and countryside).
- 8.11. Development of the Site, with details to be secured at the reserved matters stage, has scope to successfully integrate within its residential and countryside context. The overall character of the settlement would be retained, and a detailed layout can secure views into and through the Site to the wider countryside beyond.
- 8.12. In addition, the Scheme can secure a landscape edge to wider countryside, creating a defined and defensible settlement policy boundary.

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- 8.13. It is common ground that the Site does not fall within a valued landscape within the meaning of paragraph 180(a) of The Framework and that the Council has no objection to the Appeal Scheme on landscape and visual grounds (save in relation to Green Belt impacts (see paragraph 3(e) of the Executive Summary to the Planning SoCG).
- 8.14. As Mr Self sets out in section 5 of his Proof of Evidence, the character of the Appeal Site will inevitably change from a remnant grassland field to a relatively small scale residential development with generous areas of public open space. However, given the surrounding urban context of the Appeal Site the change will not be discordant with the character of the neighbouring area.
- 8.15. The well contained nature of the Appeal Site, with neighbouring development on three sides and a well-established vegetated field boundary on the fourth, means that the extent of visual effects will be strictly limited to those residential properties which back onto the Appeal Site and glimpsed views from the adjoining roads. In all cases views will be filtered by existing retained and new tree planting.
- 8.16. Taking Mr Self's position, I conclude that the landscape and visual effects of the Appeal Scheme are acceptable (as the Council agrees) and that, at most, only **limited harm** would arise in relation to the character and appearance of the area.

Residential Amenity

- 8.17. As recorded in **CDD.1** (paragraph 3(g) and (h) of the Executive Summary), there is no dispute between the Appellant and EBC as to the acceptability of the Appeal Scheme in relation to density and tenure mix of dwellings proposed. This includes the agreed position at paragraphs 4.8 to 4.12 concerning the acceptability of the overall design response.
- 8.18. This matter is also addressed in detail at paragraph 82 of the Officer's Report upon the Appeal Scheme (**CDB.2**). The only residential amenity issue raised at that time was in relation to noise arising from vehicles utilising the access

road. The Council recognised that such a potential issue could be adequately addressed at the detailed design stage.

- 8.19. The Appeal Scheme would also create public views across the Site and open space would be created for the enjoyment by existing and future residents.
- 8.20. The Illustrative Masterplan suggests an area covering the eastern flank of the site could be provided as publicly accessible amenity greenspace.
- 8.21. I have already concluded that the Appeal Scheme would have an acceptable impact upon the character of the surrounding area. It is also relevant that the Council has not raised living conditions as an issue.
- 8.22. I find **no harm to residential amenity**. The residential amenity issue is therefore neutral in the planning balance.

Trees

- 8.23. This matter is also addressed in detail in paragraphs 88-90 of the Officer's Report upon the Appeal Scheme (**CDB.2**).
- 8.24. As **CDB.2** further explains, a number of supporting documents in relation to trees and landscaping have been submitted, including an Arboricultural Impact Assessment and Method Statement, a Tree Protection Plan, and an illustrative landscape strategy.
- 8.25. As detailed within the submitted Arboricultural Impact Assessment ("AIA") (**CDA.13**), there are two TPOs within the Site. Only two low quality trees and two small sections of low quality hedgerow are proposed for removal. The development proposes supplementary planting to replenish and reinforce the vegetated site boundary.
- 8.26. The Tree Protection Plan details protective fencing to ensure that the root protection areas of retained trees would be excluded from the development area as far as practicable.

- 8.27. The Council's Arboricultural consultant has raised no objection to the Scheme.
- 8.28. The illustrative landscaping scheme submitted with the Appeal Application shows that the new access road would be tree-lined, with trees also planted to visually soften the hardstanding and built form. Rear gardens of all dwellings would be soft landscaped. Planting would also include hedgerow, ornamental shrub planting, and specimen grasses. An equipped play area is proposed within the open space on the eastern side of the site, accessible to all residents, surrounded by a wetland wildflower meadow in addition to natural play features.
- 8.29. **CDB.2** concludes that detailed landscaping matters fall to be determined at reserved matters stage, whilst the retention of the vast majority of existing trees and hedgerow is considered to be a positive aspect of the scheme and details of tree protection are also deemed acceptable.
- 8.30. For the reasons set out above, **I find no harm in relation to the impact of the scheme on trees/hedgerows**. Indeed, the overall impact is beneficial.

Ecology

- 8.31. The Council have cited the on-site loss of biodiversity as the second reason for refusal. However, as stated in paragraph 4.21 of the Planning SoCG (**CDD.1**), as long as acceptable mitigation for off-site biodiversity net gain is secured through a Grampian condition / S106, the Council agrees that the Appeal Scheme is acceptable in ecology terms.
- 8.32. The acceptability of the Appeal Scheme in ecological terms is addressed in the Statement of Mr Rose (**SB1**). As he explains, although the precise details will depend on the ultimate scheme approved at reserved matters stage, the development can expect to see an onsite 33.76% net increase in hedgerow units and a 86.72% net increase in river units. Inevitably for a non-agricultural site, there would be a loss (-24.56%) of onsite habitat units. However, off-site compensation will secure a net gain of at least 10% in accordance with the Statutory Biodiversity Metric (indeed, in order to secure compliance with the

Metric's trading rules, the overall net gain can be expected to be higher, at 45.41% using an off-site gain site at West Clandon, Surrey – in the same National Character Area as the Appeal Site). The net gain will be secured under a Section 106 Agreement which the Appellants are negotiating with the Council. It is important to note that, since the application predated 12th February 2024, there is no statutory obligation for any biodiversity net gain, and no specific percentage gain is required by policy CS15 or the NPPF.

- 8.33. Again, **I find no harm**. Indeed, the securing of biodiversity net gain is a benefit of the Appeal Scheme.

Highways

- 8.34. The fourth reasons for refusal related to the provision of a Car Club and off-site highway improvements.
- 8.35. As evidenced in the Planning SoCG, by virtue of a legal agreement being produced to secure these elements, this reason for refusal has been addressed.
- 8.36. Nevertheless, a Highways Statement has been produced setting out the acceptability of the Appeal Scheme in Highways terms. This Highways Statement is appended to my proof at **SB2**.
- 8.37. The Highways Statement identifies Policy CS25 of the Core Strategy and Policy DM7 (as well as Chapter 9 of the NPPF) as being most pertinent to the (now satisfied) fourth reason for refusal.
- 8.38. A number of works and other measures are to be undertaken in association with the Appeal Scheme, which are detailed in section 5 of Mr Bell's Highways Statement.
- 8.39. As recorded at paragraph 3(b) and (c) of the Planning SoCG (**CDD.1**), it is common ground that the Appeal Site is in a sustainable location, within walking and cycling distance from local services and facilities. Further detail is provided in section 4 of Mr Bell's Highways Statement.

- 8.40. Section 3 of the Transport Statement (“TS”) (**CDA.5**) also highlights the suitability of the Appeal Site in locational terms.
- 8.41. As the TS explains, the site is in close proximity to public transport options along Hare Road which provide access to Esher, Surbiton and Kingston-Upon-Thames. In addition the site is only a circa 600m walk north of Claygate village centre which plays host to a number of facilities and services including schools, shops for food and retails, doctors surgeries and pubs.
- 8.42. Two schools would be a 700m (7/8 minute) walk from the Appeal Site whilst the nearest bus stops would be approximately 230m south of the Site.
- 8.43. The overall proximity of the Site to local facilities is shown in Table 3.1 of the TS.
- 8.44. Surrey County Council as Highways Authority were consulted on the application. They requested additional information regarding access arrangements and offsite improvements, which was provided to their satisfaction. Subject to the imposition of conditions and a legal agreement to secure a Car Club, the Highway Authority has no objection to the proposed development and the Council agrees that it is acceptable in highway terms (see paragraphs 4.18 to 4.20 of the Planning SoCG).
- 8.45. Overall, I find the Site affords a suitable location for development and no highway safety or capacity issues have been identified. Again, **I find no harm.**

Flooding and Drainage

- 8.46. As recorded at **CDD.1**, there are no flood and/or drainage objections to the Scheme and the Sequential Test has been passed. However, during the application process, a number of consultation responses from other parties have raised concerns regarding flood risk both on-site and within the wider area. To aid this inquiry, a Flood Risk and Drainage Statement has been produced by Mr Charles (the author of the Flood Risk Assessment). This is appended to my proof of evidence at **SB3**.

- 8.47. Section 2 of Mr Charles' Flood Risk and Drainage Statement summarises the Flood Risk Assessment. Sections 3 and 4 then analyse and respond to the key themes raised by members of the public regarding flood risk and drainage, showing why the concerns raised do not change the view he came to in the Flood Risk Assessment that the scheme is acceptable in flood risk and drainage terms.
- 8.48. Neither the Local Lead Flood Authority, nor the Environment Agency, nor the Council has any objection to the Appeal Scheme on flooding and drainage grounds, subject to the imposition of conditions which are proposed in the draft conditions.
- 8.49. For the reasons I have explained, **I find no harm in drainage and/or flooding terms.**

Local Infrastructure Capacity

- 8.50. Section 7 of **CDD.1** sets out the agreed approach to securing planning obligations. A section 106 is being negotiated to secure all necessary obligations.
- 8.51. As paragraph 7.2 records, the LPA's assessment of the Scheme in **CDB.2** confirms that financial contributions towards services including education, libraries and social care can be secured through the Council's Community Infrastructure Levy ("CIL").
- 8.52. In so far as the appropriate obligations are to be secured through a S106 agreement and collected through CIL payments, **no residual harm** has been identified in relation the Scheme upon the impact on local infrastructure.

Summary

- 8.53. For the reasons set out above, I find no 'other' harms need to be added to the assessment undertaken pursuant to the approach set out at paragraph 153 of

the NPPF apart from landscape and visual harms which are, at most, of **limited weight**.

9. THE OVERALL PLANNING BALANCE

Introduction

- 9.1. This section of my evidence carries out the planning balance under section 38(6) of the Planning and Compulsory Purchase Act 2004, including applying the very special circumstances test under paragraph 153 of the NPPF and considering the three sustainability objectives set out at paragraph 8 of the NPPF.

Development Plan

- 9.2. For the reasons I have explained, the only spatial development plan conflict is the Green Belt location of the Site beyond a defined settlement policy boundary, which I accept is in conflict with the spatial strategy established by policies CS1, CS2 and CS11. However, as I set out in section 4 above, these policies are out of date in failing to accord with the NPPF and failing to plan for objectively assessed needs for market and affordable housing. They are also out of date because, on my evidence, the Council is unable to demonstrate a four year supply of deliverable housing land. It follows, in my view, that the development plan is not up to date for the purposes of NPPF paragraph 11(c), and the policies that are most important for determining the appeal are out of date.
- 9.3. The Council's Decision Notice only identifies the Appeal Scheme as being in conflict with Core Strategy policies CS15, CS21 and CS25 as well as DM policies DM7 and DM17. However, and as stated in the Planning SoCG (**CDD.1**), reasons for refusal 2, 3 and 4 have effectively been resolved leaving policy DM17 as the only development plan policy relied upon by the Council is suggesting a development plan conflict.
- 9.4. I come to a different conclusion. As detailed throughout this proof of evidence, I believe very special circumstances are present that clearly outweigh all harms. I therefore find that the Appeal Scheme accords with the requirements of Policy DM17 and DM1.

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- 9.5. For the reasons I have explained, it is my opinion that the Appeal Scheme is in accordance with the development plan when taken as a whole. This is on account of the Appeal Scheme's conformity with Development Management Policies DM1 and DM17, which operate as an exception to the otherwise restrictive approach to development in the Green Belt.

Very Special Circumstances – Harms

- 9.6. As with any proposal for inappropriate development in the Green Belt, there is definitional harm (i.e. harm "by reason of inappropriateness"). As Mr Self shows, there is minor harm to openness, through the change in physical and visual openness at a site level, and the limited change (given the level of visual containment of the Site) to visual openness of the wider Green Belt to the north of Claygate. And there is some minor conflict with the third purpose of the Green Belt (safeguarding the countryside from encroachment).
- 9.7. Any harm to the Green Belt must be given substantial weight under paragraph 153 of the NPPF. However, in this case the overall harm to the Green Belt is minor. It is also relevant to note that land that is currently Green Belt will inevitably be required to meet the Council's needs for market and affordable housing.
- 9.8. Assuming execution of the Section 106 Agreement, the only non-Green Belt harm comes from the landscape and visual impacts. However, a degree of landscape and visual harm is inevitable when developing a largely greenfield site. The Council rightly has no objection on landscape and visual grounds, and the low level landscape and visual impacts are, at most, of limited weight.

Very Special Circumstances: Consideration of the Economic, Social & Environmental Benefits

- 9.9. This section assesses the significant merits of the Scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF.

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- 9.10. Paragraph 9 of the NPPF states (amongst other things) the assessment of the sustainability roles should not be undertaken in isolation, because they are mutually dependent.
- 9.11. A planning balance exercise has been carried out in accordance with the guidance at paragraph 9 of the NPPF and sets out a combined analysis in relation to the sustainability roles (economic, social and environmental). It should be read in conjunction with sections 5 and 6 above (which address the benefits, both economic and social, of market housing and affordable housing, benefits which in each case command very substantial weight). These benefits are factored into my assessment below (avoiding double counting).

Economic

- 9.12. The Appeal Scheme satisfies the economic role of sustainability including through the provision of housing to support growth and the associated provision of infrastructure, to be secured through preparation of the S106 agreement and by on-site provision of affordable housing.
- 9.13. The Appeal Scheme generates a series of local and Borough-wide economic benefits including through (i) construction of the scheme and the range of employment generated as a result; and (ii) the on-going expenditure from the households purchasing and occupying the new homes.
- 9.14. The principal economic benefits arising from the scheme are summarised below:
- (i) Increased house building in an area where there is a demand for new housing that in turn drives economic growth further and faster than any industry. In this regard the proposals will contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is being made available in the right place and at the right time to support growth.
 - (ii) The economic benefits associated with provision of up to 60 new homes in the Borough where there is an established need for housing given demonstrable shortfall in the four year housing land supply position.

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- (iii) The economic benefits associated with delivery of much needed affordable homes (up to 30 dwellings) that will meet the acute need for affordable housing within the Borough.
 - (iv) Meeting general housing needs is a substantial economic benefit, consistent with the Government's objective of significantly boosting the supply of housing.
 - (v) In order for the economy to function, sufficient housing is required in the right locations and at the right time. This Site represents a location where there would be no significant adverse effect upon the landscape nor on the amenity of neighbouring properties.
 - (vi) Based upon a multiplier of 2.3 jobs per new home⁵, then up to 60 dwellings are estimated to create approximately 138 new jobs.
 - (vii) Increased expenditure in the local area will support local FTE jobs.
 - (viii) Helping to deliver a significant boost to the local economy through 'first occupation' expenditure of £327,720⁶. This is expenditure on new furniture and other household goods that residents spend as 'one-offs' when moving into a new home.
 - (ix) In terms of household expenditure, data from the ONS Family Expenditure Survey 2021-22⁷ shows that the 'average UK household spend' is £532.70 per week (Table A33) (or £27,777 per year), whereas in South East England it is 17.2% higher than the UK average (Table A33). This means average weekly spend per household is £624.20 (or £32,548 per annum). For the Appeal proposal, the total gross expenditure is estimated to be £1.9m per year to the economy. A proportion of this household expenditure is anticipated to be spent in local shops and services and will help sustain the existing services in Elmbridge Borough including those local to the Appeal Site which includes the centres at Esher and Claygate. The expenditure will include a proportion of that spent on areas including food & non-alcoholic drinks (£71.60 per week); alcoholic drinks (£14 per week); recreation and culture (£73.90 per week), household goods and services (£41.20) and miscellaneous goods and services i.e. hairdressing & beauty treatments (£47.70 per week).⁸ Given the current economic challenges facing the UK these are significant economic benefits.

⁵ See page 13 of the Homes Builders Federation "Economic Footprint of UK Housebuilding " (July 2018) -

[https://www.hbf.co.uk/documents/7876/The Economic Footprint of UK House Building July 2018_LR.pdf](https://www.hbf.co.uk/documents/7876/The_Economic_Footprint_of_UK_House_Building_July_2018_LR.pdf)

⁶ Research carried out by OnePoll on behalf of Barratt Homes (August 2014; <https://www.barratthomes.co.uk/the-buying-process/home-buying-advice/>) which shows an average of £5,462 per dwelling.

⁷ [Family spending workbook 3: expenditure by region - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-work/family-expenditure).

⁸ Figures based upon SE Regional data in Table A33

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- (x) Increase in Council Tax receipts⁹ annually to the Borough Council of around £14,600 and to Claygate Parish Council by around £850; and
- (xi) Contribution towards Community Infrastructure Levy of around £500,000.¹⁰
- 9.15. By providing land of the right type, in the right place, and at the right time to support economic growth, the development of up to 60 no. dwellings on the Site fully accords with the objectives at paragraph 8 of the NPPF and assists in the aims of the NPPF in helping to build a strong and competitive economy.
- 9.16. This is further emphasised in the Government’s November 2011 Paper ‘Laying the Foundations: A Housing Strategy for England’ where paragraph 11 states *“getting house building moving again is crucial for economic growth – housing has a direct impact on economic output, averaging 3 per cent of GDP in the last decade. For every new home built up to two new jobs are created for a year”*.
- 9.17. The economic benefits are to be accorded substantial weight in the planning balance.

Social

- 9.18. The Appeal Scheme more than satisfies the social role, in helping to support strong, vibrant and healthy communities, including through providing the supply of housing required to meet identified needs in open market and affordable sectors. This is a very substantial benefit. In addition:
- 1) Future residents will be in an easy walking and cycling distance to local services within Claygate and higher order services and facilities with bus services to Esher and Kingston-Upon-Thames.

⁹ Assumes all 60 dwellings proposed are within Council Tax Band D and the tax rates for the 2023/24 financial year as indicated at [Council Tax 2023 to 2024 | Elmbridge Borough Council](#). For sites like the Appeal Site, this indicates that for Band D dwellings, the Borough Council receives £243.35 per dwelling and Claygate Parish £14.15 per dwelling.

¹⁰ Assumes 30 market homes each with floor area of 84m² paying £198.10/m². 100m² is minimum internal space standards for a 2 storey 3 bedroom home - [Technical housing standards – nationally described space standard - GOV.UK \(www.gov.uk\)](#). CIL rates are those including indexation at 2023 as shown at [CIL charges and payments | Elmbridge Borough Council](#)

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- 2) The Appeal Scheme will provide a range of housing types and sizes, including up to 30 affordable dwellings (50%).
 - 3) The Scheme secures a high-quality form of development consistent with the development management policies of the NPPF and the approach to high quality design set out in the NPPF.
 - 4) The Scheme secures a publicly accessible recreational area for the enjoyment of existing and future residents.
 - 5) A pedestrian crossing will be provided on Hare Lane to the benefit of existing residents, creating a safer environment for pedestrians seeking to access local services and facilities.
- 9.19. The details of the layout and house type design are to be agreed through the determination of a subsequent reserved matters application, with the detailed scheme to reflect the particular need for housing at that time.
- 9.20. Overall, the social benefits of the scheme can be afforded very substantial weight in the overall planning balance.

Environmental

- 9.21. In terms of the environmental role, the Appeal Site is not located on land designated for its landscape value and is not a valued landscape.
- 9.22. The Appeal Scheme will not have any adverse impact on ecological receptors and will secure a measurable net gain for biodiversity.
- 9.23. The retention of existing boundary trees and hedges around the Appeal Site ensure the Scheme assimilates into the character of the local area.
- 9.24. The proposals would deliver sustainable homes allowing the fulfilment of this important objective whilst at the same time moving to a low carbon economy

and securing an environmentally sustainable form of new residential development.

- 9.25. On the basis of the above, there are environmental benefits which would arise from the proposals to which I give moderate positive weight.

The NPPF Paragraph 153 Balance

- 9.26. The Appeal Site represents a sustainable and logical addition to Claygate and the evidence to be presented in the overall planning balance justifies the acceptability of the Scheme, including in relation to housing need/supply (particularly having regard to housing need arising in the housing market area and the pressing need for affordable housing).
- 9.27. Paragraph 153 of the NPPF confirms that in order for Very Special Circumstances to apply for inappropriate development in Green Belt locations, any harm to the Green Belt (definitional and actual) plus any other harm will need to be clearly outweighed by other considerations.

The Benefits of the Appeal Scheme Clearly Outweigh any Harms

- 9.28. I have addressed the benefits of the Appeal Scheme above under the three strands of sustainability. Without repeating them, I would emphasise in particular that:
1. Even on the Council's approach, there is a shortfall in the five year housing land supply position of at least 557 dwellings. This represents a supply of only 4.14 years on the Council's case. However, this relies upon sites added to the supply post the base date, that were not included in the AMR (**CDE.13**) or LAA (**CDE.14**). Excluding these components of supply (which one should rightly do, as explained in my Housing Land Supply proof) results in the Council (on its case) only being able to show a 3.53 year supply of deliverable housing land at the base date (1st April 2023). On my analysis there is a shortfall of 971 dwellings and a supply of only 3.51 years (against the 4 year minimum requirement that applies in this case by virtue of paragraphs 77 and 226 of the NPPF).
 2. There is an acute and chronic need for affordable housing and the Appeal Scheme secures 50% affordable homes.

3. There is a chronic shortfall of deliverable land for development and if permission is granted this Site can come forward and deliver much needed housing within the five year period.
4. The evidence base to the emerging Local Plan demonstrates that exceptional circumstances exist to justify the release of land from the Green Belt to meet identified housing needs, which includes the proposed allocation of the Appeal Site (**CDE.42** refers). Given the emerging Local plan's failure to plan for the LHN, there has and will continue to be a sustained period of failing to address identified housing need.
5. The Appeal Site affords a sustainable location for development, contributing toward sustainable patterns of growth for both existing and future residents.
6. The Appeal Scheme secures publicly accessible open space in accordance with paragraph 102 of the NPPF.
7. The Appeal Scheme results in economic benefits.
8. The Appeal Scheme results in social benefits.
9. The Appeal Scheme secures an overall biodiversity net gain of over 10%.
10. The Appeal Scheme accords with the development plan when taken as a whole.

9.29. In carrying out my planning balance I use a weighting of limited, moderate, significant, substantial and very substantial.

9.30. The balance I have undertaken may be summarised as follows:

Harms	Weight
Harm to the Green Belt	Substantial weight
Landscape and Visual Harm	Limited weight

Benefits	Weight
Social benefits	Very substantial weight
Economic benefits	Substantial weight
Environmental benefits	Moderate weight

- 9.31. Having regard to all of the above matters, it is my conclusion that the benefits I have identified clearly outweigh the harm to the Green Belt by reason of inappropriateness and the other harm (namely the minor harm to Green Belt openness and the third Green Belt purpose and the limited landscape and visual harm). It is therefore my evidence that very special circumstances exist to justify this inappropriate development in the Green Belt. Accordingly, the proposal would be acceptable in the context of the approach set out at Development Management Policies DM1 and DM17, which operate as an exception to the otherwise restrictive approach to development in the Green Belt and the Appeal Scheme complies with the development plan overall.
- 9.32. As demonstrated, there is no “clear reason” for refusing the Appeal Scheme and any possible adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, the Scheme benefits from the presumption in favour of sustainable development and which is a further material consideration in support of the grant of planning permission.
- 9.33. For those reasons, I consider the Appeal should be allowed.

