



FARNHAM TOWN COUNCIL

Agenda Extraordinary Council

Time and date

Tuesday 8th August, 2023 at 7.00 pm

Place

Council Chamber - Farnham Town Hall.

To ALL MEMBERS OF THE COUNCIL

Dear Councillor

You are hereby summoned to attend an Extraordinary Meeting of **FARNHAM TOWN COUNCIL** on **Tuesday 8th August, 2023, at 7.00 pm** in the Council Chamber - Farnham Town Hall. The Agenda for the meeting is attached.

Yours sincerely

Iain Lynch
Town Clerk

Members' Apologies

Members are requested to submit their apologies and any Declarations of Interest on the relevant form attached to this agenda to customer.services@farnham.gov.uk by 5pm on the day before the meeting.

Recording of Council Meetings

This meeting is digitally recorded and retained until the minutes are signed.

Questions by the Public

At the discretion of the Town Mayor, those members of the public, **residing or working** within the Council's boundary, will be invited to make representations or ask questions in respect of the business on the agenda, or other matters not on the agenda, for a maximum of 3 minutes per person or 20 minutes overall.

Members of the Public are welcome and have a right to attend this Meeting. Please note that there is a maximum capacity of 30 in the public gallery.



FARNHAM TOWN COUNCIL

Disclosure of Interests Form

Notification by a Member of a disclosable pecuniary interest in a matter under consideration at a meeting (Localism Act 2011).

Please use the form below to state in which Agenda Items you have an interest.

If you have a disclosable pecuniary or other interest in an item, please indicate whether you wish to speak (refer to Farnham Town Council's Code of Conduct for details)

As required by the Localism Act 2011, I hereby declare, that I have a disclosable pecuniary or personal interest in the following matter(s).

FULL COUNCIL: 8 August 2023

Name of Councillor

Agenda Item No	Nature of interest (please tick/state as appropriate)		Type of interest (disclosable pecuniary or Other) and reason
	I am a Waverley Borough Councillor/Surrey County Councillor*	Other	

* Delete as appropriate



FARNHAM TOWN COUNCIL

Agenda Extraordinary Council

Time and date

Tuesday 8th August, 2023 at 7.00 pm

Place

Council Chamber - Farnham Town Hall, South Street, Farnham

Prayers

Prior to the meeting prayers will be said in the Council Chamber. Councillors and members of the public are welcome to attend.

1 Apologies

To receive apologies for absence.

2 Disclosures of Interest

To receive from members, in respect of any items included on the agenda for this meeting, disclosure of any disclosable pecuniary or other interests, or of any gifts and hospitality, in line with the Town Council's Code of Conduct.

NOTES:

- (i) *The following councillors have made a general non-pecuniary interest declaration in relation to being councillors of Waverley Borough Council: Cllrs David Beaman, George Murray, Tony Fairclough, George Hesse, Andrew Laughton, Mark Merryweather, Kika Mirylees, John Ward, and Graham White.*
- (iii) *The following councillor has made a general non-pecuniary interest declaration in relation to being a councillor of Surrey County Council: Cllr Michaela Martin;*
- (iv) *Members are requested to make any declarations of interest, on the form attached, to be returned to customer.services@farnham.gov.uk by 5pm on the day before the meeting.*

Members are reminded that if they declare a pecuniary interest they must leave before any debate starts unless dispensation has been obtained.

3 Minutes

To sign as a correct record the minutes of the Farnham Town Council meeting held on 27th July at Appendix A.

4 Questions and Statements by the Public

In accordance with Standing Order 10.1, the Town Mayor will invite members of the public present to ask questions or make statements.

At the discretion of the Town Mayor, those members of the public, **residing or working** within the Council's boundary, will be invited to make representations or ask questions in respect of the business on the agenda, or other matters not on the agenda, for a maximum of 3 minutes per person or 20 minutes overall.

5 Town Mayor's Announcements

To receive the Town Mayor's announcements.

Part I - Items for Decisions

**6 Consideration of a Legal Challenge to Planning Appeal (Pages 5 - 38)
APP/R3650/W/22/3311941 L**

To consider whether there appears to be sufficient grounds for Farnham Town Council to make a legal challenge to Planning Appeal APP/R3650/W/22/3311941 - Land West of and Opposite Old Compton Lane, Waverley Lane, Farnham.

The questions regarding a challenge may include:

- 1) Farnham Town Council supporting Waverley Borough Council as a Rule 6 Status supporter (entitled to appear at the inquiry and to 'cross-examine' other parties) if leave to appeal were given and if Waverley were to lead the challenge;
- 2) Farnham Town Council to lead a challenge;
- 3) No further action being taken.

Legal advice received from Counsel will be considered in exempt session as legally privileged information.

7 Date of Next Meeting

To agree the date of the next meeting as 14th September 2023.

8 Exclusion of the Press and Public

TO PASS A RESOLUTION to exclude members of the public and press from the meeting at Part 3 of the agenda in view of any confidential items under discussion. These will usually relate to exempt staffing matters, legally privileged information or contractual matters which may be commercially sensitive.