10. SUMMARY AND CONCLUSION

- 10.1. The Appeal Scheme proposes an outline application for up to 60 residential dwellings (50% affordable) (all matters reserved except for access).
- 10.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement for planning applications and appeals to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 10.3. In this instance, I identify conflict between the Appeal Scheme and Policies CS1, CS2 and CS11 (being located beyond the settlement policy boundary). However, because the Scheme accords with Policies DM1 and DM17 (which operate as an exception to the otherwise restrictive approach to development in the Green Belt), I conclude that the Appeal Scheme accords with the development plan when taken as a whole.
- 10.4. The development plan (including the policies which are most important for determining the Appeal) is now out of date in terms of the spatial application of its housing policies. The development plan is not based upon a NPPF compliant assessment of housing need and cannot be said to be up to date in respect of its market and affordable housing provision or in relation to policies that seek to restrict development within the defined settlement policy boundaries. Additionally, the Council is not able to demonstrate a four year supply of deliverable housing land.
- 10.5. In the circumstances, the presumption in favour of sustainable development at paragraph 11(d) of the NPPF is engaged. This requires planning applications to be approved unless footnote 7 considerations provide a clear reason for refusing development (which they do not); or any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Again, they do not.
- 10.6. By paragraph 153 of the NPPF, substantial weight must be given to the Green Belt harm. In this case, that involves definitional harm (which applies inevitably

for any inappropriate development) and minor harm to openness and the third Green Belt purpose. Added to this is landscape and visual harm, but this is limited (indeed the Council has no objection to the proposal on landscape and visual grounds – only on Green Belt grounds). As set out above, the many benefits secured by the Appeal Scheme amount to very special circumstances to justify the grant of planning permission for the development of much needed housing in the Green Belt including 50% affordable housing.

- 10.7. This is demonstrably a case where the weight to be attached to conflict with the development plan policies CS1, CS2 and CS11 (on account of the location of the Site beyond the defined settlement policy boundary for Claygate) can be reduced on account of the need to breach the settlement policy boundaries identified in the development plan to meet development needs, as well as on account of those policies being out of date.
- 10.8. For the reasons I have explained, it is my opinion that the Appeal Scheme is in accordance with the development plan when taken as a whole. This is on account of the Appeal Scheme's conformity with Development Management Policies DM1 and DM17, which operate as an exception to the otherwise restrictive approach to development in the Green Belt.
- 10.9. The benefits are many and manifest, including the provision of housing and affordable housing when the Country and the Borough face a housing crisis, which government policy seeks to address by 'significantly boosting the supply of homes'.
- 10.10. When carrying out the overall planning balance the acute and chronic need for homes of all tenures in a Borough with an out of date Local Plan (Core Strategy), a shortfall of housing land supply, an acute and unmet need for affordable housing, along with the sustainable location of the Site, and the many benefits that are derived from the Scheme, clearly outweighs the definitional harm to the Green Belt, the minor harm to openness and the third Green Belt purpose, and the limited landscape and visual impacts.
- 10.11. For the reasons set out above, very special circumstances exist to justify the grant of planning permission for the Appeal Scheme in accordance with

paragraph 153 of the NPPF. The Scheme benefits from the NPPF paragraph 11 presumption in favour of sustainable development and accords with the development plan overall. Accordingly, I invite the Inspector to allow the Appeal and grant planning permission.

Appeal Statement: Ecology

March 2024

**Land north of Raleigh
Drive, Claygate**

Prepared by
CSA Environmental

On behalf of
Claygate House
Investments Ltd and MJS
Investments Ltd

Report No: CSA/3230/10

This report may contain sensitive ecological information. It is the responsibility of the Local Authority to determine if this should be made publicly available.

Report Reference	Revision	Date	Prepared by	Approved by	Comments
CSA/3230/10	-	21/02/2024	MR	MR	Working draft for comment
	A	13/03/2024	MR	MR	Second draft
	B	18/03/2024	MR	MR	Final



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Appendices

Appendix A: Habitats Plan

Appendix B: Post-Development Habitats Plan

Appendix C: Habitat Condition Assessment

Appendix D: Preliminary Off-site Delivery Strategy (Biofarm, March 2024)

Appendix E: Statutory Biodiversity Metric

1.0 INTRODUCTION

- 1.1 I am Mark Rose, Associate Ecologist at CSA Environmental. I am an experienced practitioner with 13 years' full-time experience in professional ecological consultancy, and am a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM). I hold Natural England species survey/class licences for bats, as well as great crested newts, rare reptiles and dormice. My academic qualifications include a BSc (Hons) in Zoology and an MSc in Biodiversity Conservation from the University of Southampton. I confirm that this Statement has been prepared by me, and that it presents my true and professional opinion.
- 1.2 I am instructed by Claygate House Investments Ltd and MJS Investments Ltd ('the Appellant') in respect of appeal case APP/K3605/W/23/3334391, concerning Land north of Raleigh Drive, Claygate (the 'Appeal Site'). CSA Environmental was first instructed by the Appellant in August 2019 to provide technical inputs in connection with a proposed development at the Appeal Site.
- 1.3 The present appeal concerns an outline planning application (2023/0962) for up to 60 dwellings, associated landscaping and open space, with access from Raleigh Drive, submitted to Elmbridge Borough Council (EBC) in March 2023 ('the Appeal Scheme').
- 1.4 The application was supported by an Ecological Impact Assessment (**CDA.9**; EclA; CSA/3230/04 Rev B) which incorporated a Biodiversity Net Gain (BNG) Assessment (CSA/3230/06 Rev A), prepared by CSA Environmental. The application was further accompanied by a Landscape and Ecology Management Plan (**CDA.10**; CSA/3230/07 Rev A), and an Ecological Technical Note (**CDA.29**) was submitted during the determination period, providing various updates and clarifications further to comments made by relevant statutory and non-statutory consultees. I personally led in the preparation of these documents and was involved in many of the baseline habitats and species surveys undertaken at the Appeal Site.
- 1.5 The Appellant has lodged an appeal against EBC's refusal of the outline planning application. The Council's September 2023 decision notice (**CDB.1**) cites four reasons for refusal, one of which is relevant to matters of ecology and biodiversity conservation. Reason for Refusal 2 states that, "*The proposed development, by reason of the on-site net loss of biodiversity which cannot be offset off-site, would result in harm to on-site ecology and biodiversity and would be contrary to Policy CS15 of the Core Strategy 2011 and the NPPF 2023.*" The Council accepts that Reason for Refusal 2 can in principle be overcome by suitable conditions or planning obligations, as noted in paragraph 4.21 of the Planning Statement of Common Ground (**CDD.1**), which states that "[as] long as

acceptable mitigation for off-site biodiversity net gain is secured through a Grampian condition / S106, the Council agrees that the Appeal Scheme is acceptable in ecology terms". As indicated in paragraph 6.3 of the Planning Statement of Common Ground, the parties are working together to agree the precise details of the mechanism for securing biodiversity net gain.

1.6 This Statement will:

- Draw together and summarise, for the convenience of the Inspector, the different threads of evidence pertaining to matters of ecology.
- Demonstrate that the Appeal Scheme will achieve a measurable net gain in biodiversity, in excess of legal or policy requirements.

1.7 The BNG Assessment submitted in support of the planning application was based upon use of the prevailing national Biodiversity Metric at that time; Biodiversity Metric 3.1. While, in the context of the Appeal Scheme, there is no requirement to do so under national or local policy, best practice guidance or statute, for completeness the measurement of net change in biodiversity has been updated through application of the Statutory Biodiversity Metric (released November 2023). The updated results are presented herein.

2.0 CONTEXT

Location

- 2.1 The Appeal Site is located around central grid reference TQ 1479 6410, to the east of Esher, Surrey. The landscape context of the Appeal Site is dominated by residential developed land, with grassland fields to the south and immediate north, and scattered woodland further north and east.

The Appeal Site

- 2.2 An ecological desk study was initially undertaken in September 2019, and updated in July 2022, comprising a review of online resources and biological records centre data. An initial extended Phase 1 Habitat Survey was undertaken in September 2019. A follow up habitats field survey consisting of a UK Habitat Classification ('UKHab') survey was carried out in December 2022, with habitat classifications confirmed and additional information gathered during a Habitat Condition Assessment in May 2023.
- 2.3 The Appeal Site occupies an area of c. 2.2ha and consists of a large grassland field with a small area of hardstanding bounded by outgrown hedgerows and treelines. These habitats are shown in a Habitats Plan provided at Appendix A, with representative photographs provided at Appendix D to the submitted EclA (**CDA.9**).
- 2.4 Further detail on the baseline ecological conditions of the Appeal Site is provided below under Section 4.

The Appeal Scheme

- 2.5 The outline planning application submitted to EBC in March 2023 described the proposal as an outline application for up to 60 dwellings, associated landscaping and open space with access from Raleigh Drive. The submitted EclA was based upon this description of development, as well as the Proposed Illustrative Masterplan prepared by OSP Architecture (**CDA.19**) on behalf of Claygate House Investments Ltd and MJS Investments Ltd.
- 2.6 It was summarised in the assessment that the construction phase of the Appeal Scheme will comprise the following:
- Construction of up to 60 residential dwellings
 - Construction of associated gardens, parking, access infrastructure and a play area
 - The establishment of Public Open Space (POS) totalling c. 0.5ha, including a wetland/wildflower meadow.

2.7 The operational phase of the Appeal Scheme will comprise the following:

- Occupation of new residential dwellings
- Increase in human activity, including use of vehicles and presence of domestic pets
- Increased artificial lighting and anthropogenic noise

3.0 RELEVANT LEGISLATION & PLANNING POLICY

Legislation

- 3.1 The Conservation of Habitats and Species Regulations 2017 (as amended) make prescriptions for the designation and protection of Sites of Community Importance ('European sites', i.e. Special Areas of Conservation and Special Protection Areas) and European Protected Species (EPS). The latter include all native bats, great crested newts, dormice, otters and certain reptiles, listed under Schedule 2 of the Regulations. Following the UK's departure from the European Union, the provisions of the Regulations have been retained through enactment of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, which came into force on 31 December 2020.
- 3.2 The Wildlife and Countryside Act 1981 (as amended, principally by the Countryside and Rights of Way Act 2000) forms the basis for protection of statutory designated sites of national importance (e.g. Sites of Special Scientific Interest; SSSIs) and native species that are rare and vulnerable in a national context. Additionally, badgers are protected under the Protection of Badgers Act 1992.
- 3.3 The Environment Act 2021 received Royal Assent in November 2021. With effect from 12 February 2024, it has inserted a new Schedule 7A into the Town and Country Planning Act 1990, which imposes a pre-commencement condition on all qualifying planning permissions preventing development from being begun unless a biodiversity gain plan has been submitted to and approved by the planning authority. A biodiversity gain plan is required to demonstrate (through onsite measures, offsite measures and/or biodiversity credits) that the biodiversity value attributable to the development exceeds the pre-development biodiversity value of the onsite habitat by at least 10%. Due to the related planning application having been submitted prior to 12 February 2024, these provisions do not apply to the Appeal Scheme (see Regulations 2 and 3 of the Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024).
- 3.4 Section 40(1) of the Natural Environment and Rural Communities (NERC) Act 2006 states that a "*public authority which has any functions exercisable in relation to England must from time to time consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the general biodiversity objective*". That objective is defined by section 40(A1) as being "*the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England*". In complying with this duty, regard should be had to the Section 41 (S41) lists of 56 habitats and 943 species of principal importance. The UK Biodiversity Action Plan (BAP) has been superseded by the Biodiversity 2020 Strategy, however Local BAPs

continue to influence biodiversity management and conservation effort, including through the spatial planning system, at the local scale.

National Policy

- 3.5 The National Planning Policy Framework (2023) (NPPF) sets out the government planning policies for England and how they should be applied. With regards to ecology and biodiversity, Chapter 15: Conserving and Enhancing the Natural Environment, paragraph 180, states that the planning system and planning policies should minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 3.6 Paragraph 186 sets out the principles that local planning authorities should apply when determining planning applications:
- If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
 - Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.
 - Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
 - Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 3.7 Accompanying the NPPF, central government guidance on the implementation of planning policies is set out within online Planning Practice Guidance (PPG). The Natural Environment PPG addresses principles across a broad spectrum of topics targeting biodiversity conservation, from individual site and species protection through to the supporting of ecosystem services, and the use of local ecological networks to support the national Nature Recovery Network. In particular, the PPG promotes the delivery of measurable Biodiversity Net Gain

through the creation and enhancement of habitats alongside development.

- 3.8 The Government Circular 06/2005, which is referred to within the NPPF, defines statutory nature conservation sites and protected species as a material consideration in the planning process.

Local Policy

- 3.9 Local planning policies of relevance to ecology, biodiversity and/or nature conservation have been set out in Table 1 below.

Table 1. Summary of regional and local planning policy relating to ecology

Policy	Summary
Elmbridge Borough Council Core Strategy (CDE.1; adopted 2011)	
Policy CS15 – Biodiversity	<p>The Council will seek to avoid loss and contribute to a net gain in biodiversity across the region and the objectives of the Surrey Biodiversity Action Plan (BAP), by;</p> <ol style="list-style-type: none"> 1. Protecting and seeking to improve all sites designated for their biodiversity importance, as identified on the proposals map, in accordance with PPS9: Biodiversity and Geological Conservation and CS13-Thames Basin Heaths Special Protection Area (SPA), including those sites considered as being relevant to the integrity of the South West London Waterbodies SPA and Ramsar site. Criteria based policies against which proposals will be judged for any development on, or affecting, sites of regional or local significance will be brought forward through future DPDs that address Development Management and Site Allocations; 2. Support the implementation of the Regional Forestry and Woodland Framework by: <ul style="list-style-type: none"> • Protecting all woodland, including ancient woodland, as shown on the proposals map, from damaging development and land uses; • Promoting the effective management, and where appropriate, extension and creation of new woodland areas including, in association with areas of major development, where this helps to restore and enhance degraded landscapes, screen noise and pollution, provide recreational opportunities, helps mitigate climate change, and contributes to floodplain management; • Replacing woodland unavoidably lost through development with new woodland on at least the same scale; • Promoting and encouraging the economic use of woodland and woodland resources including wood fuel as a renewable energy source; • Promoting the growth and procurement of sustainable timber products. 3. Protecting and enhancing BAP priority habitats and species and seeking to expand their coverage by

Policy	Summary
	<p>supporting the development of the Biodiversity Opportunity Areas; as shown on the proposals map;</p> <ol style="list-style-type: none"> 4. Managing and maintaining a mosaic of habitats and rich variety of wildlife across the Council's landholding in accordance with the Elmbridge Countryside Strategy; 5. Working in partnership to restore and enhance: <ul style="list-style-type: none"> • The Thames Basin Heaths SPA, in accordance with the CS13-Thames Basin Heaths SPA, which is an area of strategic opportunity for biodiversity improvement. • Brooklands Community Park and Esher Commons Site of Special Scientific Interest (SSSI) in accordance with the Council's most up-to-date mitigation strategy for the Thames Basin Heaths SPA and the Esher Commons SSSI Restoration and Management Plan. 6. Maximising the contribution of other green spaces and features, where appropriate, to the area's biodiversity resources including identifying and developing wildlife corridors to provide ecological 'stepping stones' and form a coherent local and regional biodiversity network in accordance with CS12-The River Thames and its tributaries and CS14-Green Infrastructure; 7. Directing development to previously developed land in accordance with CS1-Spatial Strategy, taking account of its existing biodiversity value. 8. Ensuring new development does not result in a net loss of biodiversity and where feasible contributes to a net gain through the incorporation of biodiversity features.
<p>CS13 – Thames Basin Heaths Special Protection Area</p>	<p>New residential development which is likely to have a significant effect on the ecological integrity of the Thames Basin Heaths Special Protection Area (SPA) will be required to demonstrate that adequate measures must be agreed with Natural England.</p> <p>Priority will be given to directing development to those areas where potential adverse effects can be avoided without the need for mitigation measures. Where mitigation measures are required, the Council will work partnership to set out clearly and deliver a consistent approach to mitigation, based on the following principles:</p> <ol style="list-style-type: none"> 1. A zone of influence set at 5km linear distance from the SPA boundary will be established where measures must be taken to ensure that the integrity of the SPA is protected. 2. Within this zone of influence, there will be a 400m "exclusion zone" where mitigation measures are unlikely to be capable of protecting the integrity of the SPA. 3. Where development is proposed outside the exclusion zone but within the zone of influence, mitigation measures will be delivered prior to occupation and in perpetuity. Measures will be based on a combination of access management, and the provision of Suitable Accessible Natural Greenspace (SANG).

Policy	Summary
	<p>Where mitigation will take the form of provision of SANG the following standards and arrangements will apply:</p> <ul style="list-style-type: none"> • A minimum of 8 hectares of SANG land (after discounting to account for current access and capacity) should be provided per 1,000 new occupants; • Developments of fewer than 10 dwellings should not be required to be within a specified distance of SANG land provided it is ensured that a sufficient quantity of SANG land is in place to cater for the consequent increase in residents prior to occupation of the dwellings; • Access management measures will be provided strategically to ensure that the adverse impacts on the SPA are avoided and that SANG functions effectively; • The Council will work in partnership through the Joint Strategic Partnership Board (JSPB) to ensure the delivery of mitigation measures; • The Council will co-operate with Natural England and other landowners and stakeholders in monitoring the effectiveness of avoidance and mitigation measures and monitoring visitor pressure on the SPA and review/amend the approach set out in this policy, as necessary; • The Council will collect developer contributions towards mitigation measures, including the provision of SANG land and joint contributions to the funding of access management and monitoring the effects of mitigation measures across the SPA; • Large developments may be expected to provide bespoke mitigation that provides a combination of benefits including SANG, biodiversity enhancement, green infrastructure and, potentially, new recreational facilities. <p>Where further evidence demonstrates that the integrity of the SPA can be protected using different linear thresholds or with alternative mitigation measures (including standards of SANG provision different to those set out in this policy) these will be agreed with Natural England.</p> <p>Further details are set out within the Delivery Framework and the Council's most up-to-date mitigation strategy.</p>
Elmbridge Borough Council Development Management Plan (CDE.2; adopted 2015)	
DM21 – Nature conservation and biodiversity	<p>a. In accordance with Core Strategy policy CS15 – Biodiversity, all new development will be expected to preserve, manage and where possible enhance existing habitats, protected species and biodiversity features. The Council will work in partnership to explore new opportunities for habitat creation and restoration.</p> <p>b. Support will be given to proposals that enhance existing and incorporate new biodiversity features, habitats and links to habitat networks into the design of buildings themselves as well as in appropriate design and landscape schemes of new developments with the aim of attracting wildlife and</p>

Policy	Summary
	<p>promoting biodiversity. Conditions will be used to secure the provision of mitigation measures, as appropriate.</p> <p>c. Development affecting designated international sites of biodiversity importance and compensatory sites⁴⁵ will be considered against Core Strategy policies CS13 – Thames Basin Heaths Special Protection Area, CS15 – Biodiversity, the Framework and relevant legislation⁴⁶.</p> <p>d. Development affecting national sites of biodiversity importance⁴⁷ will not be permitted if it will have an adverse effect, directly or indirectly, individually or in combination, on the site or its features. In exceptional circumstances, proposals that have an adverse effect on a national site may be permitted if the benefits of the development clearly outweigh the harm. If a development is approved under these circumstances, appropriate avoidance, mitigation and compensation will be sought wherever possible.</p> <p>e. Development affecting locally designated sites of biodiversity importance or sites falling outside these that support national priority habitats or priority species will not be permitted if it will result in significant harm to the nature conservation value of the site or feature.</p> <p>f. Sites identified on the Policies Map as having potential to be designated in future as Suitable Accessible Natural Greenspace (SANG) will be protected from development that may compromise its ability to serve that function, taking into account the level of existing SANG when the development is proposed and any wider benefits of the proposal.</p>

4.0 IMPORTANT ECOLOGICAL FEATURES

Nature Conservation Designations

- 4.1 There are no statutory or non-statutory designations covering any part of the Appeal Site.
- 4.2 The South West London Waterbodies Special Protection Area (SPA) and Ramsar site is present c. 4.31km north-west of the Appeal Site. This designation does not have general public access. Recreational activities permitted within the waterbodies, including watersports, have been identified as a vulnerability of the designation, however, a spatial and temporal zoning system is in operation on the waterbody to prevent disturbance effects in the primary over-wintering gadwall feeding areas, with the majority of recreational activity occurring in the summer months when populations of the qualifying species are not present. No other impact pathways were identified in the EclA.
- 4.3 The Appeal Site falls over 8km from the Thames Basin Heaths SPA, therefore the Appeal Scheme will make no appreciable contribution toward recreation pressures, and SANG/SAMM mitigation measures are not required.
- 4.4 Various further statutory conservation designations occur within the surrounding environment, and a total of four non-statutory, local designations occur within 2km of the Appeal Site. As recorded in the submitted EclA, on review of their special interest features and spatial relationship with the Appeal Site, no potential impact pathways likely to give rise to significant negative effects have been identified in respect of any conservation designations. In their comments of 05 May 2023, Natural England confirm their view, *“that the proposed development will not have significant adverse impacts on designated sites and has no objection.”*

Habitats and Flora

- 4.5 Baseline habitats recorded on-site are illustrated in Appendix A, with detailed species lists provided in Appendix E to the submitted EclA (**CDA.9**).
- 4.6 Spatial habitats of the Appeal Site are heavily dominated by the grassland of a former golf pitch-and-putt practice area. While formerly species-poor and intensively managed, the grassland has developed in floristic diversity and structure in recent years, and was classified as Other Neutral Grassland. The sward is dominated by grasses, although a range of herb species has established. The EclA records that species composition within the grassland is not uniform, and despite species counts per m² being below what would typically be expected for a

'medium distinctiveness' grassland, on a precautionary basis this habitat type was considered most reflective of the species composition.

- 4.7 A former bowls green in the north-west corner of the Appeal Site was noticeably species poor and homogenous in character, and was therefore classified as modified grassland (low distinctiveness).
- 4.8 Discrete parcels of bramble-dominated scrub are present around the former bowls green and set along the southern boundary, and unvegetated, sealed surfaces are present along an existing access path and former tennis courts.
- 4.9 On-site boundary vegetation consists of treelines as well as ornamental hedgerows. The treelines along the northern and eastern boundaries consist of native species, while those to the south consist predominantly of lombardy poplar *Populus nigra* var. *italica*. Two short lengths of ornamental hedgerow are also present.
- 4.10 A shallow channel forms the eastern boundary of the Appeal Site, set within the mature tree line. This was seen to have a gentle northward flow during winter, though contained stagnant water in May 2022. The channel joins the Rythe c. 350 north of the Appeal Site, though is extensively culverted through the intervening section. The channel is steep-sided, contained shallow water, is heavily shaded, has significant scrub encroachment and limited emergent and floating aquatic flora was present.
- 4.11 The Appeal Site contains no mapped ancient woodland, no ancient or veteran trees, and no invasive non-native species have been recorded at the Appeal Site.
- 4.12 Broadly, the baseline habitats of the Appeal Site are common and widespread. Those of greatest ecological value are the northern and eastern boundary treelines, which provide locally important connectivity, as well as opportunities for a variety of wildlife. As part of the Proposed Site Plan, these treelines are to be retained and protected as part of development. This is confirmed within the submitted Arboricultural Impact Assessment (Barton Hyett Associates, November 2022), which prescribes measures for the protection of rooting areas.

Fauna

- 4.13 Seasonal bat activity surveys recorded a dominance of common pipistrelle activity within the Appeal Site, with foraging behaviour observed most frequently along the eastern boundary. While proposals have been designed to minimise impacts on trees, no trees likely to be impacted were found to present significant bat roost potential. Full methods and results are provided in Appendix H to the EclA. In their comments of 09 June 2023 (**CDB.14**), the Surrey Bat Group give their view

that, *“there should be no serious negative impacts on the local bat population.”*

- 4.14 While previously dominated by a homogenous, short sward, of negligible suitability for reptiles, the developing grassland now offers opportunities for foraging, refuge and basking, particularly around peripheral habitat interfaces. During targeted reptile surveys a single slow worm was identified (during four of the seven surveys), suggests that a low population is present. No other reptiles were identified during the surveys. Full methods and results are provided in Appendix I to the EclA.
- 4.15 Field surveys and desktop assessment found no evidence of the Appeal Site supporting badgers, notable assemblages of breeding birds or invertebrate communities in any significant capacity. Dormice, water voles, otters and great crested newts were determined to be likely absent from the Appeal Site.
- 4.16 The Appeal Scheme has sought first to avoid negative effects on protected and priority species through sensitive design, such as avoiding impacts on root protection areas of trees, and biasing built form to the west of the Appeal Site (away from shallow channel, mature vegetation and bat activity hotspot). This will minimise impacts on foraging and dispersing bat species by maintaining a strategic green corridor along the eastern boundary, allowing dispersal routes and foraging habitats to be maintained. As shown in the submitted Landscape Strategy (CSA/3230/106), this is proposed to feature significant new thicket planting along the northern and eastern boundaries, buffering the boundary from development edge effects and enhancing the species and structural diversity in this part of the Appeal Site; benefiting reptiles, breeding birds, invertebrates and other wildlife. Further detail of the establishment and long term management of these habitats, to maximise benefits for biodiversity, are set out in the submitted LEMP.
- 4.17 Beyond these elements of avoidance, mitigation and enhancement by design, construction-phase mitigation is proposed in order to minimise the risk of killing or injury to individual reptiles. This is to be based on measures to displace slow worms from the proposed working areas prior to commencement.
- 4.18 Subject to these straightforward measures it is my view that development of the Appeal Site consistent with the outline parameters could be achieved without any significant negative effect on protected or priority species, and entirely in accordance with adopted policies CS15 and DM21.

5.0 BIODIVERSITY NET GAIN

- 5.1 The planning application was supported by a BNG Assessment (within **CDA.9**), providing a quantified projection of the net change in biodiversity which could be expected to result from the outline proposals, set against policy requirements for no net loss (statutory requirements for net gain not applying to the Appeal Scheme).
- 5.2 As described above, the results presented here are a revision to those previously submitted. For completeness, the calculation has been re-run through the Statutory Biodiversity Metric (published November 2023) ahead of the forthcoming Public Inquiry.

Methods

Baseline Habitats

- 5.3 A UK Habitats Classification Survey (UKHab) was carried out in December 2022, with a follow-up in-season Habitat Condition Assessment (HCA) of habitats undertaken in May 2023. The HCA condition criteria (Appendix C) were subsequently reviewed for each habitat type when transposing the results into the Statutory Biodiversity Metric.
- 5.4 The pre-development baseline habitat areas were calculated using measurements taken using QGIS software from the Habitats Plan (Appendix A). Hedgerows, treelines and ditches were included as linear habitat features.
- 5.5 It may be noted that within the metric the total habitat area falls very slightly below the total area of the Site reported here (2.2ha). This is due to the red line having extended to include S278 works to the south of the Site following the initial BNG assessment. The very small area of land unaccounted for is hardstanding as existing and will be as proposed, therefore this minor discrepancy has no material effect on the calculated net changes in biodiversity.

Post-Development Habitats

- 5.6 Post-development habitats were measured from the Landscape Strategy (**CDA.22**; CSA/3230/106), transposed into a Post-Development Habitats Plan (CSA/3230/108; Appendix B). The following reasonable assumptions, relating to the achievement of certain habitat types/conditions post-development, were made:
- Areas of 'Amenity Grass' are classified as 'Modified Grassland' in 'moderate' condition.
 - Areas of 'Native Thicket Mix' are classified as 'Mixed Scrub' in 'moderate' condition. Where this planting is indicated where

bramble scrub was present at baseline, this is assumed to be enhanced to 'Mixed Scrub' habitat, with the remainder created.

- Areas of 'Wildflower Meadow Grass' are classified as 'Other Neutral Grassland' in 'moderate' condition and are assumed to be retained from the baseline habitats as part of the proposed development.
- Proposed 'Native Tree Planting' are classified as 'Urban Trees' assumed to achieve 'medium' size and 'moderate' condition, whilst proposed 'Street Tree Planting' and 'Small Ornamental Tree Planting' are assumed to achieve 'small' size and 'poor' condition.
- Lengths of 'Ornamental Hedge Planting' and 'Ornamental Shrub/Herbaceous/Grass Planting' are classified as 'Non-Native and Ornamental Hedgerow' with a default 'poor' condition.
- All lengths of proposed formal hedgerow planting outside private front gardens are classified as 'Non-Native and Ornamental Hedgerow' with a default 'poor' condition.
- All lengths of 'Native Hedge Planting' are classified as 'Native Hedgerows' in 'moderate' condition.
- All roads, driveways and residential dwellings are classified as 'Developed Land; Sealed Surface'.
- The on-site ditch is enhanced in condition, following the removal of excessive shading vegetation and through planting of aquatic and marginal vegetation.

5.7 These assumptions (which relate to the achievement of certain habitat types/conditions post-development) are considered to represent a suitable balance between ambitious yet realistic target setting.

Biodiversity Metric

5.8 The Natural England Biodiversity Metric 3.1 was originally used to calculate the change in biodiversity units (including 'Habitat' Units, linear 'Hedgerow' Units and 'River' Units) and the overall percentage of gain/loss achieved. This was then transposed into the Statutory Biodiversity Metric in February 2024, a copy of which is provided as Appendix E.

Trading Rules

5.9 The Statutory Biodiversity Metric, consistent with previous iterations, contains in-built 'trading rules'. These set minimum habitat creation and enhancement requirements to compensate for specific habitat losses, and are based upon the habitat type and distinctiveness of the lost habitat. In simple terms, they prohibit the concept of 'trading down', i.e. compensating the loss of high value habitat through creation of a commensurately greater area of one of low value.

5.10 In the case of area habitats (i.e. Habitat Units) of medium distinctiveness, trading rules require that losses must be replaced by area habitat units of medium distinctiveness within the same broad habitat type (e.g. grassland, woodland, etc.), or any habitat type of greater

distinctiveness. Losses of low distinctiveness habitat units, by contrast, need only be compensated by habitat units of the same distinctiveness or higher, and can be from any habitat type.

Results

Statutory Biodiversity Metric

- 5.11 Based on the Statutory Biodiversity Metric calculation, the Appeal Scheme could be expected to result in an on-site net loss of 3.51 Habitat Units (equating to -24.56%), and an indicated on-site **net gain of 0.53 Hedgerow Units (+33.76%) and 0.44 River Units (+86.72%)**.
- 5.12 Although based on illustrative layout and landscaping proposals, calculation of the projected change in biodiversity units resulting from the Appeal Scheme suggest that (in specific respect of spatial area habitat units) policy requirements would not be met on-site. As such, it will be necessary to secure off-site compensation to offset the on-site loss.

Off-site Compensation

- 5.13 The on-site net loss of habitat units relates specifically to a medium distinctiveness grassland, which requires the same broad habitat type or a higher distinctiveness habitat to compensate for the loss and satisfy trading rules. Therefore, grassland habitat creation or enhancement has been targeted when securing off-site compensation. In order to achieve a 10% net gain in biodiversity, a total of 4.94 habitat units would need to be secured. However, in order to satisfy the Biodiversity Metric's in-built trading rules (see above), a total of 9.22 medium distinctiveness grassland units will need to be secured, which would result in an overall net gain of 39.9%.
- 5.14 Having identified the need for off-site compensation, the Appellant has engaged with a range of potential providers, with the aim of funding commensurate habitat creation or enhancement that is (1) as close as possible to the Appeal Site, (2) in the most ecologically desirable (or 'strategically significant') location possible, and (3) where the habitat types created or enhanced will match most closely those impacted at the Appeal Site.
- 5.15 To deliver the off-site compensation, the Appellant has partnered with Biofarm, a biodiversity offset broker who work with developers, landowners and local planning authorities. Biofarm have secured a compensation delivery site in West Clandon, Surrey. Further details are provided at Appendix D.
- 5.16 The compensation delivery site is within the same National Character Area (Thames Basin Lowlands) as the Appeal Site. This means that compensation will be sufficiently local to the Appeal Site such that, under the Metric, no spatial risk multiplier (i.e. distance penalty) is

applicable. The delivery site is also in an ecologically desirable location, being just outside but contiguous with a mapped Biodiversity Opportunity Area (BOA; North Downs Scarp & Dip; Guildford to the Mole Gap) as well as a designated Site of Nature Conservation Importance (SNCI; Clandon Downs) which includes ancient woodland.

- 5.17 Within the compensation delivery site (which will feature further habitat unit generation, unrelated to the Appeal Scheme) Biofarm propose to create 10 units (equating in this case to 1.42ha) of medium distinctiveness, neutral grassland in good condition, on land presently used for cereal cropping. Factoring in these 10 grassland units assigned to the Appeal Site, the Biodiversity Metric demonstrates that the Appeal Scheme would secure a **net gain of 6.49 Habitat Units (equating to 45.41%)**.
- 5.18 The final calculation will need to be conclusively determined at the reserved matters stage of planning; informed by the detailed layout and soft landscaping proposals. Nevertheless, the foregoing projection based on outline proposals, including off-site habitat creation, demonstrates that the Appeal Scheme would deliver a measurable net gain in biodiversity, markedly in excess of policy requirements.

6.0 REASON FOR REFUSAL 2

- 6.1 Reason for Refusal 2 in the Council's September 2023 decision notice states that, *"The proposed development, by reason of the on-site net loss of biodiversity which cannot be offset off-site, would result in harm to on-site ecology and biodiversity and would be contrary to Policy CS15 of the Core Strategy 2011 and the NPPF 2023."*
- 6.2 This reason for refusal is likely to relate to the consultee comments received in respect of the planning application, relevant excerpts of which are provided for context in Table 2 below.

Table 2. Consultee comments relevant to biodiversity net gain

Consultee / Date	Comment excerpt
EBC Countryside Estates Officer / 05 June 2023 (CDB.13)	The proposed development will have an overall negative effect on biodiversity in this abandoned field which is in the process of re-wilding and developing a greater wildlife carrying capacity. The loss of over 60% of the field cannot be easily mitigated in habitat terms by the submitted proposals, no matter how comprehensive.
Surrey Wildlife Trust / 12 June 2023 (CDB.15)	Prior to determination of this outline application, we would advise that the LPA requests: <ul style="list-style-type: none"> • A full biodiversity metric calculation tool, which shows the full biodiversity net gain assessment, to include on and off-site considerations; and • Further confidence/information that a suitable offsite credit/site location exists.
Surrey Wildlife Trust / 31 July 2023 (CDB.18)	It is feasible for an offsite strategy to be used, and the approach outlined in Section 1.14 of the Technical Note (CSA Environmental, July 2023) to be followed. However, on this aspect of the recommendations provided on biodiversity net gain, we maintain that it is important that the LPA is assured that a suitable off-strategy can be developed. We note the consultation from the Greenspaces (Culture, Leisure & Environment) team; therefore the Case Office may wish to receive further consultation on this point from that team.

- 6.3 Reason for Refusal 2 is addressed very briefly within EBC's Statement of Case **(CDC.2)**, where it is said at paragraph 6.9, *"The Council is in discussion with the Appellant in respect of the s106 agreement and the appropriate location for the delivery of BNG, given the terms of its Policy CS15 which requires that "where feasible [development] contributes to a net gain through the incorporation of biodiversity net features." This envisages on site delivery. At the present stage, the parties have not reached agreement on this. The Council will continue to work with the Appellant to identify whether common ground can [be] reached on this issue ahead of the inquiry."*

- 6.4 The Statement of Case appears to allude to an in-principle objection to the concept of delivery of biodiversity net gain through off-site compensation. However, paragraph 4.21 of the Planning Statement of Common Ground states that, as long as acceptable mitigation for off-site biodiversity net gain is secured, the Council agrees that the Appeal Scheme is acceptable in ecology terms.
- 6.5 It is right for the Council to have agreed this. There is no conflict with any local or national policy, or the Environment Act 2021, in achieving an overall net gain using off-site compensation, provided that the mitigation hierarchy has been correctly observed. Even disregarding consideration of best and most efficient use of land, in many cases this approach will undoubtedly deliver considerably better outcomes for wildlife, by focusing resources on consolidated habitat creation in more strategically desirable locations than development edge.

The Mitigation Hierarchy

- 6.6 The mitigation hierarchy is a central tenet of the treatment of matters of ecology in the planning system. It is set out in paragraph 186(a) of the NPPF, and states that a planning application should be refused if significant harm to biodiversity resulting from the development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for.
- 6.7 For the purposes of development which falls within the recent statutory requirements for biodiversity net gain (as set out, the Appeal Scheme does not), the core principles of the mitigation hierarchy have been adopted within the Biodiversity Gain Hierarchy (Article 37A of the Town and Country Planning (Development Management Procedure) (England) Order 2015). This hierarchy sets out a list of priority actions:
- First, in relation to on-site habitat with a habitat distinctiveness score, applied in the biodiversity metric, equal to or higher than four, the avoidance of adverse effects from the development and, if they cannot be avoided, the mitigation of those effects.
 - Then, in relation to all on-site habitats which are adversely affected by the development, the adverse effect should be compensated by prioritising, in order, the enhancement of existing on-site habitats, creation of new on-site habitats, allocation of registered off-site gains and finally the purchase of biodiversity credits.
- 6.8 In the case of the Appeal Scheme, the hierarchy has been correctly observed within the illustrative design. Habitat unit losses on-site have been minimised through the retention of the most ecologically valuable habitats, i.e. mature trees set within vegetated boundaries, and the ditch corridor. These features are furthermore the target of on-site enhancement, resulting in the significant on-site net gains in hedgerow and watercourse units recorded above (c. 33% and 86% respectively).

- 6.9 Spatial habitats at the Appeal Site are, however, uniformly dominated by medium distinctiveness grassland. While built form is proposed to be biased toward the western side of the Appeal Site, away from the more ecologically sensitive eastern boundary, there is no scope to further reduce on-site grassland losses through altered spatial design. While the Appeal Scheme would result in an inevitable on-site loss of spatial habitat units, the Appellant has correctly, sequentially:
- (1) Avoided on-site losses of the most ecologically valuable habitats.
 - (2) Minimised the unavoidable on-site net loss through enhancements (such as strengthening habitat corridors along the western and northern boundaries).
 - (3) Secured a source of compensation as close as possible to the Appeal Site, in an ecologically desirable location, negating final recourse to purchase of statutory biodiversity credits.
- 6.10 The Biodiversity Metric contain an in-built 'multiplier' to incentivise off-site compensation as close as possible to an impact site, with the practical effect of increasing the cost of offsetting over incrementally greater distances. Where the compensation is delivered either within the same local authority area, or the same National Character Area, no multiplier is triggered. As I have addressed above, this is the case here.

Statement of Common Ground & Planning Obligation

- 6.11 The signed Planning Statement of Common Ground (SoCG; **CDD.1**) records at paragraph 3(j) of the Executive Summary that matters agreed include, *"In principle, and subject to sufficient information being available, a condition or planning obligation could be used to secure 10% biodiversity net gain."* As already noted, it is clarified at paragraph 4.21 that, *"As long as acceptable mitigation for off-site biodiversity net gain is secured through a Grampian condition / S106, the Council agrees that the Appeal Scheme is acceptable in ecology terms."*
- 6.12 It is further recorded at paragraph 6.3 that, *"The parties will work together to agree a suitable condition and/or planning obligation to secure 10% biodiversity net gain, including biodiversity net gain management / monitoring."* At the time of writing, this work is ongoing as a parallel exercise to the presentation of the strategy to deliver biodiversity net gain set out here-in. The Appellant and Council are working to agree a Section 106 legal agreement, which has the effect of blocking any commencement of development until a detailed biodiversity offsetting scheme, including specifications for on- and off-site habitat creation and enhancement, which both delivers a minimum of 10% biodiversity net gain and satisfies the trading rules of the prevailing biodiversity metric, has been submitted to and approved in writing by the Council. The draft agreement secures implementation prior to occupation, and the continued management and monitoring

of habitats thereafter as to be set out in the agreed offsetting scheme. This provides security that the Appeal Scheme will not be implemented other than in a manner which delivers biodiversity net gain.

- 6.13 It will be recalled that the calculated net change in on-site biodiversity resulting from the Appeal Scheme reflects the outline nature of the proposals, and that the ultimate offset requirement will necessarily be established at the reserved matters stage of planning, informed by the detailed layout and soft landscaping proposals. Therefore, while the Preliminary Off-site Delivery Strategy from Biofarm presented at Appendix D has been sourced to provide reassurance that a viable means of delivering biodiversity net gain is available, the legal agreement retains flexibility on the precise location of the offset, while keeping this under Council control and providing security of delivery.

7.0 CONCLUSIONS

- 7.1 Reason for Refusal 2 asserts that the Appeal Scheme would result in harm to on-site ecology and biodiversity, and that it would be contrary to Policy CS15 of the Core Strategy 2011 as well as provisions of the NPPF. However, the Council has accepted that this reason for refusal can in principle be overcome by suitable conditions or planning obligations, as recorded in the Planning Statement of Common Ground. It is an agreed matter that "[as] long as acceptable mitigation for off-site biodiversity net gain is secured through a Grampian condition / S106, the Council agrees that the Appeal Scheme is acceptable in ecology terms".
- 7.2 As I have set out here, based upon the outline proposals, the Appeal Scheme could be expected to result in a net gain of 0.53 Hedgerow Units (+33.76%) and 0.44 River Units (+86.72%) within the Appeal Site itself. An off-site compensation strategy is further presented which has been shown to project a net gain of 6.49 Habitat Units (+45.41%). This is markedly in excess of existing policy requirements, and the Appeal Scheme is outwith the scope of the recently adopted statutory requirement for all new major developments to deliver 10% biodiversity net gain.
- 7.3 The strategy to deliver biodiversity net gain as part of the Appeal Scheme has been guided by the mitigation hierarchy and the biodiversity gain hierarchy. While there will be an unavoidable on-site loss of spatial Habitat Units, the Appeal Scheme avoids on-site losses of the most ecologically valuable habitats, minimises the unavoidable on-site net loss through enhancements, and secures a source of compensation as close as possible to the Appeal Site, in an ecologically desirable location.
- 7.4 The final, detailed strategy to deliver biodiversity net gain will need to be conclusively determined at the reserved matters stage of planning; informed by the detailed layout and soft landscaping proposals. However, the Appellant and Council are working to agree a Section 106 legal agreement, which has the effect of blocking commencement until this detailed strategy has been submitted to and approved in writing by the Council. The agreed strategy will secure implementation prior to occupation, and the continued management and monitoring of habitats thereafter. This provides security that the Appeal Scheme will not be implemented other than in a manner which delivers biodiversity net gain.
- 7.5 There are no further outstanding concerns raised in respect of ecology by the Council or their consultees (such as in respect of protected species or nature conservation designations). It is my conclusion that the Appeal Scheme demonstrably accords with all relevant nature conservation planning policy.

8.0 REFERENCES

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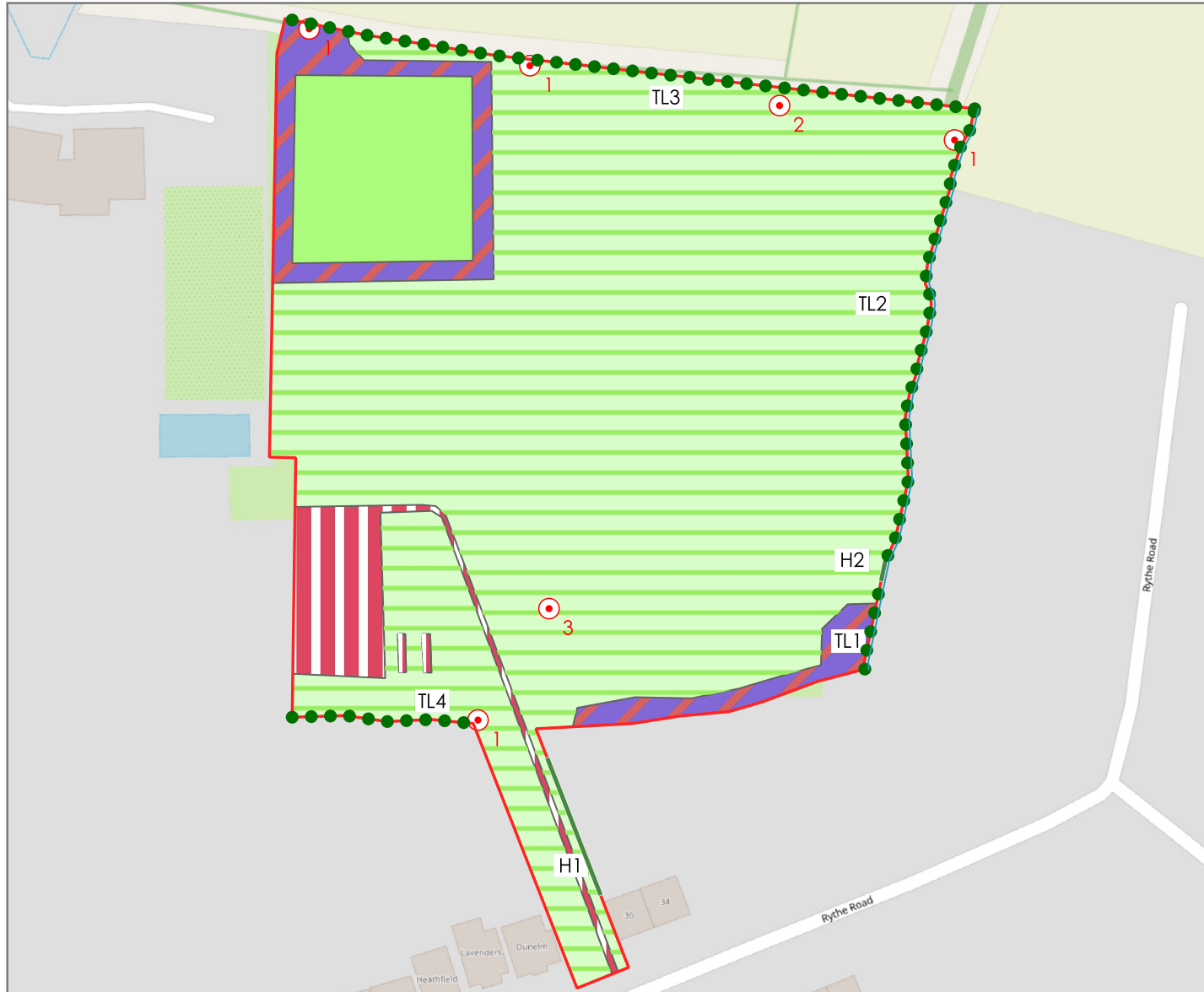
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Appendix A

Habitats Plan



- Survey area
- Ornamental non-native hedgerow (h2b)
- Line of trees (w1g6)
- Ditch (r1 191)
- Fence
- Other neutral grassland (g3c)
- Modified grassland (g4)
- Bramble scrub (h3d)
- Developed land; sealed surface (u1b)
- Hedgerow reference
- Target notes:
 - 1 - Mature oak with significant bat roost potential
 - 2 - Mammal run
 - 3 - Scattered former sand traps, now colonised by grassland



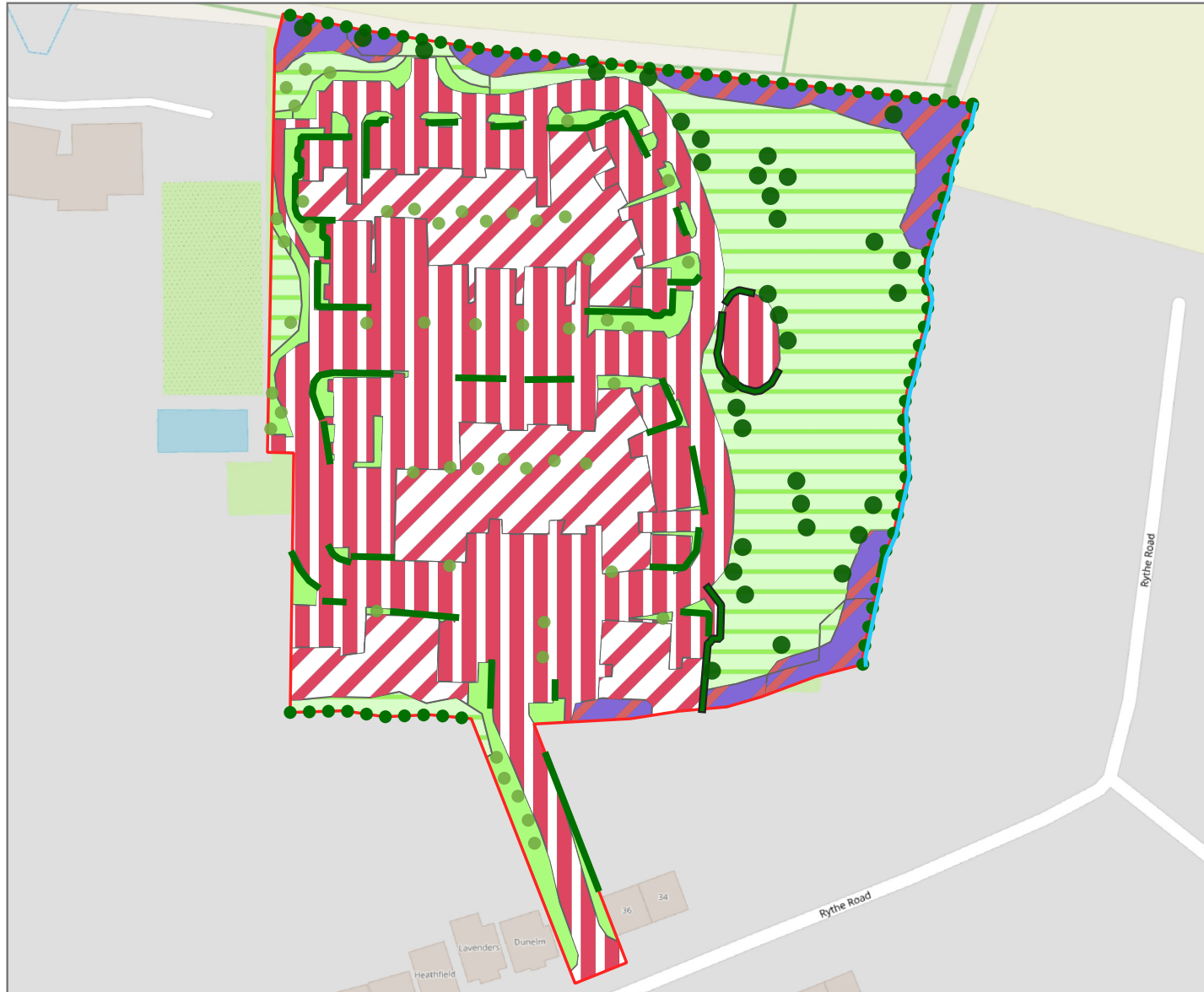
Southgate Chambers, 37-39 Southgate Street, Winchester SO23 9EH
 t 01962 587200
 e winchester@csaenvironmental.co.uk
 w csaenvironmental.co.uk

Project	Land north of Raleigh Drive, Claygate
Drawing Title	Update Habitats Plan
Client	MJS Investments Ltd and Claygate House Investments Ltd

Date	Oct 2022	Drawing No.	CSA/3230/104
Scale	Refer to scale	Rev	-
Drawn	JVG	Checked	MR

Appendix B

Post-Development Habitats Plan



- Survey area
- Ornamental non-native hedgerow
- Native hedgerow
- Line of trees
- Ditch
- Other neutral grassland (g3c)
- Modified grassland (g4)
- Bramble/mixed scrub (h3)
- Vegetated gardens (u1)
- Developed land; sealed surface (u1b)
- Medium trees
- Small trees



Project	Land north of Raleigh Drive, Claygate	Date	Oct 2022	Drawing No.	CSA/3230/108
Drawing Title	Post-Development Habitats Plan	Scale	Refer to scale	Rev	-
Client	MJS Investments Ltd and Claygate House Investments Ltd	Drawn	JVG	Checked	MR

Appendix C

Habitat Condition Assessment

Habitat Condition Sheet: **GRASSLAND – LOW DISTINCTIVENESS**

Condition Assessment Criteria – Former bowling green		Pass? (Y/N)
A	There are 6-8 vascular plant species per m ² present, including at least 2 forbs (these may include those listed in Footnote 1). Note - this criterion is essential for achieving Moderate or Good condition. Where the vascular plant species present are characteristic of medium, high or very high distinctiveness grassland, or there are 9 or more of these characteristic species per m ² (excluding those listed in Footnote 1), please review the full UKHab description to assess whether the grassland should instead be classified as a higher distinctiveness grassland. Where a grassland is classed as medium, high, or very high distinctiveness, please use the relevant condition sheet.	N
B	Sward height is varied (at least 20% of the sward is less than 7 cm and at least 20% is more than 7 cm) creating microclimates which provide opportunities for vertebrates and invertebrates to live and breed.	Y
C	Any scrub present accounts for less than 20% of the total grassland area. (Some scattered scrub such as bramble <i>Rubus fruticosus</i> agg. may be present). Note - patches of scrub with continuous (more than 90%) cover should be classified as the relevant scrub habitat type.	Y
D	Physical damage is evident in less than 5% of total grassland area. Examples of physical damage include excessive poaching, damage from machinery use or storage, erosion caused by high levels of access, or any other damaging management activities.	Y
E	Cover of bare ground is between 1% and 10%, including localised areas (for example, a concentration of rabbit warrens) ² .	Y
F	Cover of bracken <i>Pteridium aquilinum</i> is less than 20%.	Y
G	There is an absence of invasive non-native plant species ³ (as listed on Schedule 9 of WCA ⁴).	Y
Condition Assessment Result		Poor
Passes 6 or 7 criteria including essential criterion A	Good (3)	
Passes 4 or 5 criteria including essential criterion A	Moderate (2)	
Passes 3 or fewer criteria; Or passes 4-6 criteria but failing essential criterion A	Poor (1)	6
Footnotes		
<p>Footnote 1 – Creeping thistle <i>Cirsium arvense</i>, spear thistle <i>Cirsium vulgare</i>, curled dock <i>Rumex crispus</i>, broad-leaved dock <i>Rumex obtusifolius</i>, common nettle <i>Urtica dioica</i>, creeping buttercup <i>Ranunculus repens</i>, greater plantain <i>Plantago major</i>, white clover <i>Trifolium repens</i> and cow parsley <i>Anthriscus sylvestris</i>.</p> <p>Footnote 2 – For example, this could include small, scattered areas of bare ground allowing establishment of new species, or localised patches where not exceeding 10% cover.</p> <p>Footnote 3 – Assess this for each distinct habitat parcel. If the distribution of invasive non-native species varies across the habitat, split into parcels accordingly, applying a buffer zone around the invasive non-native species with a size relative to its risk of spread into adjacent habitat, using professional judgement.</p> <p>Footnote 4 – Wildlife and Countryside Act 1981 (as amended).</p>		

Habitat Condition Sheet: **GRASSLAND – MEDIUM, HIGH & VERY HIGH DISTINCTIVENESS**

Condition Assessment Criteria – Main grassland		Pass? (Y/N)
A	The parcel represents a good example of its habitat type, with a consistently high proportion of characteristic indicator species present relevant to the specific habitat type (and relative to Footnote 3 suboptimal species which may be listed in the UKHab description). ¹ Note - this criterion is essential for achieving Moderate or Good condition for non-acid grassland types only.	Y
B	Sward height is varied (at least 20% of the sward is less than 7 cm and at least 20% is more than 7 cm) creating microclimates which provide opportunities for insects, birds and small mammals to live and breed.	Y
C	Cover of bare ground is between 1% and 5%, including localised areas, for example, rabbit warrens ² .	Y
D	Cover of bracken <i>Pteridium aquilinum</i> is less than 20% and cover of scrub (including bramble <i>Rubus fruticosus</i> agg.) is less than 5%.	Y
E	Combined cover of species indicative of suboptimal condition ³ and physical damage (such as excessive poaching, damage from machinery use or storage, damaging levels of access, or any other damaging management activities) accounts for less than 5% of total area. If any invasive non-native plant species ⁴ (as listed on Schedule 9 of WCA ⁵) are present, this criterion is automatically failed.	Y
Additional Group (Non-acid types only)		
F	There are 10 or more vascular plant species per m ² present, including forbs that are characteristic of the habitat type (species referenced in Footnote 3 and 5 cannot contribute towards this count). Note - this criterion is essential for achieving Good condition for non-acid grassland types only.	N
Acid Grassland Types		
Passes 5 criteria	Good (3)	
Passes 3 or 4 criteria	Moderate (2)	
Passes 2 or fewer criteria	Poor (1)	
Non-acid Grassland Types		Moderate
Passes 5 or 6 criteria, including essential criterion A and additional criterion F.	Good (3)	
Passes 3 - 5 criteria, including essential criterion A.	Moderate (2)	5
Passes 2 or fewer criteria; OR Passes 3 or 4 criteria excluding criterion A and F.	Poor (1)	
Footnotes		
Footnote 1 – Creeping thistle <i>Cirsium arvense</i> , spear thistle <i>Cirsium vulgare</i> , curled dock <i>Rumex crispus</i> , broad-leaved dock <i>Rumex obtusifolius</i> , common nettle <i>Urtica dioica</i> , creeping buttercup <i>Ranunculus repens</i> , greater plantain <i>Plantago major</i> , white clover <i>Trifolium repens</i> and cow parsley <i>Anthriscus sylvestris</i> .		
Footnote 2 – For example, this could include small, scattered areas of bare ground allowing establishment of new species, or localised patches where not exceeding 10% cover.		
Footnote 3 – Assess this for each distinct habitat parcel. If the distribution of invasive non-native species varies across the habitat, split into parcels accordingly, applying a buffer zone around the invasive non-native species with a size relative to its risk of spread into adjacent habitat, using professional judgement.		
Footnote 4 – Wildlife and Countryside Act 1981 (as amended).		

Habitat Condition Sheet: **LINE OF TREES**

Condition Assessment Criteria		Pass? (Y/N)			
		Ref.			
		TL1	TL2	TL3	TL4
A	Tree canopy is predominantly continuous with gaps in canopy cover making up <10% of total area and no individual gap being >5 m wide.	N	Y	Y	N
B	One or more trees has veteran features and or natural ecological niches for vertebrates and invertebrates, such as presence of standing and attached deadwood, cavities, ivy or loose bark.	Y	Y	Y	Y
C	There is an undisturbed naturally-vegetated strip of at least 6 m on both sides to protect the line of trees from farming and other human activities (excluding grazing). Where veteran trees are present, root protection areas should follow standing advice ² .	N	Y	Y	Y
D	At least 95% of the trees are in a healthy condition (deadwood or veteran features valuable for wildlife are excluded from this). There is little or no evidence of an adverse impact on tree health by damage from livestock or wild animals, pests or diseases, or human activity.	N	Y	Y	N
E	Tree canopy is predominantly continuous with gaps in canopy cover making up <10% of total area and no individual gap being >5 m wide.	Y	N	Y	Y
Condition Assessment Result		Poor	Moderate	Good	Moderate
Passes 5 criteria	Good (3)			5	
Passes 3 or 4 criteria	Moderate (2)		4		3
Passes 2 or fewer criteria	Poor (1)	2			
Footnotes					
<p>Footnote 1 – DEFRA (2007) <i>Hedgerow Survey Handbook: A standard procedure for local surveys in the UK</i>. 2nd ed [online]. Defra, London. PB1195. Available from: Hedgerow Survey Handbook (publishing.service.gov.uk).</p> <p>Footnote 2 – Where ancient and veteran trees are present, see gov.uk standing advice on ancient and veteran trees. Available from: Keepers of time: ancient and native woodland and trees policy in England (publishing.service.gov.uk) and: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK (www.gov.uk)</p>					

Habitat Condition Sheet: **DITCH**

Condition Assessment Criteria – Eastern ditch		Pass? (Y/N)
A	The ditch is of good water quality, with clear water (low turbidity) indicating no obvious signs of pollution.	Y
B	A range of emergent, submerged and floating-leaved plants are present. As a guide >10 species of emergent, floating or submerged plants present in a 20 m ditch length.	N
C	There is less than 10% cover of filamentous algae and or duckweed <i>Lemna</i> spp. (these are signs of eutrophication).	N
D	A fringe of aquatic marginal vegetation is present along more than 75% of the ditch.	Y
E	Physical damage is evident along less than 5% of the ditch, with examples of damage including: excessive poaching, damage from machinery use or storage, or any other damaging management activities.	Y
F	Sufficient water levels are maintained - as a guide a minimum summer depth of approximately 50 cm in minor ditches and 1 m in main drains.	N
G	Less than 10% of the ditch is heavily shaded.	N
H	There is an absence of non-native plant and animal species ¹ .	Y
Condition Assessment Result		Moderate
Passes 8 criteria	Good (3)	
Passes 6 or 7 criteria	Moderate (2)	
Passes 5 or fewer criteria	Poor (1)	4
Notes		
<p>Footnote 1 – This includes any species listed on the Water Framework Directive UKTAG GB High Impact Species List: Water Framework Directive (WFD) UKTAG (2021) <i>Classification of aquatic alien species according to their level of impact</i> [online]. Available from: UKTAG classification of alien species working paper v8.pdf (wfduk.org)</p> <ul style="list-style-type: none"> Frequently occurring non-native plant species include water fern <i>Azolla filiculoides</i>, Australian swamp stonecrop <i>Crassula helmsii</i>, parrot's feather <i>Myriophyllum aquaticum</i>, floating pennywort <i>Hydrocotyle ranunculoides</i>, Japanese knotweed <i>Reynoutria japonica</i> and giant hogweed <i>Heracleum mantegazzianum</i> (on the bank). Frequently occurring non-native animals include signal crayfish <i>Pacifastacus leniusculus</i>, zebra mussel <i>Dreissena polymorpha</i>, killer shrimp <i>Dikerogammarus villosus</i>, demon shrimp <i>Dikerogammarus haemobaphes</i>, and carp <i>Cyprinus carpio</i>. 		

Appendix D

Preliminary Off-site Delivery Strategy (Biofarm, March 2024)

Biofarm Report No.

BF2024R1

COMMISSIONED BY

CLAYGATE HOUSE INVESTMENTS LTD & MJS INVESTMENTS LTD

CLANDON, GUILDFORD, KT24 6AR

PRELIMINARY OFF-SITE BNG DELIVERY STRATEGY

MARCH 2024

Biofarm Ltd

LABS Hawley Wharf

1 Water Lane

London

NW1 8NZ

E-mail: info@biofarm.co.uk

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- Figure 3: Delivery site within the landholding
- Figure 4: Surrey Biodiversity Opportunity Area (BOA) ND02
- Figure 5: Baseline habitats on the delivery site
- Figure 6: Post-intervention habitats on the delivery site

APPENDICES

- i-iii) PDF copy of Statutory Metric readouts

1 INTRODUCTION

1.1 Background

1.1.1 Claygate House Investments Ltd & MJS Investments Ltd is seeking a solution for a biodiversity net gain requirement generated by a c. 2.2 hectares (ha) development site around central grid reference TQ 1479 6410, to the east of Esher, Surrey. Based on the Ecological Impact Assessment provided by CSA Environmental, the site represents a field comprising other neutral grassland (1.68ha) and modified grassland (0.16ha) with a small area of hardstanding bounded by outgrown hedgerows and treelines. The landscape context is dominated by residential developed land, with grassland fields to the south and immediate north, and scattered woodland further north and east.

1.1.2 CSA Environmental's Ecological Impact Assessment, using The Natural England Statutory Biodiversity Metric, reports that the on-site mitigation strategy results in a total net loss of 3.51 habitat units. It is therefore understood that the number of habitat units required off-site is 4.94 to achieve the targeted 10% net gain in biodiversity. The losses stated within CSA Environmental's calculations predominantly relate to a deficit in 'medium distinctiveness' grassland habitat units, and therefore must be replaced by the same broad habitat type (improved condition) or a higher distinctiveness habitat.

1.1.3 Biofarm has been appointed by Claygate House Investments Ltd & MJS Investments Ltd to source land for the purpose of off-site BNG delivery. This document identifies viable land for delivery and outlines a robust and achievable off-site compensation strategy for achieving an overall 10% net gain in biodiversity, considering the impact of trading rules, condition and strategic significance.

1.1.4 With this document, Biofarm primarily aims to aid Elmbridge Borough Council in their planning application review, specifically the following reason for refusal:

"2. The proposed development, by reason of the on-site net loss of biodiversity which cannot be offset off-site, would result in harm to on-site ecology and biodiversity and would be contrary to Policy CS15 of the Core Strategy 2011 and the NPPF 2023."

This document intends to address this through providing an appropriate and deliverable biodiversity offsetting strategy. Upon approval, a detailed Habitat Management and Monitoring Plan (HMMP) for the full thirty year duration will be provided, in which the following will be detailed in line with official guidance:

- Habitat specifications and condition targets evidenced through soil, hydrology and botanical surveys
- Management activities including objectives, design principles and phasing strategy
- Monitoring schedule detailing strategy, methods and intervals

²Elmbridge Borough Council Refusal of Outline Permission. Application No: 2023/0962

1.2 Sources of Information

1.2.1 This report is based on information provided by Claygate House Investments Ltd & MJS Investments Ltd, as well as data sourced from readily available online sources. This includes:

- Ecological Impact Assessment (EclA) prepared by CSA Environmental (2022)
- Surrey Nature Partnership, Biodiversity Opportunity Areas (2019) [appendix-6_north-downs-biodiversity-opportunity-area-policy-statements.pdf \(wordpress.com\)](https://www.surreynature.org.uk/wp-content/uploads/2019/06/north-downs-biodiversity-opportunity-area-policy-statements.pdf)
- 'MAGIC' database managed by Natural England¹ for the identification of statutory designations and priority habitats <http://magic.defra.gov.uk/MagicMap.aspx>
- British Standard² for guidance on key principles and good practice regarding biodiversity net gain
- UKHab and corresponding biodiversity net gain condition assessment criteria <https://ukhab.org/>
- BNG guidance as available on gov.uk [Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain)
- NCA Character Profile: 114 Thames Basin Lowlands (2014) Natural England: [NCA Profile:114 Northern Thames Basin - NE466 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk/Profile/114/Northern-Thames-Basin-NE466)
- Aerial imagery provided by Google Earth Pro 7.3.6.9750 (2024)
- Historical mapping: [Map Finder - with Outlines - National Library of Scotland \(nls.uk\)](https://www.nls.uk/Map-Finder-with-Outlines)
- [LandIS - Land Information System - SoilsCapes soil types viewer](https://www.landis.gov.uk/)
- [BGS Geology Viewer - British Geological Survey](https://www.bgs.gov.uk/geology-viewer)
- Elmbridge Borough Council – Refusal of Outline Permission

1.2.2 At this time, a site visit has not been conducted due to the preliminary status of the strategy and the ability to gain sufficient information from the aforementioned sources. In the course of producing the Habitat Management and Monitoring Plan (HMMP) a site visit would be carried out to verify the assumptions made in this strategy.

1.3 Biodiversity Net Gain Assessment

1.3.1 Good Practice Principles

1.3.2 Biodiversity net gain is defined as 'development that leaves biodiversity in a measurably better state than before. It is also an approach where developers work with local governments, wildlife groups, landowners and other stakeholders in order to support their priorities for nature conservation' (BS 8683, 2021).

1.3.3 Good practice principles for biodiversity net gain include the following (BS 8683, 2021).

- Apply the 'Mitigation Hierarchy' in line with CIEEM Guidelines for Ecological Impact Assessment (EclA) (CIEEM, 2018) and be 'additional' by achieving outcomes that exceed existing obligations.
- Avoid losing biodiversity which cannot be off-set elsewhere. For example, irreplaceable habitats which may not be accounted for in the metric with the exception of enhancement.
- Address risk such as difficulty of achieving habitat creation or enhancement within a certain time frame. Condition assessments must be realistic and based on formal surveys by competent individuals.
- Net gain contribution must be 'measurable' and calculated using an appropriate metric. Calculations should aim to be consistent and transparent, identifying any limitations and assumptions and providing justifications for any 'work arounds' or bespoke solutions
- Ensure that net gain design achieves the best outcome for biodiversity through both quantitative and qualitative assessment. All devised solutions should aim to create a net gain legacy for long-term benefits.

2 THE IMPACT SITE

2.1 Location

2.1.1 The proposed impact site is shown approximately at **Figure 1** below:

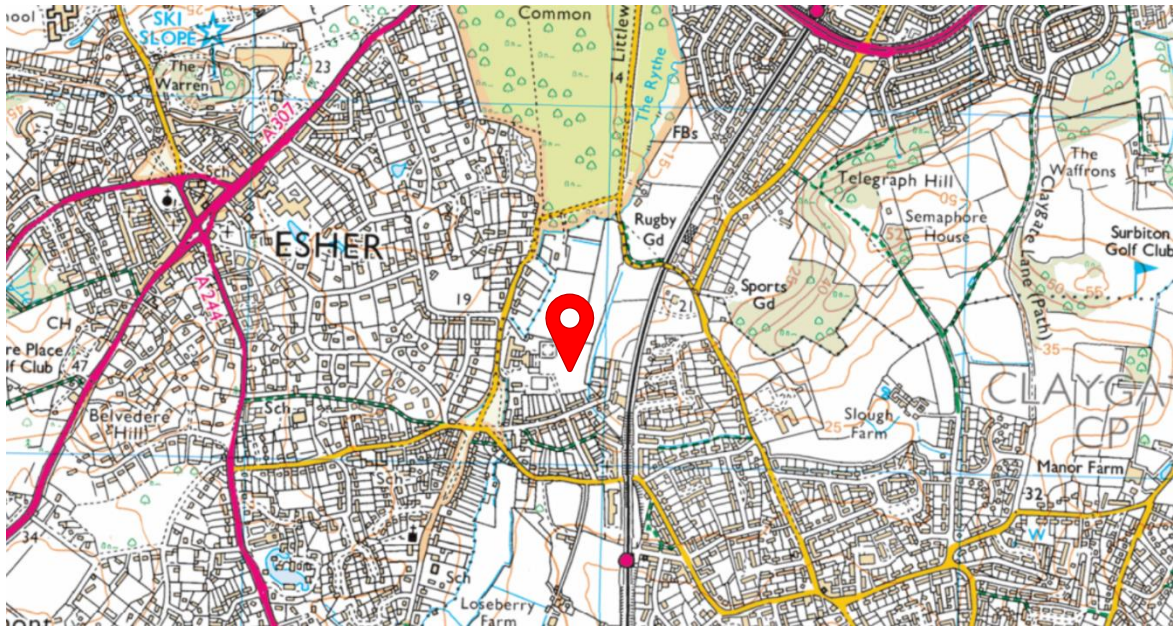


Figure 1: Impact site location (Microsoft Bing Maps)

2.2 Baseline ecological value and conditions

2.2.1 Based on a UKHab survey completed by CSA Environmental, the site is understood to comprise a disused grass field which is managed to prevent habitat succession. Habitats are recorded within section 4.0 of the EclA provided by CSA Environmental (CSA/3230/04). Relevant extracts describing the habitats present are reproduced below:

Grassland

2.2.2 “While formerly species-poor and intensively managed as a golf pitch-and putt practice area, the grassland dominating the Site has developed in floristic diversity and structure in recent years. The sward is dominated by grasses including Yorkshire fog *Holcus lanatus*, annual meadow grass *Poa annua*, sweet vernal *Anthoxanthum odoratum*, brome *Bromus* sp., rough meadow grass *Poa trivialis*, cocks-foot *Dactylus glomerata*, crested dogs tail *Cynosurus cristatus* and Timothy *Phleum pratense*. Herb species are also frequent in the sward, and those recorded include creeping buttercup *Ranunculus repens*, meadow buttercup *Ranunculus acris*, dandelion *Taraxacum officinale*, yarrow *Achillea millefolium*, Lady’s bedstraw *Galium verum*, daisy *Bellis perennis*, common field speedwell *Veronica persica*, cuckoo flower *Cardamine pratensis*, lesser stitchwort *Stellaria graminea*, common mouse ear *Cerastium fontanum* and white clover *Trifolium repens*.”

It should be noted that the above species are by no means uniformly distributed across the Site. Species counts were generally c. six species per representative 1m²; a diversity more consistent with poorer modified grassland (g4). However, the species composition is not consistent with this classification.”

“A former bowling green set out as a square of grassland in the north west corner of the Site is notably different in species diversity and composition from the surrounding grassland. This grassland is species poor with a uniform composition and sward height throughout, including Yorkshire fog, fescue *Festuca* sp., meadow grass *Poa* sp., and perennial rye grass *Lolium perenne*. Herb species are limited to daisy, clover *Trifolium* sp. and cat’s-ear *Hypochaeris radicata*.”

Trees

- 2.2.3 “The northern and eastern boundaries of the Site are marked by significant, mature and outgrown tree lines dominated by oak *Quercus robur*, horse chestnut *Aesculus hippocastanum*, ash *Fraxinus excelsior*, willow *Salix* sp. and mature hawthorn *Crataegus monogyna*, with further hawthorn, holly *Ilex aquifolium* and hazel *Corylus avellana* present as an understorey. Ground flora is dominated by patches of dense bramble, common nettle *Urtica dioica* and ground elder *Aegopodium podagraria*. The southern boundary, west of the access, is dominated by a linear row of Lombardy poplar *Populus nigra*.”

Scrub

- 2.2.4 “Sporadic scattered shrubs at fenced boundaries to the south and west include immature cherry plum *Prunus cerasifera*, buddleja *Buddleja* sp., and willow. The southern boundary, east of the access, is formed by a dense mosaic of scrub, shrubs and ruderals, including immature hazel, plum and oak, with dense stands of bramble, creeping thistle, wisteria, snowberry *Symphoricarpos albus*, buddleja and common nettle. A parcel of low bramble scrub is present in the north-west corner of the Site and borders the former bowling green on all aspects.”

Other

- 2.2.5 “A tennis court and pavement leading up from the access point at Raleigh Drive at the south of the Site are present. These features are of negligible intrinsic ecological value.”

2.3 Proposed development

- 2.3.1 Outline planning permission is sought for residential development at the impact site. The proposed development comprises construction of 60 residential dwellings with associated gardens, parking, play area and access infrastructure (based on the Illustrative Masterplan prepared by OSP Architecture 22071-SK08F). Elmbridge Borough Council planning reference: 2023/0962.

2.4 Biodiversity net gain requirement

- 2.4.1 In the Biodiversity Net Gain Assessment provided by CSA Environmental using the Statutory Metric, a gross loss of 10.05 habitat units is calculated. On-site mitigation, which outlines the creation of 'moderate' condition modified grassland, other neutral grassland and mixed scrub, alongside tree planting and scrub enhancement (CSA/3230/106), lessens the net loss to 3.51 habitat units. Based on this, 4.94 units need to be secured off-site to achieve the targeted 10% overall net gain in biodiversity. However, as explained in paragraph '4.1.1', 9.22 units will need to be secured off-site to satisfy the trading rules.

3 THE DELIVERY SITE

3.1 Location

3.1.1 The proposed off-site delivery location is shown approximately at **Figure 2** below:

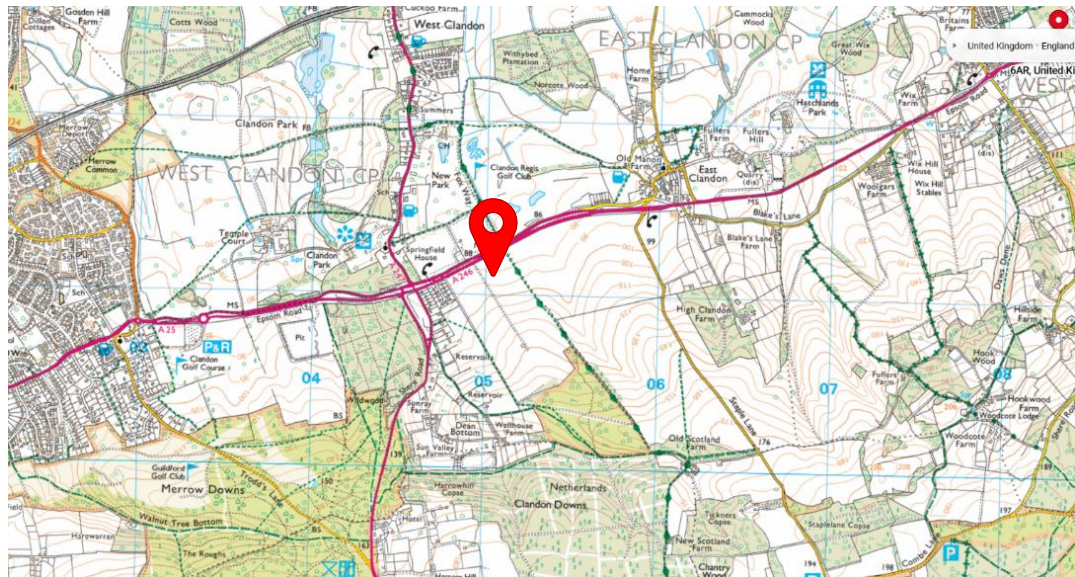


Figure 2: Delivery site location (Microsoft Bing Maps)

3.1.2 The total available landholding of the proposed delivery site comprises approximately 33.1ha of cropland to the east of the settlement of Guildford in west Surrey around central grid reference TQ 05076 51104.

3.1.3 The landholding is split across two National Character Areas (NCAs), with the area north of the boundary sitting within the Thames Basin Lowlands NCA (c. 4.93ha), and the area to the south falling into North Downs NCA (28.64ha). The impact site and offset site lie within separate Local Planning Authorities, with the former being in Elmbridge Borough and the latter in Guildford Borough. However, by using a 1.42ha area within the northern part of the delivery site, both the impact and offset habitat creation would fall within the same National Character Area - The Thames Basin Lowlands NCA. Despite the distance between the two sites, the nil effect spatial risk multiplier is therefore applicable (**Figure 3**).

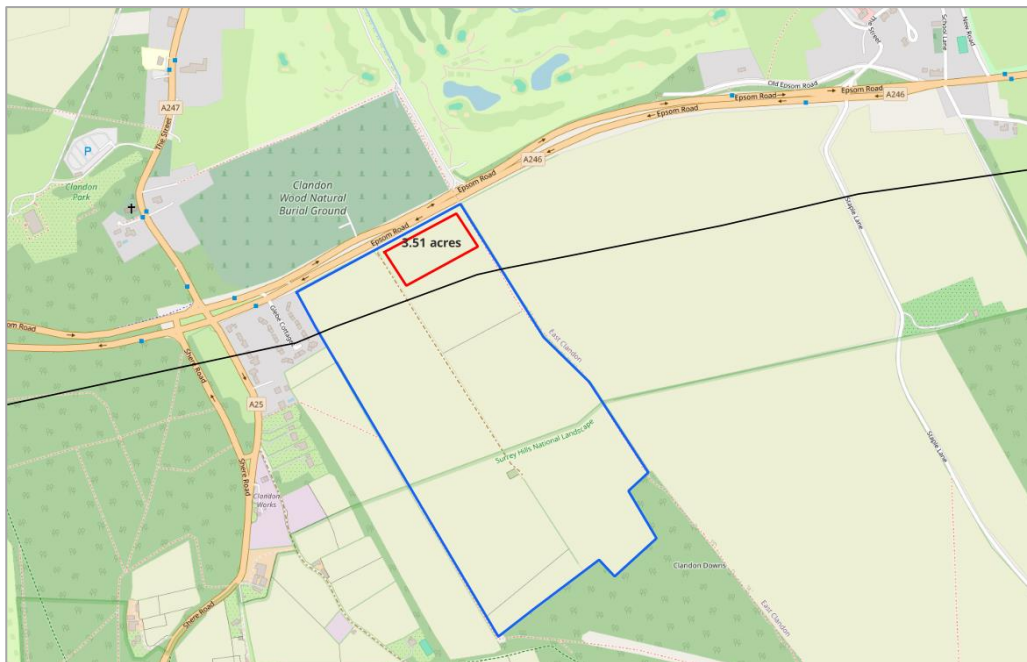


Figure 3: The delivery site (red) within the total landholding (blue). The southern boundary of the NCA boundary is shown in black.

3.2 Nature Designations and Strategic Significance

- 3.2.1 A search of MAGIC confirmed that the delivery site has no statutory nature conservation designation such as Site of Special Scientific Interest (SSSI). The nearest statutory sites are sufficiently distant to be beyond the reach of influence from any land use changes occurring on the site and should not therefore present any constraint to activities on the delivery site.
- 3.2.2 The delivery site lies directly adjacent to land formally identified in the ‘Surrey Biodiversity Opportunity Area (BOA) ND02: North Downs Scarp and Dip; Guildford to the Mole Gap’ (Figure 4). The BOA identifies some of the most important areas for wildlife conservation remaining in Surrey, and therefore although the delivery site itself is not incorporated into a formally identified area, it may have significance by serving as a buffer, or network expansion zone to these priority areas.
- 3.2.3 The delivery site is also bordered by two Sites of Conservation Interest (SNCI), Clandon Wood Site of Conservation Interest (SNCI) which fronts the western border of the landholding and Clandon Downs SNCI which adjoins the southern border and includes stands of mapped ancient woodland. Due to its spatial relationship with formally identified areas, and in reference to The Statutory Biodiversity Metric User Guide (gov.uk) in the absence of a published LNRS, we deem the delivery site locally ecologically desirable as a site for habitat creation, with ‘medium’ strategic significance (1.10).

¹ NCA Profile 114 – [NCA Profile:114 Thames Basin Lowlands - NE571 \(naturalengland.org.uk\)](https://naturalengland.org.uk/nca-profile/114-thames-basin-lowlands-n571)

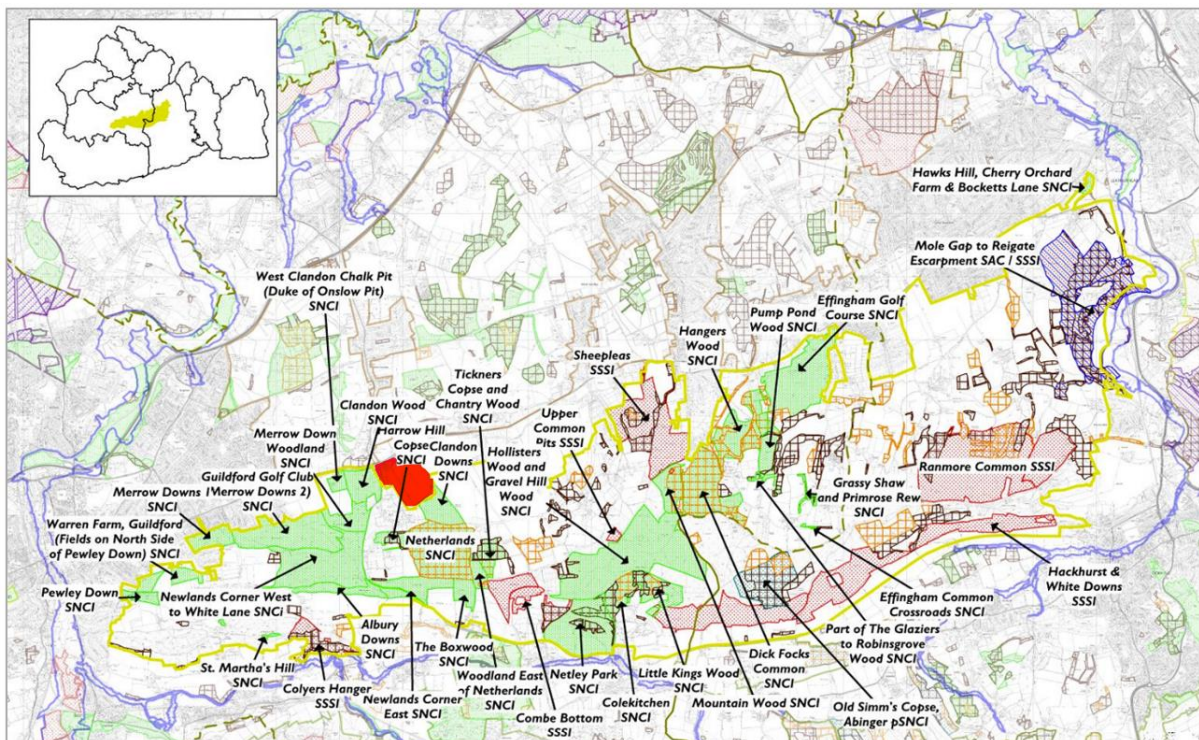


Figure 4: Surrey Biodiversity Opportunity Area ND02: North Downs Scarp and Dip; Guildford to the Mole Gap (Surrey Nature Partnership). The available landholding containing the delivery site is highlighted in red.

3.2.4 MAGIC does not identify any 'Priority habitats' mapped within the landholding.

3.3 Funding and responsibilities

3.3.1 Biofarm will have an interest in the land via a 33-year lease, and corresponding Section 106 Agreement, and will be responsible for the delivery and monitoring of habitat units.

3.3.2 Fulfilment of the HMMP may be carried out by the landowner, however, if they act antagonistically to the strategy, Biofarm can exercise step-in rights and perform the required services.

3.3.3 Habitat creation, management and monitoring are funded by the unit sales price.

3.3.4 The party, which remains responsible for habitat management, shall be entitled to draw down the relevant funds from a ring-fenced Management & Monitoring Fund Account. These funds remain accessible to the landowner in a situation where Biofarm are no longer a going concern.

4 BIODIVERSITY NET GAIN DELIVERY STRATEGY

4.1 Worked and explained calculation

- 4.1.1 As outlined in paragraph '2.4.1' above, the number of units required to secure a 10% net gain has been determined as 4.94 habitat units. As shown within CSA Environmental's calculations using the Statutory Biodiversity Metric, the on-site losses are primarily generated from a deficit of 9.22 'medium distinctiveness' I grassland units. This means an off-site compensation strategy will need to provide 9.22 'medium distinctiveness' grassland units to satisfy trading rules.
- 4.1.2 Biofarm rounds up to the nearest whole habitat unit, therefore the solution presented below is for 10 habitat units.
- 4.1.3 Attached at **Appendix 1** is a readout from the Statutory Biodiversity Metric calculator tool setting out how this off-site solution meets the requirement arising from CSA Environmental's on-site calculations. An interactive Excel version is available on request.
- 4.1.4 **Appendix 1** shows how the calculator has been populated with numerical inputs relating to the delivery site (Tab D-1), with a 1.42 ha area, and the existing habitat type as cropland. This generates a baseline score of 3.12 habitat units (**Figure 5**).
- 4.1.5 Tab D-2 has been populated with what is considered to be achievable and realistic assumptions about what could be obtained by way of 'creation' on the delivery site, based on what is known or can readily be supposed about its baseline condition, and given sufficient time, labour and resources. With suitable management over an extended time frame (to be demonstrated within the HMMP), 'standard time to target condition' for 'good' condition other neutral grassland is calculated by The Statutory Metric at 10 years. A more specific timeframe will be provided using information from soil, botanical and hydrological surveys to be conducted as part of the HMMP. In the event that detailed analyses such as this reveal any issues with the targeted habitat creation, then sufficient land is available at the delivery site to generate the required number of units while targeting a lower (i.e. moderate) condition of grassland. Presently, we are confident based on current accessible data, including readily available soil data (Soilscape, BGS), that the time until target condition will not exceed the 10-year timeframe (**Figure 6**).
- 4.1.6 Given the above, this strategy generates an off-site post-intervention score of 13.13. This reflects a net change of 10 'medium distinctiveness' grassland habitat units and a project-wide net change, including all on-site and off-site habitat retention, creation and enhancement, of 45.41%.

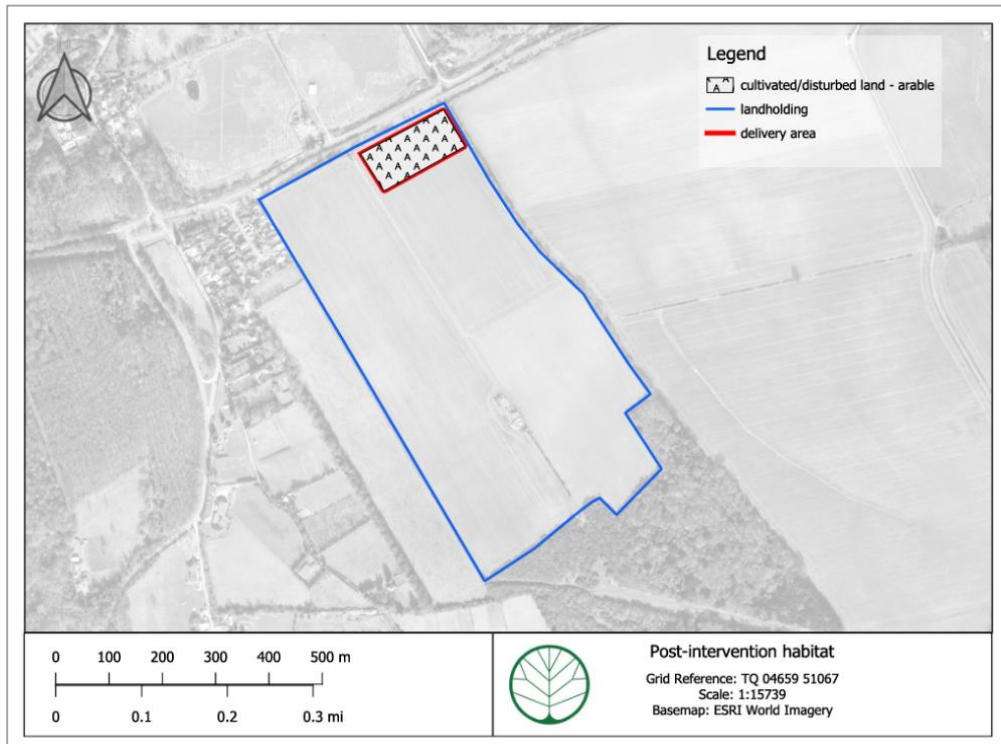


Figure 5: Baseline habitat (QGIS)

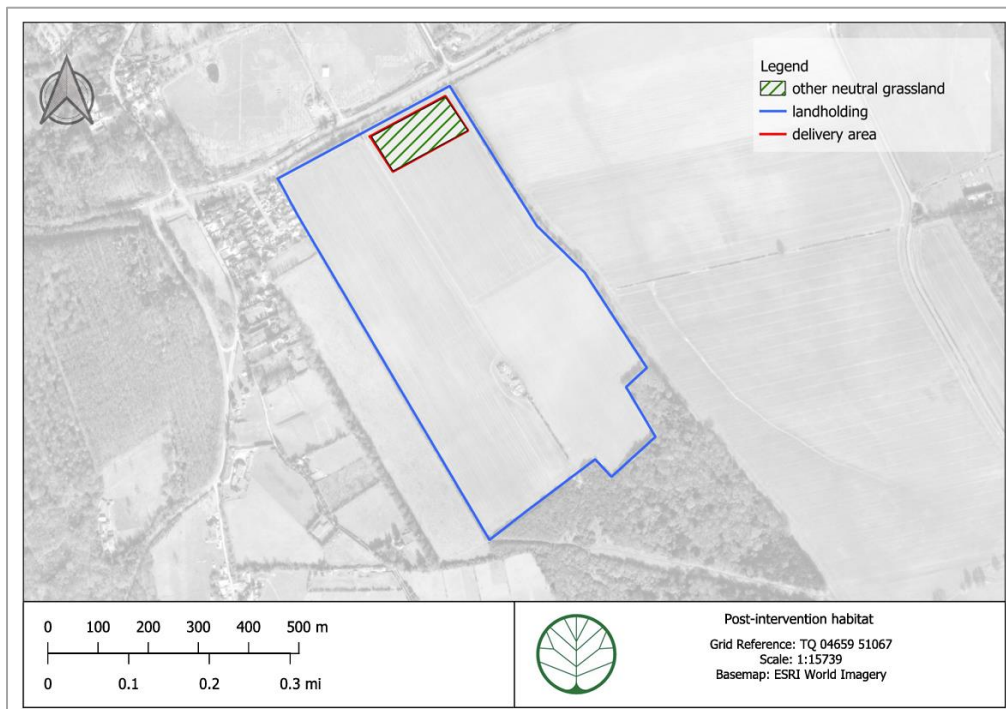


Figure 6: Post-intervention habitat (QGIS).

5 CLOSING STATEMENTS

- 5.1** The strategy outlined in this document seeks to demonstrate to Elmbridge Borough Council a deliverable solution to Claygate House Investments Ltd & MJS Investments Ltd's off-site biodiversity net gain requirement arising from the proposed development in Clandon³. The strategy provides a means for the development to achieve 10% net gain in line with the requirement under the Environment Act 2021 (noting that there is no statutory requirement for biodiversity net gain in this case, since the application predates the commencement of statutory biodiversity net gain).
- 5.2** The strategy is based around providing species-rich other neutral grassland in place of current arable land by means of a managed transition over a period of thirty years. Given the landscape context of the delivery site, creation of species-rich grassland and reversing the influence of intensive agriculture on the delivery site would contribute towards local ecological recovery objectives, as well as meeting the statutory requirement.
- 5.3** The strategy set out in this document will form the basis of a Habitat Management and Monitoring Plan (HMMP) to accompany the Biodiversity Offsetting Scheme secured through S106 legal agreement. This will provide further detail on specific long-term targets and their implementation, including further surveys, planned management activities including design principles, phasing strategies and condition targets. This strategy will also be used to inform the monitoring schedule to be executed by Biofarm, for which methods and intervals will be provided.
- 5.4** Biofarm are available to provide any points of clarification on the information set out herein, and will provide further explanation where required to aid with the Inspector's and Elmbridge's review of the planning appeal.

³ 2023/0962 – Land North of Rayleigh Drive Claygate Esher Surrey

APPENDIX 1

i) **Headline Results:**

Land north of Raleigh Drive, Claygate		Return to results menu			
Headline Results					
Scroll down for final results Δ					
On-site baseline	Habitat units	14.30			
	Hedgerow units	1.56			
	Watercourse units	0.51			
On-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	10.79			
	Hedgerow units	2.09			
	Watercourse units	0.95			
On-site net change (units & percentage)	Habitat units	-3.51	-24.56%	Un-site net gain is less than target set Δ	
	Hedgerow units	0.53	33.76%		
	Watercourse units	0.44	86.72%		
Off-site baseline	Habitat units	3.12			
	Hedgerow units	0.00			
	Watercourse units	0.00			
Off-site post-intervention (Including habitat retention, creation & enhancement)	Habitat units	13.13			
	Hedgerow units	0.00			
	Watercourse units	0.00			
Off-site net change (units & percentage)	Habitat units	10.00	320.17%		
	Hedgerow units	0.00	0.00%		
	Watercourse units	0.00	0.00%		
Combined net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	6.49			
	Hedgerow units	0.53			
	Watercourse units	0.44			
Spatial risk multiplier (SRM) deductions	Habitat units	0.00			
	Hedgerow units	0.00			
	Watercourse units	0.00			
FINAL RESULTS					
Total net unit change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	6.49			
	Hedgerow units	0.53			
	Watercourse units	0.44			
Total net % change (Including all on-site & off-site habitat retention, creation & enhancement)	Habitat units	45.41%			
	Hedgerow units	33.76%			
	Watercourse units	86.72%			
Trading rules satisfied?	Yes \checkmark				
Unit Type	Target	Baseline Units	Units Required	Unit Deficit	
Habitat units	10.00%	14.30	15.73	0.00	No additional area habitat units required to meet target \checkmark
Hedgerow units	10.00%	1.56	1.72	0.00	No additional hedgerow units required to meet target \checkmark
Watercourse units	10.00%	0.51	0.56	0.00	No additional watercourse units required to meet target \checkmark

Appendix E

Statutory Biodiversity Metric

Please find accompanying.

CSA

environmental

Dixies Barns, High Street,
Ashwell, Hertfordshire
SG7 5NT

t 01462 743647
e ashwell@csaenvironmental.co.uk
w csaenvironmental.co.uk

Office 20, Citibase,
95 Ditchling Road,
Brighton BN1 4ST

t 01273 573871
e brighton@csaenvironmental.co.uk
w csaenvironmental.co.uk

9 Hills Road,
Cambridge,
CB2 1GE

t 07713 468300
e cambridge@csaenvironmental.co.uk
w csaenvironmental.co.uk

Suite 1, Deer Park Business
Centre, Eckington, Pershore,
Worcestershire WR10 3DN

t 01386 751100
e pershore@csaenvironmental.co.uk
w csaenvironmental.co.uk

Wizu Workspace, 32 Eyre St,
Sheffield City Centre,
Sheffield S1 4QZ

t 07838 290741
e sheffield@csaenvironmental.co.uk
w csaenvironmental.co.uk

Southgate Chambers,
37-39 Southgate Street,
Winchester SO23 9EH

t 01962 587200
e winchester@csaenvironmental.co.uk
w csaenvironmental.co.uk

Highways Statement

Site: Land North of Raleigh Drive, Claygate, Surrey
Prepared by: Phil Bell
Date: 15 March 2024

1.0 Qualifications & Experience

- 1.1 I hold a First Class Bachelor of Engineering Degree in Civil Engineering and a Royal Society for the Prevention of Accidents (RoSPA) accreditation in advanced road safety engineering. I am a chartered member of the Chartered Institution of Highways and Transportation and a member of the Institute of Logistics and Transport. I have over 35 years' experience in the field of transportation planning, traffic engineering and highway safety.
- 1.2 I have extensive experience of highways and transport planning within the residential sector and currently act for many of the major land promoters and housebuilders operating in south-east England. In addition, I have extensive experience of major development proposals within the retail, leisure and commercial sectors.
- 1.3 My experience includes a period in the Development Studies Department of Wootton Jeffreys Consultants. Subsequently, I worked for Mayer Brown for over 14 years. I was jointly responsible for setting up Motion Consultants Limited in August 2004.
- 1.4 Motion specialises in advising developers and professionals in the development field on all matters concerning transportation, highways, traffic and road safety and our clients comprise a wide variety of private and public-sector organisations.
- 1.5 The evidence which I have prepared and provide in this Highways Statement is true and I confirm that the opinions expressed are my true and professional opinions.

2.0 Introduction & Background

- 2.1 This Highways Statement has been prepared in support of an appeal (PINS reference: APP/K3605/W/23/3334391) against Elmbridge Borough Council's refusal of planning permission for an outline application for up to 60 dwellings, with access from Raleigh Drive, on land north of Raleigh Drive, Claygate, Surrey (planning reference: 2023/0962).
- 2.2 Four reasons for refusal were included on the Decision Notice dated 22nd September 2023 (**CDB.1**), including Reason for Refusal 4, which relates to the absence of a completed legal agreement to secure an on-site Car Club and a number of off-site highway works.
- 2.3 The appeal proposals were subject to pre-application advice from Surrey County Council (SCC) as County Highway Authority (CHA) in August 2022 (included in **Appendix A**), prior to the application being submitted in March 2023. The Transport Statement (**CDA.5**) accompanying the application (dated January 2023) was prepared having regard to advice received at pre-application stage. The application was also supported by a Travel Plan Statement (**CDA.6**), also dated January 2023.
- 2.4 The CHA formally responded to the planning application in its consultation response dated 26th May 2023 (**CDB.8**), requesting additional information be provided. A Technical Note (**CDA.29**) was submitted in response to the CHA comments dated 3rd July 2023. Following receipt of this additional information, the CHA provided a further response dated 31st July 2023 (**CDB.19**) recommending that a number of conditions be imposed in any permission granted, including to secure delivery of a number of off-site highway improvements, Car Club, Travel Plan, electric vehicle charging, car and cycle parking and a Construction Transport Management Plan. Notably therefore, no objections were raised to the planning application by the CHA on safety, capacity, policy or any other highways grounds, subject to these conditions being imposed.

- 2.5 The submitted Statement of Common Ground (SoCG) (**CDD.1**) provides a description of the appeal site and surrounding area in respect of proximity to local amenities and bus services, and confirms that the site is sustainably located (paragraphs 3.1 to 3.3). The SoCG makes clear that it is common ground that the site is sustainably located and (subject to acceptable planning obligations being secured) acceptable in highways terms (as indicated in paragraph 3(b) and (c) of the Executive Summary, and paragraphs and 4.18 to 4.20). It is understood that a legal agreement is being prepared to be submitted to the Inquiry to include provision for the off-site highway works and Car Club. A set of conditions has also been agreed to secure other highways/transport aspects of the proposals (as well as other matters), should the appeal be allowed (**CDD.3**).
- 2.6 The next section of this note summarises the relevant planning policy cited in Reason for Refusal 4. Section 4 provides background on the agreed position with respect to the sustainability of the site in respect of accessibility to local amenities. Section 5 provides a summary of the highway works and other transport measures that the CHA sought to secure by legal agreement and/or condition. Section 6 provides a review of representations received to the application and appeal by interested parties. The final section provides a summary and conclusions of this Statement.

3.0 Planning Policy

- 3.1 Policy CS25 of the 2011 Core Strategy relates to 'Travel and Accessibility'. The full policy is available in **CDE.1**. In summary, the parts of the policy understood to be of relevance to Reason for Refusal 4, indicate that the *Council will promote improvements to sustainable travel, and accessibility to services by, among other measures, delivering new cycling and walking schemes and supporting development that increases permeability and connectivity within and outside the urban area* (point 4).
- 3.2 Policy DM7 of the 2015 Development Management Plan relates to 'Access and Parking'. The full policy is available in **CDE.2**. Part 'a' of the policy relates to 'Access', which is considered to be of most relevance to Reason for Refusal 4. It outlines that *access to and from the highway should be safe and convenient for pedestrians, cyclists and motorists* (point ii), among other criteria.
- 3.3 Chapter 9 of the NPPF relates to 'Promoting sustainable transport'. In respect of considering development proposals, paragraphs 114 and 115 are considered to be of most relevance to Reason for Refusal 4 in respect of ensuring:
- ▶ *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location* (point a);
 - ▶ *safe and suitable access to the site can be achieved for all users* (point b); and
 - ▶ *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree* (point d).
- 3.4 Paragraph 115 of the NPPF is clear in that the only circumstances whereby development proposals should be resisted on highways grounds is if proposals would result in *an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*.
- 3.5 In addition, paragraph 116 outlines a number of criteria that applications for development should take account of, such as giving priority first to pedestrian and cycle movements, addressing the needs of people with disabilities/reduced mobility, creating places that are safe, secure and attractive, allowing for delivery/service/emergency vehicles and being designed to enable charging for plug-in and ultra-low emission vehicles.

4.0 Site Location & Sustainability

- 4.1 The submitted Statement of Common Ground (SoCG) (**CDD.1**) provides a description of the appeal site and surrounding area in respect of proximity to local amenities and bus services, and confirms that the site is sustainably located (paragraphs 3.1 to 3.3).
- 4.2 Table 3.2 within the submitted Transport Statement (**CDA.5**) summarises walking and cycling distance to local amenities. These amenities are identified on Figure 1 below in relation to the site.

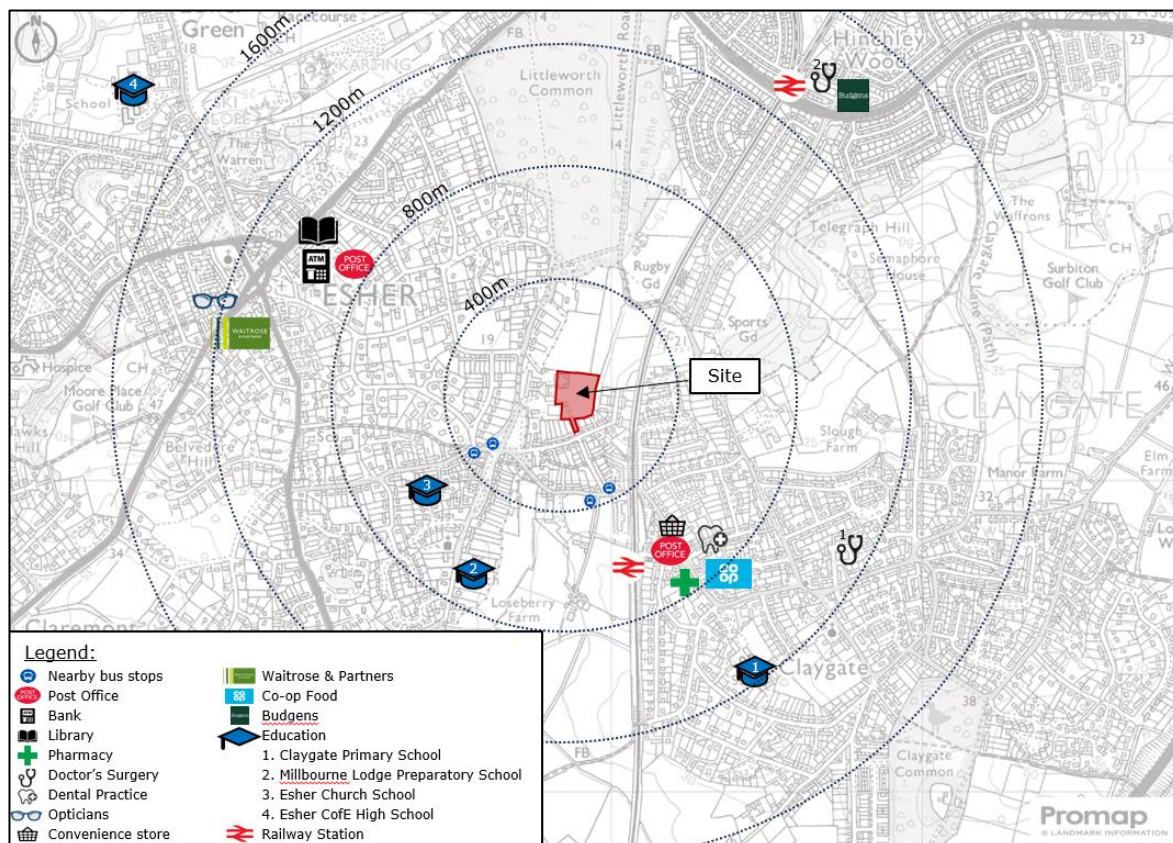


Figure 1: Local amenities within circa 1.6 kilometres of the site

- 4.3 The site is located circa 600 metres walk/cycle distance north of Claygate village centre and 1.4 kilometres walk/cycle distance south-east of Esher town centre, and therefore benefits from easy access to a variety of local amenities. As identified on Figure 1 above, these amenities include a number of schools and doctors surgeries, as well as a range of pubs, restaurants and shops for food and retail.
- 4.4 As already noted, paragraph 3 of the Executive Summary to the SOCG (**CDD.1**) identify under matters agreed that:
- ▶ *The Appeal Scheme is acceptable in highway terms both in terms of locational sustainability and (subject to acceptable planning obligations being secured) highway safety (point b); and*
 - ▶ *The Appeal Site is in a sustainable location, within walking and cycling distance from local services and facilities (point c).*
- 4.5 Paragraphs 4.18 to 4.20 of the SoCG (**CDD.1**) relate to 'Highways' and refer to consultation with the CHA. These paragraphs make reference to the technical transport reports (**CDA.5** and **CDA.29**) demonstrating that safe access can be achieved and outlining the location of the site in relation to a wide range of facilities, concluding that the Council agrees that the appeal scheme is acceptable in highways terms, subject to provision of highways mitigation to be secured through the Section 106 Agreement.

5.0 Highway Works & Transport Measures

- 5.1 It is understood that a legal agreement is being prepared to be submitted to the Inquiry to include provision for the off-site highway works and Car Club.
- 5.2 In summary the off-site highway works, to be delivered under a Section 278 Agreement (as summarised in the CHA consultation response of 31st July 2023, **CDB.19**) and included in the draft Section 106 Agreement, relate to:
- ▶ Site access in the form of a 4-arm junction at Raleigh Drive/Loseberry Road/Rythe Road (Motion drawing 170822-03 Revision D);
 - ▶ Provision of a raised table traffic calming facility at the junction of Hare Lane/Littleworth Road/Arbrook Lane (Motion drawing 170822-07 Revision A);
 - ▶ A scheme to provide carriageway narrowing on Hare Lane and associated non-signalised pedestrian crossing facilities on Hare Lane (Motion drawing 170822-02 Revision E);
 - ▶ A contribution to cover the cost of associated new/amended Traffic Regulation Orders associated with possible alterations to the speed limit and replacement road signage (to be administered by SCC);
 - ▶ Securing a Travel Plan monitoring fee.
- 5.3 In respect of the Car Club, the CHA consultation response (**CDB.19**) outlines the following minimum provision:
- ▶ Car Club with provision for charging Ultra Low Emission Vehicles (location to be agreed as part of reserved matters application);
 - ▶ 3-year free membership and £50 free drive time for residents; and
 - ▶ Developer to support Car Club for a minimum of 3 years.
- 5.4 The draft Section 106 Agreement includes a Car Club Obligation securing these matters.
- 5.5 A set of conditions has also been agreed (**CDD.3**) to secure other aspects of the proposals, should the appeal be allowed. In respect of other highways/transport matters, these conditions relate to:
- ▶ Provision of a non-vehicular (pedestrian) access point connecting to an adjacent development served from Littleworth Road (Motion drawing 170822-08);
 - ▶ Provision of a Travel Plan, to include targets and monitoring;
 - ▶ Provision for electric vehicle charging for each dwelling to meet specified minimum requirements;
 - ▶ Securing vehicle and cycle parking and for vehicular turning; and
 - ▶ Preparation of a Construction Transport Management Plan.
- 5.6 A full set of plans illustrating the proposed site access arrangements and off-site highway works are included in **Appendix B**.

6.0 Response to Representations from Interested Parties

Summary of Representations

6.1 A number of representations on highways and transport matters have been made by interested parties in response to the planning application and appeal. From a review of these representations, the main points raised by interested parties can be summarised as relating to:

- ▶ Proposed site access arrangements and impact on highway safety and capacity;
- ▶ Construction access; and
- ▶ On-site parking provision and impact on local roads.

6.2 I consider that the comments raised in respect of these transport and highway matters are largely addressed in the submitted Transport Assessment (**CDA.5**) and subsequent Technical Note (**CDA.29**). The remainder of this section seeks to respond to any additional points raised within these topics, insofar as they relate to highways and transport.

Proposed site access arrangements and impact on highway safety and capacity

6.3 A number of representations were made in respect of the site access arrangement relating to existing conditions on the local roads leading to the site (namely Raleigh Drive, Hare Lane, Rythe Road and Loseberry Road) and impact of the proposals in terms of highway safety and capacity. The points raised, in summary, relate to:

- ▶ Suitability of these roads to accommodate the proposed increase in traffic (including use by heavy vehicles), being used as 'rat-runs' and the proposals leading to greater congestion in view of existing on-street parking on both sides of the carriageway.
- ▶ Visibility constraint at the junction of Loseberry Road onto Hare Lane (and a concern that removal of vegetation at the junction will not resolve this and a query on how it will be maintained), and speed of vehicles travelling along Hare Lane.
- ▶ Existing congestion and additional queuing at the junction of Raleigh Drive with Hare Lane, and proximity to other junctions, creating difficulties in exiting Raleigh Drive.
- ▶ Access should be from Littleworth Road.
- ▶ Increase in traffic making schoolchildren's walk to school more hazardous.

6.4 The submitted Transport Statement (**CDA.5**) includes an assessment of vehicle movements associated with a development of up to 60 dwellings, based on trip rates of comparable sites extracted from the TRICS database. TRICS is the industry standard system for assessing trip rate generation across the UK and Ireland. The Transport Statement indicates that the proposals might generate around 30 vehicle movements in the morning and evening peak hours, which equates to one additional vehicle movements every two minutes. These predicated trip volumes are modest, and it is considered that they would not have a material impact on the local highway network in terms of safety or capacity. The proposals include the introduction of waiting restrictions in order to prevent on-street parking in the vicinity of the site access junction.

- 6.5 In respect of highway safety, a review of road safety was completed within the submitted Technical Note (CDA.29), which concluded that the local highway network does not suffer from any significant safety problems. Further, the site access arrangement and proposed pedestrian enhancements have been subject to a Stage 1 Road Safety Audit (RSA), as referenced in the submitted Transport Statement (CDA.5). A Designer's Response was prepared to address points raised by the RSA. Some design amendments were made in response to the RSA comments and the response clarified that some matters could be dealt with at detailed design stage. In response to concerns relating to visibility at the junction of Loseberry Road with Hare Lane, crashmap.co.uk indicates that there have been no incidents at the junction during the most recent 5 year period or, indeed, during the 24 year period for which there are records. As such, I do not consider that a modest increase in vehicle movements could lead to an impact on road safety. Notwithstanding this, the proposals illustrated on drawing 170822-02 Revision E (Appendix B) include narrowing the carriageway of Hare Lane in order to enhance visibility at the junction.
- 6.6 In relation to the location of the site access from Raleigh Drive, as identified in the previous section of this Statement, the arrangement has been subject to pre-application liaison with SCC as CHA and accepted. The application site boundary does not abut Littleworth Road and it is therefore not appropriate for access to be gained from this point. The proposed access arrangement accords with relevant design standards and has been subject to an independent Road Safety Audit.

Construction access

- 6.7 Several representations were made relating to construction traffic and the suitability of the local roads leading to the site to accommodate heavy vehicles. Specifically, reference was made to a weight limited culvert at the end of Raleigh Drive, a weight restricted bridge in Raleigh Drive, access being restricted by on-street parking and potential damage to the roads caused by construction vehicles. Comments made in respect of the junctions of Loseberry Road and Raleigh Drive with Hare Lane, identified above, were also cited as impacting construction vehicles.
- 6.8 SCC's July 2023 consultation response (CDB.19) recommended imposition of a condition to secure a Construction Transport Management Plan prior to development. As referenced in the previous section, this condition is included in the list of conditions to be imposed should the appeal be allowed. The condition will ensure that further information is submitted in respect of:
- ▶ Arrangement for parking for vehicles of site personnel, operatives and visitors;
 - ▶ Arrangements for loading and unloading and storage of plant and materials;
 - ▶ Provision of a programme of works;
 - ▶ Provision of boundary hoarding behind any visibility zones;
 - ▶ Information on HGV deliveries, hours of operation, vehicle routeing and on-site turning for construction vehicles;
 - ▶ Measures to prevent the deposit of materials on the highway and providing before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused; and
 - ▶ No HGV movements to and from the site shall take place between the hours of 8.30 and 9.15 am and 3.15 and 4.00 pm.
- 6.9 As such it is clear that measures are in place to ensure the impact of construction vehicles associated with the development of the site is managed and controlled.

On-site parking provision and impact on local roads

- 6.10 Concern is expressed that the site masterplan does not include sufficient parking, which could result in on-street parking on surrounding roads. The application is submitted in outline form and as such, car parking provision will be considered as part of a future reserved matters application and based on relevant local standards in effect at that time. An assessment of car parking provision is included within the submitted Transport Statement (**CDA.5**), which indicates that car parking provision included on the indicative masterplan is in line with local guidance. Vehicle and cycle parking is also to be secured by planning condition.

7.0 Summary & Conclusions

- 7.1 This Highways Statement has been prepared in response to Elmbridge Borough Council's refusal of planning permission for an outline planning application for up to 60 dwellings on land north of Raleigh Drive, Claygate, Surrey.
- 7.2 Reason for Refusal 4 included on the Borough Council's Decision Notice related to the absence of a completed legal agreement to secure provision of an on-site Car Club and off-site highway improvements. No objections were raised to the appeal proposals by the CHA, subject to a number of conditions. It is understood that a legal agreement is being prepared to be submitted to the Inquiry to include provision for the off-site highway works and Car Club and a set of conditions has been agreed to secure other highways/transport aspects of the proposals. With these aspects of the proposals being secured, should the appeal be allowed, it is considered the appeal proposals comply with adopted policy in respect of provision for sustainable transport and highway safety, including that contained within the NPPF and the policies referred to in Section 3 above.
- 7.3 A review of representations made by interested parties to the planning application and appeal has been completed and it is considered that the matters raised have largely been dealt with in technical submissions. The Section 106 Agreement and proposed planning conditions will ensure other aspects of the proposed development acceptably mitigate the impact of other matters raised by interested parties.
- 7.4 For those reasons, subject to the agreed conditions and to a completed legal agreement, I consider the proposal to be entirely acceptable on highways grounds.

Appendix A

Surrey County Council Pre-application Advice (Highway Authority)

Highway Authority Pre-Planning Advice

Land North of Raleigh Drive, Claygate

August 2022



Introduction

The following advice is offered to Motion following a request for pre-planning application advice. The advice is offered without prejudice to any future planning application submitted and any advice or recommendations provided by the Local Planning Authority. The advice is offered following a review of the information and drawings provided to the Highway Authority, and a site visit dated 4th August 2022.

Proposed Development

The proposed development could provide up to 70 residential dwellings, with vehicular access onto Raleigh Drive. The existing use of the application site is largely undeveloped land.

Proposed Mini roundabout

It is proposed that a new vehicular access will be constructed onto Raleigh Drive, where it forms the junction with Rythe Road and Loseberry Road. The proposed access road would form a fourth arm at the existing junction and the applicant proposes forming a mini roundabout, as demonstrated on the plan submitted. Swept paths should be submitted to demonstrate that the proposed mini roundabout functions correctly, with cars not needing to overrun the central island.

Typically, a mini roundabout needs to have balanced flows on all arms to be effective. With lower flows on some arms there may be problems where emerging vehicles or turning movements are unexpected, and the main road will effectively operate under free-flow conditions. If flows are too low a mini roundabout may not be suitable. The applicant is encouraged to carry out surveys on all existing arms of the junction to provide more information of expected flows.

If a mini roundabout is pursued the roundabout should be provided on a raised table. It would be sensible to see Raleigh Drive / Loseberry Road / Rythe Road form a 20mph zone and might be necessary to introduce traffic calming on the approaches to ensure the lowest possible entry speeds. The need for supporting traffic calming measures would be determined by speed surveys. If the existing speeds are 24mph or below then signs only would be sufficient. If speeds are greater additional supporting measures would be required. The applicant is encouraged to carry out a speed survey/ review existing data to provide information on existing speeds.

Alternatively, the applicant may consider a 4-way give way crossroads. Please see links to examples:

<https://goo.gl/maps/jn8j8BwbW3M2YdXM8>

[1 Church Rd - Google Maps](#)

If the applicant wishes to investigate a 4-way crossroad arrangement the County Highway Authority are happy to have further discussions on this.

Access

Raleigh Drive, Rythe Road and Loseberry Road are all unclassified roads, currently subject to a 30mph speed limit. It should be demonstrated that sufficient visibility splays can be achieved from the proposed new access. Visibility splays should only be located on land either under the control of the applicant, or land classified as public highway.

Pedestrian intervisibility splays should also be provided on each side of the proposed vehicular access, measuring 2m by 2m, the depth measured from the back of the footway and the widths outwards from the edges of the access. No obstruction to visibility between 0.6m and 2m in height above ground level should be erected within the area of such splays.

Given the size of the proposed development a bellmouth access with dropped crossing points and tactile paving would be required. It is proposed the access into the site will measure 4.8m wide. Sites being considered for development should comply with LTN 1/20. Junction radii have not been provided. Typically for a development of this nature the County Highway Authority would recommend that a new access road be built to a minimum of 5.5m wide to accommodate refuse vehicles and larger HGVs (deliveries) as well as emergency vehicles such as Fire Appliances. Swept path analysis demonstrating that no conflict occurs, particularly at the point at which the private road meets the local public highway network should be submitted.

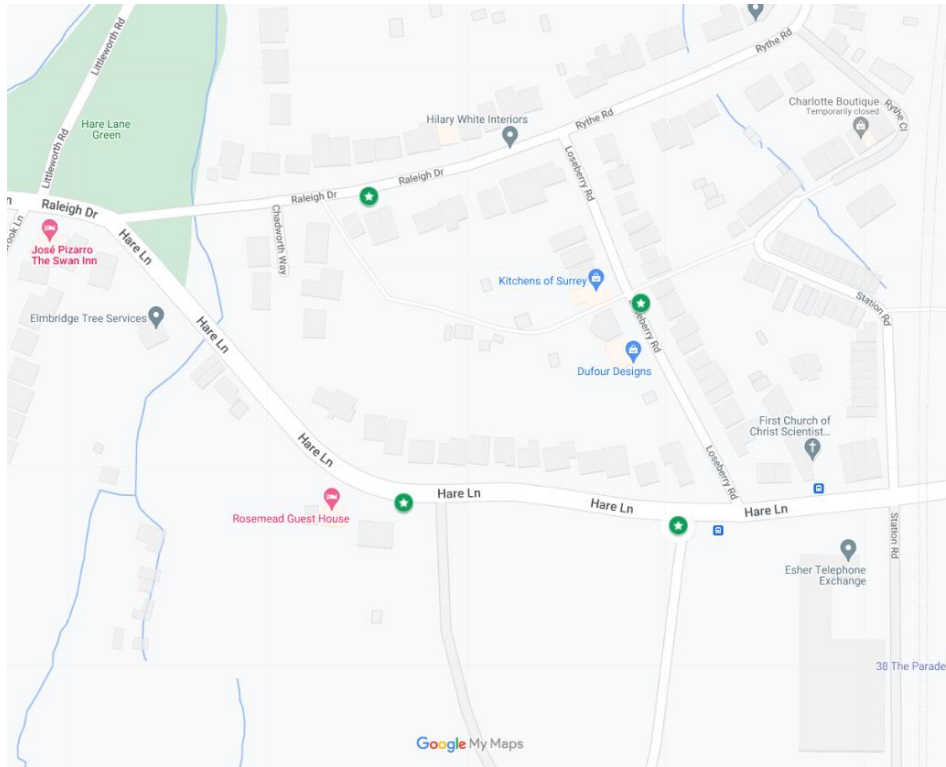
Safe pedestrian access for all users into the site needs to be provided. It is understood that a footway will be provided on the eastern side of the access road. The footway should be a minimum of 2m wide.

Local Highway Network

There are existing concerns with vehicle speeds on Hare Lane. Vehicles leaving the site via Raleigh Drive or Loseberry Road will need to emerge onto Hare Lane. A review of accident data within the vicinity of the site should be carried out, including at the junctions of Raleigh Drive with Hare Lane, and Loseberry Road with Hare Lane. A review of Crashmap has submitted for the junction of Hare Lane with Loseberry Road and demonstrates PICs from the most recent 10-year period (2012-2021), identifying two collisions, both some distance from the junction. It is agreed that the distance of each collision from the junction does not suggest a pattern of collisions at the junction. However, visibility at this junction is limited to the west and the applicant is encouraged to review any opportunities to improve visibility for vehicles emerging from Loseberry Road onto Hare Lane. Up to date analysis of collisions on the local highway network, including at the junction of Raleigh Drive with Hare Lane should be submitted to support any planning application submitted.

Pedestrians leaving the site will also need to cross Hare Lane to access local bus stops and Claygate Train Station. Residents of the proposed development will need to be provided with safe crossing facilities on Hare Lane. Given concerns about speeds on Hare Lane the applicant is encouraged to review existing

speeds and determine if traffic calming measures are required. Surrey County Council's Transport Studies Team hold survey data in the form of a 7-day radar speed survey carried out in February 2019 which included Hare Lane, Raleigh Drive and Loseberry Road. Please see map below. If you would like to review this data, please email our Transport Studies team at trafficsurveys@surreycc.gov.uk to request the data. There will be a charge for the data which is £120 + vat for the first report and £45 + vat for any other report thereafter.



The applicant has provided a plan demonstrating a potential crossing on Hare Lane. Dropped kerbs and tactile paving would be provided on both the northern and southern sides of Hare Lane and a proposed pedestrian refuge would be provided measuring 1.2m wide. As per Chapter 6 of Traffic Signs Manual a refuge needs to be wide enough to accommodate the expected number of people and to allow those with pushchairs or wheelchairs to wait safely. To cater for wheelchair users, they should be at least 1.5 m and preferably 2m wide. Is there any scope to increase the refuge width to 1.5m whilst still maintaining sufficient space to allow all required vehicular movements? The arrangement demonstrated on the plan submitted allows for a 3.3m running lanes on either side of the refuge. Chapter 6 of Traffic Signs Manual discourages widths between 3.2 m and 3.9 m – the gap should either be enough to allow vehicles to overtake cyclists safely or narrow enough to discourage overtaking altogether. Visibility at the crossing and of the crossing will also need to be demonstrated to ensure that users of the crossing are able to see and be seen by approaching traffic. The crossing would be subject to a Stage 1 Road Safety Audit at the planning stage.

Opportunities to improve pedestrian provision at and on approaches to the Hare Lane/Raleigh Drive junction and crossroads junction near The Swan should be investigated. Residents of the proposed development wishing to walk towards The Swan or Esher High Street will need to navigate these junctions.

Schools are also located on Milbourne Lane. Safe and attractive pedestrian routes from the proposed development site to local schools, including those on Milbourne Lane need to be provided.

The proposed development site borders a site with frontage onto Littleworth Road. A route allowing pedestrians and cyclists to pass between the existing site on Littleworth Road and the application site is encouraged and would provide occupants of both sites with attractive routes away from more heavily trafficked roads, whilst improving permeability of the site.

Sustainability

The site is in a relatively sustainable location, approximately 200m from local bus stops, 500m from Claygate Train Station, 600m from Claygate High Street and 1,600m from Esher High Street.

The Chartered Institute of Highways and Transportation guidance document 'Providing for Journeys on Foot' sets out desired recommendations for walking distances. In accordance with this document a desirable walking distance of 400m, an acceptable walking distance of 800m and a preferred maximum walking distance of 1,200m is recommended. It is therefore considered that residents of the proposed development would have access to modes of transport other than the private vehicle, and that the services on offer are sufficient to offer an alternative to car travel, meaning residents would not be reliant on use of private vehicles. However, the applicant will need to review existing pedestrian and cyclist routes to public transport facilities and services to ensure that there are genuine opportunities to travel via modes other than the private vehicle.

The County Highway Authority would expect the applicant to discuss with Enterprise the suitability of the site for accommodating a car club vehicle. A car club provided on site is likely to reduce reliance on private car ownership, particularly second car ownership.

Refuse Collection

It is anticipated that refuse collection will take place within the site. The County Highway Authority raises no objection to this arrangement. It should be demonstrated that the proposed access can accommodate refuse vehicles. It is likely that should a planning application be submitted the Local Planning Authority would consult their refuse collection team on this proposal.

Please find below extract from Elmbridge Borough Council Guidance on Refuse Collection.

Access pathways from the storage area to the collection point (where the vehicle stops) needs to:

- *Be level. Unless the gradient falls away from the storage area in which case the gradient should not be steeper than 1:12*
- *Be at least 1.5 metres wide*
- *Be free from kerbs and steps*
- *Have solid foundations and a smooth continuous impervious surface*
- *Have shallow ramps where they meet roadways*
- *Be within 10 metres from the point where the collection vehicle stops*

Where possible, the collection vehicle should be able to enter the development to avoid the risk of obstructing traffic. This is essential where four or more containers are to be emptied and/or if the bin store is located more than 10m from the public highway. The collection vehicle needs to be able to park close to the storage area. So access roads need to:

- Have suitable foundations and surfaces to withstand the maximum weight of the vehicle (generally 26t GVW, 11.5t axle loading)
- Have heavy-duty manhole covers, gully gratings etc.
- Be designed to ensure reasonable convenience for the collection vehicle.
- Be a minimum of 4 metres wide.
- Be arranged for the collection vehicle to continue in a forward direction.
- Offer adequate space for turning. For tracking purposes, the dimensions of the vehicles currently used in Elmbridge are 10.4m long and 3m wide. The minimum turning circles are 19.9m (kerb to kerb) and 21.6 (between walls).

Turning

Space to turn within the site should be provided to allow all vehicles to enter and exit the site in forward gear. Swept path analysis should accompany any planning application to demonstrate that all vehicles can enter and exit the site and turn within the site. Swept path analysis should include tracking for delivery vehicles and emergency vehicles.

Parking

The development housing mix has not yet been confirmed. When providing parking within the site the applicant should consider the Elmbridge Parking Standards and the Surrey County Council Vehicular and Cycle Parking Guidance.

It should be noted that when responding to consultations on residential development, SCC will only raise objections regarding parking if there were a shortfall that would lead to danger on the adjoining highway. It is unlikely that objections would be raised on amenity grounds of a shortfall in parking. Consideration should be given as to whether any parking restrictions are required to prevent parking in inappropriate locations.

Please note that in accordance with Elmbridge Borough Council's Parking SPD the minimum dimension of a car parking space should be 2.5m x 5.0m.

The CHA seeks provision of electric vehicle charging points within all new developments. The guidance on EV charging within Surrey County Council's '*Vehicular and Cycle Parking Guidance (2021)*' requires 1 fast charge socket per dwelling be provided.

Construction Transport Management Plan

The CHA would expect a detailed Construction Transport Management Plan to be secured by condition to ensure detailed attention is given to how the highways impact of construction is to be managed.

Cycle Parking

Adequate space should be laid out within the development site for the secure and covered parking of bicycles, in an easily accessible location. The cycle parking should be conveniently located. Vertical cycle stands mounted on walls are unacceptable. The County Highway Authority would encourage a design that allowed for cycle parking for those using mobility adapted cycles etc. too.

To support the growth and use of electric bikes and where appropriate, consideration should be given to the provision and availability of electrical sockets adjacent to any secure cycle parking.

Trip Generation

Surrey County Council's Travel Plan Good Practice Guide recommends that a travel plan be implemented where a residential development exceeds 80 dwellings. Currently it is anticipated that the proposed development would provide up to 70 dwellings so it is unlikely that a travel plan would be required. Therefore, when selecting sites from TRICS sites with a travel plan should not be included in the selection.

Other

If you would like us to engage the Local Member in any pre-application discussions or would like us to consult the Local Member on these pre-application proposals, please do let me know.

In addition to the above advice, I also refer you to guidance which is contained on our website, and the following link will direct you to a lot of the basic information needed to assist in the highway and transport consideration of many proposals.

<https://www.surreycc.gov.uk/land-planning-and-development/planning/transport-development>

There are also references on that website to other documentation and advice which may assist you in formulating a viable proposal.

Conclusion

The proposed development seeks to develop the application site to provide up to 70 residential dwellings with an access onto Raleigh Road, formed via a new mini roundabout. Given the above, at this stage it is considered that the site may be suitable for the proposed development, however further information needs to be submitted to address the transport impacts of the proposed development, as set out above.

If you have any queries or questions regarding my comments, please do not hesitate to contact me.

Yours sincerely,

Gemma Ruff

Senior Transport Development Planning Officer

Appendix B

Site Access Arrangements & Off-Site Highway Works



54 metre pedestrian
visibility splays

Indicative location
of existing bus stop

Dropped kerb with
tactile paving

49 metre pedestrian
visibility splays

Legend

— Highway Boundary



84 North Street
Guildford
Surrey
GU1 4AU
T: 01483 531 300

Golden Cross House
8 Duncannon Street
London
WC2N 4JF
T: 020 8065 5208

www.motion.co.uk

Project:
Land North of Raleigh Drive, Claygate

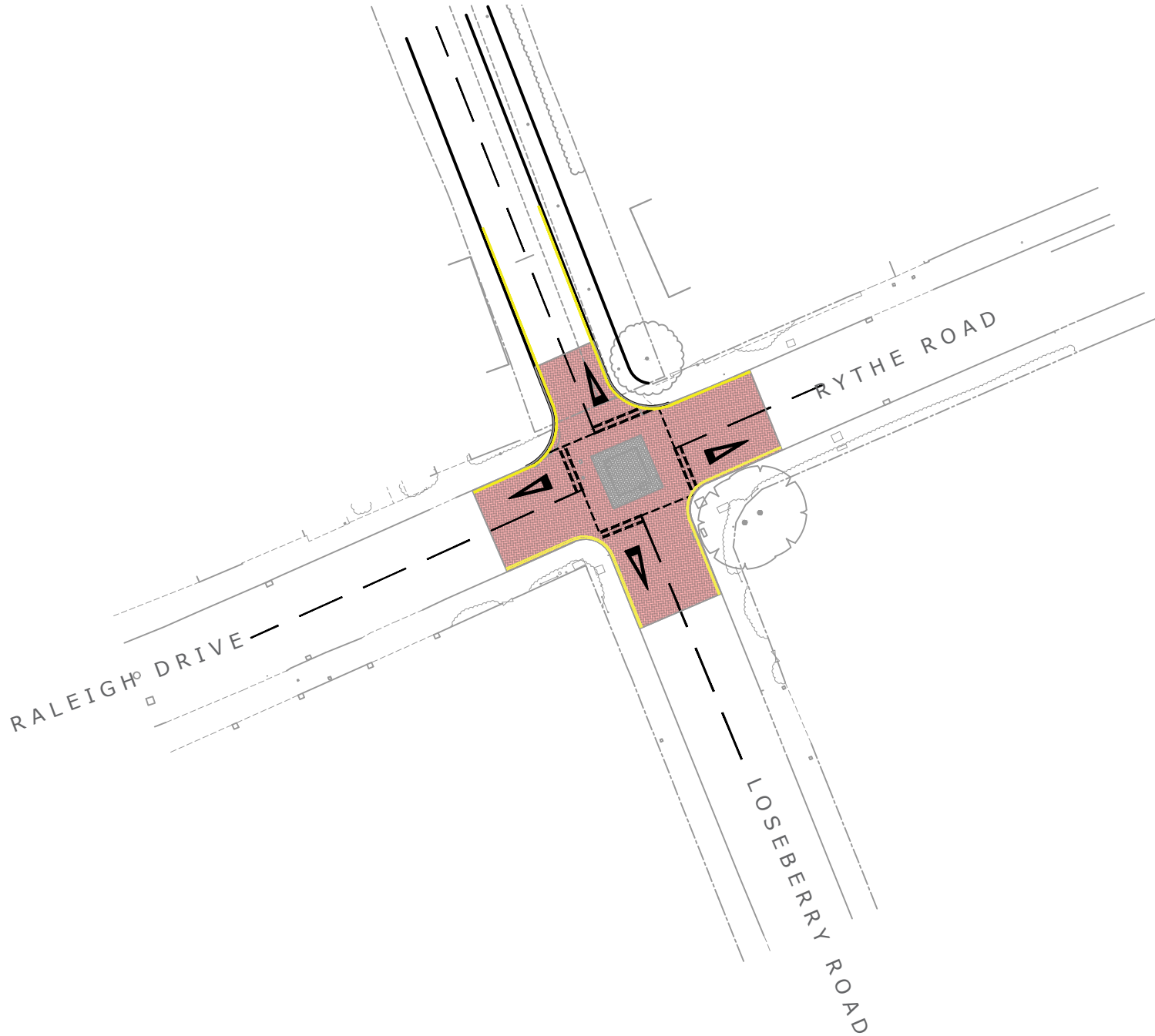
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and Visibility Splays

Scale: 1:500 (@ A3)

Notes:

Drawing:
170822-02

Revision:
E



84 North Street
 Guildford
 Surrey
 GU1 4AU

Golden Cross House
 8 Duncannon Street
 London
 WC2N 4JF

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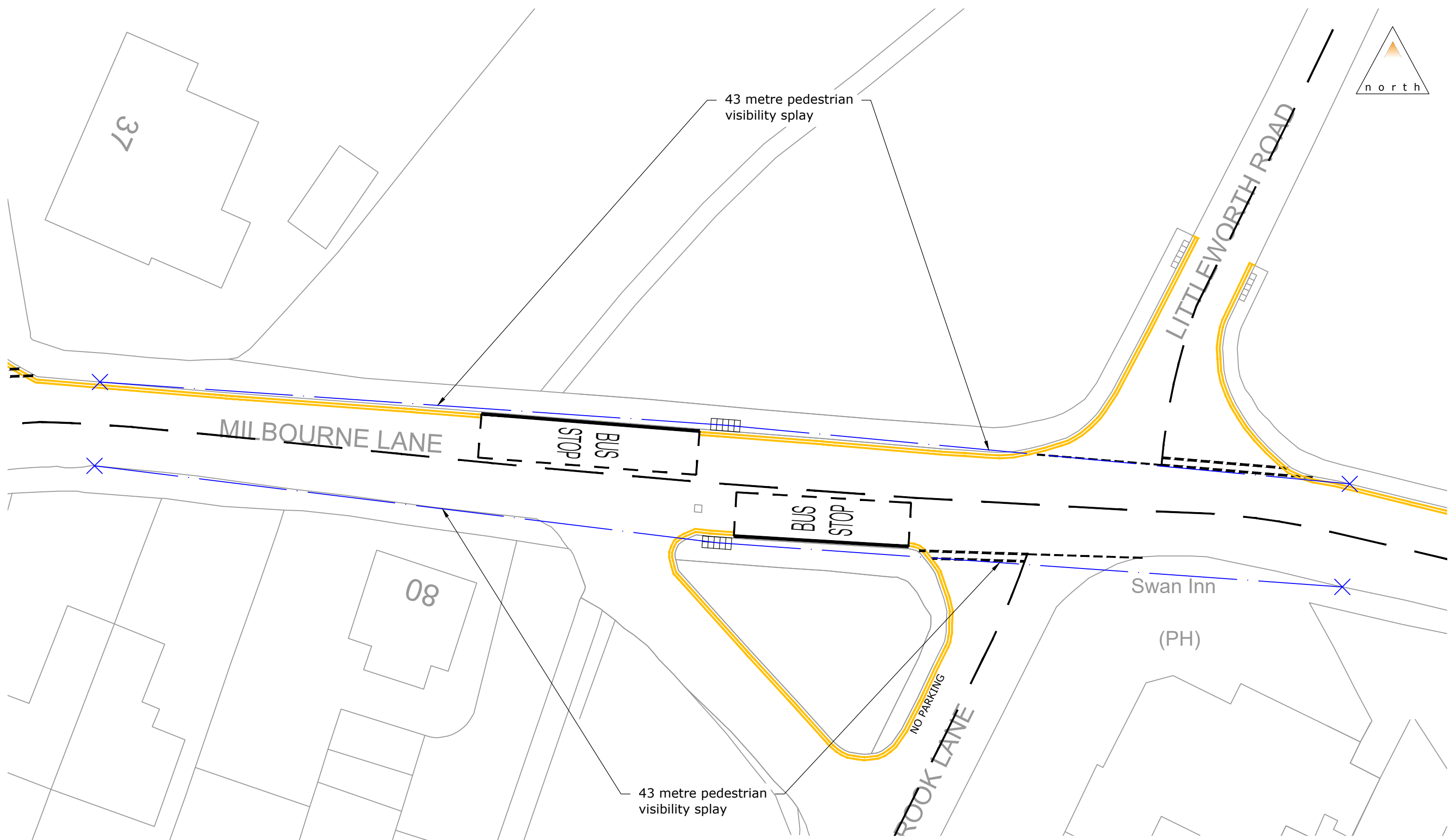
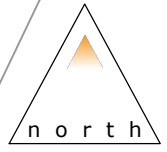
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 Land North of Raleigh Drive, Claygate

Title:
 Proposed Crossroads
 Access Arrangement

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Drawing: Revision:
 170822-03 D

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43 metre pedestrian
visibility splay

MILBOURNE LANE

BUS STOP

BUS STOP

LITTLEWORTH ROAD

Swan Inn
(PH)

ROOK LANE
NO PARKING

43 metre pedestrian
visibility splay



84 North Street
Guildford
Surrey
GU1 4AU
T: 01483 531 300

Golden Cross House
8 Duncannon Street
London
WC2N 4JF
T: 020 8065 5208

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Project:
Land North of Raleigh Drive, Claygate

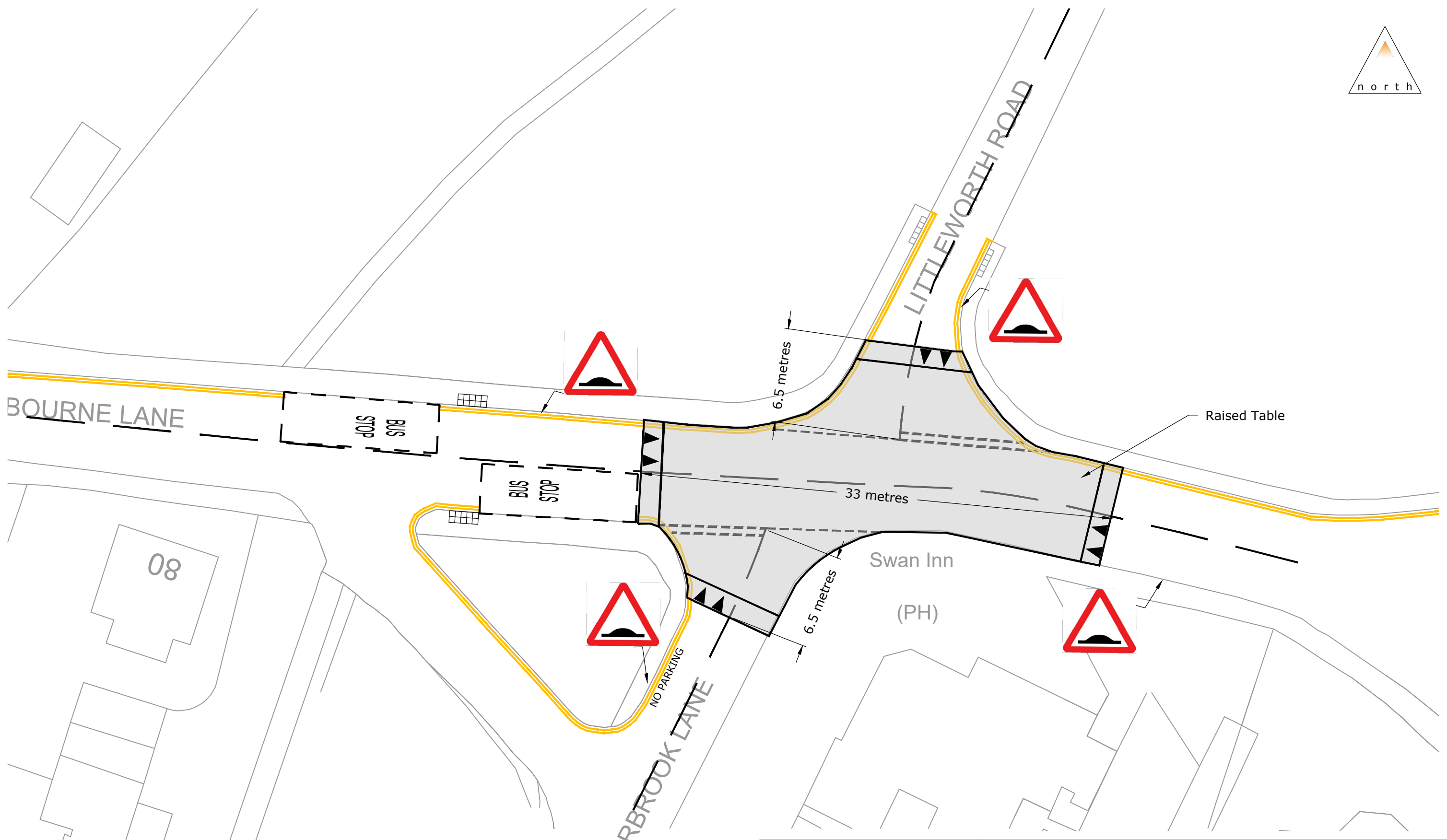
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Proposed Pedestrian Crossing on Milbourne Lane
and Visibility Splays

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Notes:

Drawing:
170822-05

Revision:
A



84 North Street
 Guildford
 Surrey
 GU1 4AU
 T: 01483 531 300

Golden Cross House
 8 Duncannon Street
 London
 WC2N 4JF
 T: 020 8065 5208

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Project:
 Land North of Raleigh Drive, Claygate

Title:
 Proposed Raised Table Location

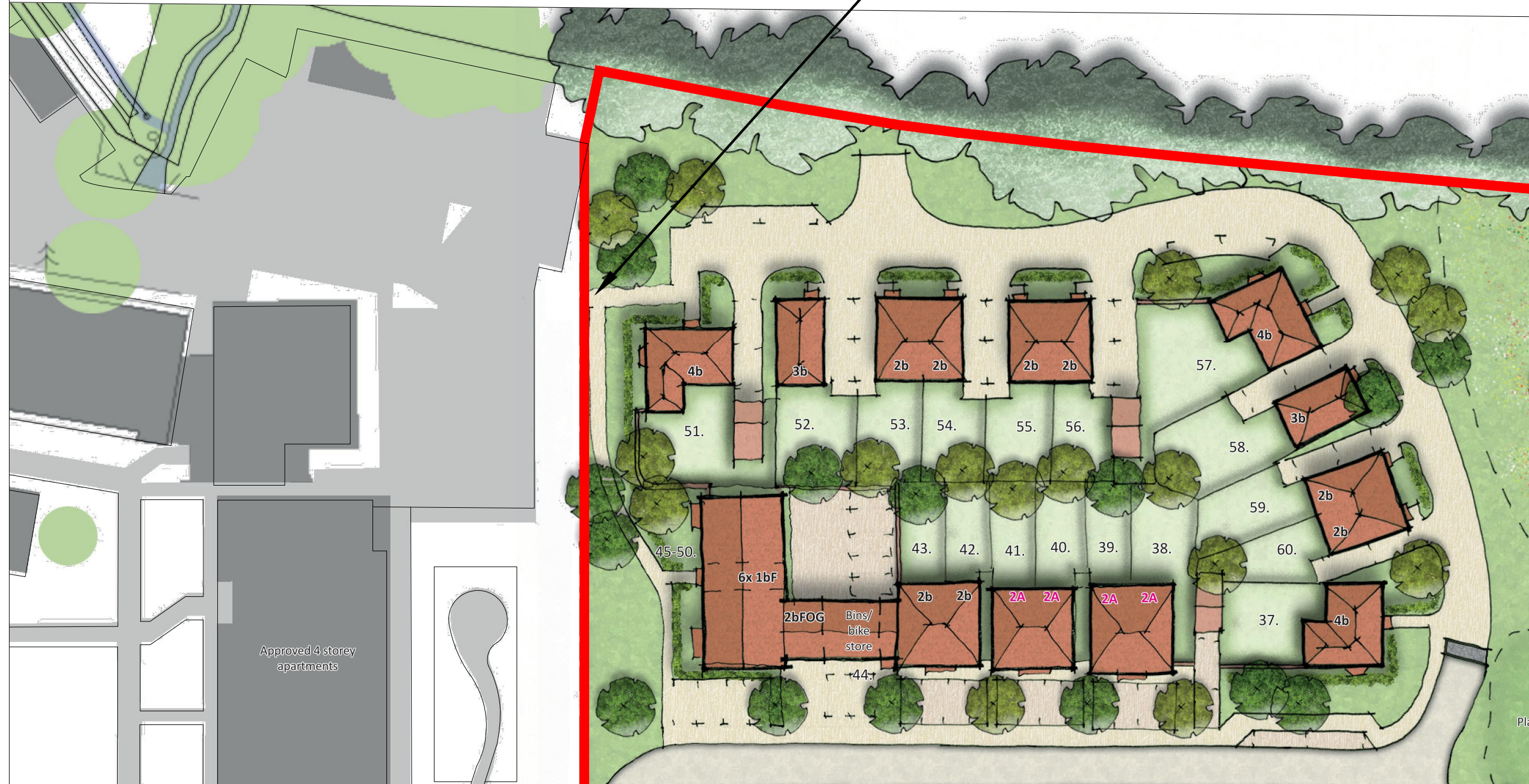
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Notes:

Drawing: 170822-07	Revision: A
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Non Vehicular Access to Adjacent Site



Guildford - London - Reading
www.motion.co.uk

Project:
Claygate House, Claygate

Title:
Non Vehicular Access

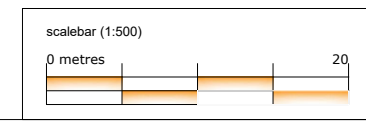
Client:
The Owners of Claygate House

Drawing Status:

Scale: 1:500 (@ A3) Date: 28/06/23

Drawn: DR Checked: CS Approved: CS

Drawing:
1708022-08 Revision:





Claygate House, Claygate - Surrey

23-015-002 Rev B

**Flood Risk & Drainage Statement of Glenn Charles
BEng CEng MICE**

March 2024

Appeal Reference: APP/K3605/W/23/3334391

LPA Reference: 2023/0962

Rev	Issue Purpose	Author	Checked	Reviewed	Approved	Date
-	Draft	GAC	TSH	GAC		Feb 2024
A	2 nd Draft	GAC	TSH	GAC	GAC	March 2024
B	Final	GAC	TSH	GAC	GAC	March 2024

1 Introduction

Experience

- 1.1.1 My name is Glenn Charles. I am a Flood Risk Drainage Engineer and Managing Director of Charles & Associates Consulting Engineers Ltd (C&A), which is a Civils & Drainage Engineering practice providing specialist consultancy services in flood risk and sustainable urban drainage planning/engineering. I hold a BEng degree in Civil Engineering from the Queensland University of Technology and have been a fully Chartered member of the Institute of Civil Engineers for over 33 years in both the UK and Australia.
- 1.1.2 I have over 36 years of post-qualification experience in the field of flood risk and sustainable urban drainage. Prior to forming Charles & Associates Consulting Engineers in 2012 I developed my career at several consultancies, providing support to the private and public sector, both nationally and at an international level. During my career I have specialised in providing support to the development industry, guiding developers on aspects of flood risk and sustainable urban drainage, throughout the planning process.

Instruction

- 1.1.3 C&A were appointed by Claygate House Investment Ltd & MJS Investments Ltd (the Appellant) to provide support in the preparation of the planning application for development on the Appeal Site including the preparation of a Flood Risk Assessment incorporating a preliminary surface water drainage strategy (**CDA 11.1 to 11.6**) and liaison with the Environment Agency and Surrey County Council, as the Lead Local Flood Authority.
- 1.1.4 I have now been instructed by the Appellant for the Appeal process.
- 1.1.5 The evidence within this statement is true and I confirm that the opinions expressed are my true and professional opinions.
- 1.1.6 I have visited the site and surrounding areas on several occasions during my appointment and am otherwise very familiar with the immediate and wider area.

Scope for Statement

- 1.1.7 The appeal was not refused on flood risk or drainage grounds. As a result of the assessment work provided to both the Lead Local Flood Authority and the Environment Agency, neither objected to the proposals. However, the application was subject to consultation responses from other parties that cited concerns over the site's flood risk potential and impact from the proposals on the existing public surface and foul water sewerage networks. These range from general comments about the wider existing flooding in the immediate area to more specific on-site concerns. Noting these concerns the Appellant has asked that I prepare this statement to aid the Inquiry.
- 1.1.8 In the absence of a reason for refusal, the scope of this statement has been ascertained following a comprehensive review of the third-party consultation responses. In the interest of providing a concise statement I have grouped the responses into a series of key topics which are individually covered in separate sections of this statement. Whilst it is not practical to respond to each specific comment within the consultation responses, for each topic I have attempted to identify and quote at least one specific consultation response in order to provide context for my analysis. Where these are presented, I consider these to be representative of the comments more generally. This has been based on a full review of the consultation responses. To set the context of the statement I begin with the conclusions reached after preparing my Flood Risk Assessment and confirm that it remains robust.

2 Summary of Flood Risk Assessment Findings

Background

- 2.1.1 The Flood Risk Assessment (FRA) for the planning application was prepared to assess the implications of Flood Risk for the proposed development of the Site for up to 60 residential dwellings together with associated amenity and open space provision, landscaping, and vehicle access.
- 2.1.2 Much of the built form of the proposed development lies within Flood Zone 1 with small elements within Flood Zone 2 to the northwest and east - Low & Medium Probability of flooding respectively as defined within Table 1 of the PPG section on 'Flood Zone and flood risk tables'. The proposed residential development is considered as 'More Vulnerable' when utilising Table 2 of the PPG section on Flood Zone and flood risk, while the open space is water-compatible development. The FRA found that the development being proposed is consistent with the appropriate uses for Flood Zones 1 & 2 and the open space is consistent with the appropriate use of Flood Zone 3, as outlined in Table 2 of the PPG.
- 2.1.3 The site has been the subject of a Sequential Test, which confirms that it is acceptable for development (as agreed at paragraph 3 d) within the Executive Summary of the Planning Statement of Common Ground). Under the NPPF and PPG requirements an Exception Test is not required. However, for robustness an Exception Test was nonetheless carried out within the FRA and was deemed to have been passed.

Probability of Flooding

- 2.1.4 I have assessed all potential sources of flood risk to and from the Site, as listed in the NPPF, and the risks of flooding occurring I have assessed as low. In assessing the flood risk, I considered the impacts of climate change for the lifetime of the proposed development and also consider this to be acceptable.

Flood Risk Management

- 2.1.5 The proposed residential development will lie predominantly within Flood Zone 1 and with all built form set 150mm above the Flood Zone 2 levels. As such I consider the risk of flooding from all sources to be low and the safety of people is acceptable for all foreseeable flooding events. No specific flood management measures beyond that of regular maintenance are necessary.

Offsite Impacts

- 2.1.6 The Preliminary Surface Water Drainage Strategy set out in my Flood Risk Assessment proposes management of surface water run-off from the redevelopment through the use of sustainable drainage techniques which will provide an improved surface water drainage regime and flood risk profile. Consequently, this will reduce surface water run-off flows from the Site, for storm return periods up to the 1 in 100-year event, plus an allowance for the detrimental effects of climate change. The proposed development will not increase the risk of flooding elsewhere. The implementation of the SuDs scheme as proposed, is likely to reduce any existing risk of downstream flooding.

Conclusion Drawn

- 2.1.7 In considering the content of my FRA and the summary above I continue to maintain that the FRA is sound and robust for a development of this nature. This is supported by the positive responses from the Lead Local Flood Authority and the Environment Agency.

3 Impact on Flooding & Flood Risk

Review of Consultation Responses

- 3.1.1 A number of consultation responses have made general observations on the existing flooding on site and the potential for increased flood risk to the surrounding area, when the site has been developed for the appeal scheme. Generally, this is through application of simplified visual interpretation of perceived amounts of existing flooding from the site and assumptions made following the development, respectively. Although not often expressly stated, these imply doubt as to the validity and appropriateness of the existing extent and classification of flooding on site and how the potential increase in surface water runoff generated by the site's development would be dealt with so as to ensure no increase in flooding occurs onsite or off site. In this way, these responses question the validity of the Flood Risk Assessment (**CDA 11.1 to 11.6**) which has been prepared to assess the impact. An example is as follows:

Name: Mr Ms Barabasz

Address: 10 Rythe Road, Claygate, Esher, Surrey – KT10 9DF

'The most recent flooding of a month ago saw effluent spilling out onto Raleigh Drive, the Green, Hare Lane and Littleworth Road. Indeed the applicant's plans suggest building on parts of the Land that have been the subject of Environment Agency flood warnings as recently as over the past 2 years. The Land exists as a flood plain for the River Rythe – building upon it is likely to a) flood the newbuild houses and b) push floodwater elsewhere,

jeopardising existing properties that are currently free of flood risk.

Analysis of Responses

- 3.1.2 Prior to submission of the Flood Risk Assessment (**CDA 11.1 to 11.6**), the Environment Agency (EA), Surrey County Council, the Lead Local Flood Authority (LLFA), and Thames Water Utilities (TWU), the local sewerage undertaker, were consulted with respect to the development site's potential for flooding and the local surrounding area, both historically and, importantly, accounting for future climate change.
- 3.1.3 As part of this consultation the LLFA produced a site-specific Flood Risk Report that provided the parameter that underpinned the overall assessment of flooding potential and the proposed sustainable urban drainage for the development of the site. Refer **Appendices B and F** of the Flood Risk Assessment (**CDA 11.1 to 11.6**). In summary it has been confirmed that the development site has a combination of Flood Zone 1, 2 and 3 that emanate from two separate sources. As such a sequential test was required under the National Planning Policy Framework (NPPF). This test has been carried out by the Appellants' planning consultants and has been agreed to have been passed by the local planning authority (see paragraph 3 d) within the Executive Summary of the Planning Statement of Common Ground).
- 3.1.4 I am not in disagreement with the objectors that the site has some existing flooding within it. Indeed, my Flood Risk Assessment identifies this following extensive consultations with the appropriate flood authorities, which confirmed that Flood Zone 3 emanates from the riparian water course to the east and Flood Zone 2 is a natural extension to the riparian water course and the River Rythe to the west. Refer **Figure 5.1 page 24** of the Flood Risk Assessment (**CDA 11.1 to 11.6**). The current planning practice guidance allows residential development to be undertaken within Flood Zone 2 without the need for an exception test. In addition, consultation with the EA has confirmed that the area on site that falls within Flood Zone 2 is not required for 1 in 1000-year flood storage of the River Rythe.
- 3.1.5 It should also be noted that a site-specific sequential approach has been applied to the development ensuring no built form is to occur within Flood Zone 3, which will remain open space; and where built form occurs in Flood Zone 2, the built form is, in the majority, roads, gardens or landscaping. The minor area to the northwest corner of the development which has dwelling footprints has these dwellings raised 150mm above the 1 in 1000-year flood event. Levels have been set to ensure any high rainfall intensities above the 1 in 100 year plus climate change event (exceedance flows) will flow toward the riparian ditch to the east. Refer Drawings **23-015-01, 02 & 04 Rev A, Appendix H** of the Flood Risk Assessment (**CD A 11.1 to 11.6**).

- 3.1.6 Turning to the observations made with respect to increased offsite flooding due to the development increasing surface water runoff due to the current greenfield nature of the site. I refer the Inspector to section 6 'Surface Water Management Proposal' of the Flood Risk Assessment (**CDA 11.1 to 11.6**). Within this section it has been confirmed that all surface water runoff from the built form will be attenuated and stored via sustainable urban drainage techniques for up to and including a 1 in 100 year plus 40% for climate change storm event. All storm events, up to and including the 1 in 100 year plus climate change, will have a regulated discharge of surface water runoff that equates to a 1 in 1 year surface water runoff rate to the receiving water course. Thus, the proposal reduces the current greenfield runoff rate, which is not restricted, providing betterment to the downstream catchments by virtue of reduced surface water runoff flow rates, thus assisting in reducing flood risk to the surrounding area.

4 Impact on Existing Local Sewerage Infrastructure

Review of Consultation Responses

- 4.1.1 Set out below is a consultation response that I consider is representative of the concerns raised with regards to impact on the local sewage network:

Mrs Meares

Ormsby Raleigh Drive, Claygate, Esher, Surrey- KT10 9DE

'There is already a problem with localised flooding in the area and the proposed housing would only exacerbate this. As recently as a few weeks ago, heavy rain caused severe flooding on Raleigh Drive and Littleworth Road with excrement and sanitary products coming up through drains.....'

Analysis of Responses

- 4.1.2 The suggested problem with localised flooding within Mrs Meares' consultation response has been addressed within sections 2 and 3 above and is not repeated here.
- 4.1.3 When preparing the Flood Risk Assessment, Thames Water Utilities were consulted with respect to the surface water disposal from the development site. It was agreed that a new independent sustainable urban drainage system would be the most appropriate network to deal with surface water from the site. This system is to remain private and will not connect into the existing Thames Water Utilities public surface water network surrounding the site. For clarity, this SuDs network will discharge to the riparian ditch to the east via a swale passing through the open space.

- 4.1.4 As detailed above, all flows to the 1 in 100 year plus climate change storm intensity will be attenuated within this network and a controlled discharge to less than the existing greenfield runoff will flow to the riparian ditch. This has been agreed with the LLFA by virtue of their approval of the Flood Risk Assessment.
- 4.1.5 Due to the development discharging direct to the ditch it will have no effect on the existing Thames Water Utilities surface water network surrounding the site, and as such will not increase any perceived flooding that may already occur from this network.
- 4.1.6 I should note that my Flood Risk Assessment did not deal with the discharge of foul effluent from the site. That said, I have reviewed the Thames Water Utilities records and can confirm that the sewers surrounding the site are not 'combined' sewers which have both foul and surface water runoff entering them. They are separate foul and surface water networks. While I cannot be certain that illegal surface water connections have not been made to the existing public foul network from the surrounding urban area, I can confirm that the development site will have an independent internal foul network that will connect to a suitable location within the existing public foul network.
- 4.1.7 This will be undertaken via Section 106 of the Water Industry Act which is the standard procedure for new residential development. At that time Thames Water Utilities, as the statutory undertaker, will either confirm that there is capacity within the existing foul network or if not undertake upgrade works to achieve this. This will be funded by infrastructure charges levied by Thames Water Utilities from the developer at the time. If there are existing incidences of flooding emanating from the existing foul sewer network, it remains the responsibility of Thames Water Utilities to remedy this.

5 Conclusions

- 5.1.1 The development site has passed a Sequential Test and, although not required has also passed the Exception Test. The positioning of the built form of the development has been undertaken utilising the Sequential Approach. This is in full compliance with Section 14 of the National Planning Policy Framework, together with the Local Planning Policy and guidance.
- 5.1.2 The utilisation of Sustainable Urban Drainage techniques has provided the added benefit of reducing existing flood risk downstream via regulating the surface water runoff off site to less than existing levels for all storm events greater than 1 in 1 yr.
- 5.1.3 No surface water runoff is to be discharged to the existing public surface water sewage network and Thames Water Utilities have the statutory powers to provide capacity for the foul effluent to the foul public sewerage network.

- 5.1.4 As such, it is my opinion that flood risk and drainage are not matters for this inquiry. This is reinforced by the positive responses from the Lead Local Flood Authority and the Environment Agency.