Item 3 - Confidential Items

9 Any confidential matters

To discuss any legal and other advice received in relation to the potential challenge.

Council Membership:

Alan Earwaker (Mayor), David Beaman, Mat Brown, Sally Dickson, Tony Fairclough, George Hesse, Chris Jackman, Andrew Laughton, Michaela Martin, Brodie Mauluka, Mark Merryweather, Kika Mirylees, George Murray, John Ward, Graham White and Tim Woodhouse

FARNHAM TOWN COUNCIL



B

Report
Council

Date: 8 August 2023

Potential Judicial Review of Planning Appeal APP/R3650/W/22/3311941

1. Summary

- 1.1 A Planning Appeal for an application by Wates to build 146 homes on land at Waverley Lane, which had been refused by Waverley Borough Council in November 2022, has been approved by the Government's Inspector (Decision letter dated 3rd July attached at Annex 1). The site was not designated for development in the Neighbourhood Plan and was for a greenfield development on land that had been designated for an extension of the Surrey Hills AONB.
- 1.2 The local community and Farnham Town Council are very concerned by this particular decision given the landscape value of the site abutting the Area of Great Landscape Value in an area beyond the Built Up Area Boundary and consideration is being given to making a Judicial Challenge which needs to be made within 6 weeks of the Appeal Decision.
- 1.3 This report with its annexes (some of which contain legal privilege and are therefore being kept confidential) seeks Council's decision on whether or not there are sufficient grounds to make a legal challenge having weighed up the advice received on the prospects of success and the likely costs of a challenge.

2. Background

- 2.1 Following the Inspector's decision, Waverley officers initially advised that apart from grammatical errors in the decision letter which was badly phrased, there was no plan to make any challenge. However, after discussion with councillors, a legal opinion was subsequently taken and Farnham Town Council has been asked if it would support a legal challenge as a Rule 6 participant if further action were to be taken by the Borough Council.
- 2.2 As a result of the WBC initial response that it would not take action, FTC officers have been separately exploring all opportunities to see if there was any prospect of FTC challenging the decision separately. An initial meeting took place with Steve Tilbury, FTC's external planning advisor (Notes attached at Annex 2), and discussions have taken place with the Director and Chair of the Surrey Hills AONB and its planning advisor. Following the Council meeting on 27th July, FTC also commissioned a King's Counsel to check independently whether there were grounds for challenging, and if so, what would be the estimated likelihood of success on

the grounds available. Ideally the commissioning of a legal opinion in terms of questions and costs would have been shared with Waverley, but the questions and answers have not been shared and have only been summarised for FTC.

- 2.3 The most significant issue centres around the site allocations and environmental protections in the Neighbourhood Plan, and whether or not the Inspector gave sufficient consideration to Farnham Neighbourhood Plan Policies 14 and 10c. This site was considered particularly important given that it is on the candidate list for an extension to the Surrey Hills Area of Outstanding Natural Beauty which had long been argued by Farnham Town Council and the local community given its setting and proximity to Moor Park and Waverley Abbey.
- 2.4 The site is outside the Built up Area Boundary and had been subject to an unsuccessful Judicial Review by the developers prior to the Neighbourhood Plan being made. This application (the fifth) was in conflict with several elements of the Farnham Neighbourhood Plan including FNPI14 (site allocations) and FNPI10c which sought to “*Conserve and enhance landscape and scenic beauty of the Surrey Hills Area of Outstanding Natural Beauty and its setting – including those Areas of Great Landscape Value under consideration for designation as AONB*”.
- 2.5 The appeal has been determined on the basis of the ‘tilted balance’ which applies when a local planning authority cannot demonstrate a 5 year supply of deliverable land to meet its housing target. It is accepted that Waverley does not have a 5 year housing land supply under the way the Government calculates it, partly because developers have not yet built significant sites that have approval.
- 2.6 The South Farnham Residents’ Association (SOFRA) had put in an enormous amount of work over several years in demonstrating the negative impact development would have, and the harm that would be made to the local environment which was designated as being of high landscape value and high sensitivity in the landscape study undertaken by HDA on behalf of the Town Council in preparing the Neighbourhood Plan. In 2014 AMEC, in a landscape review for the Local Plan had also said “The area with its high quality character, sensitivity, and proximity to the AONB with direct visual connection means that any capacity for development is likely to be limited.” A representation from SOFRA setting out the key issues from their perspective is attached at Annex 3.
- 2.7 The Inspector’s decision is all the more frustrating given three other recent appeal decisions in Farnham (Green Lane, Green Lane Farm and Lower Weybourne Lane) where Inspectors recognised the importance of the Farnham Neighbourhood Plan and turned down the appeals. In the Lower Weybourne Lane (May 23) Appeal Ref: APP/R3650/W/22/3310793) the Inspector said “*I am also mindful of the role that neighbourhood planning has as part of ensuring that the planning system is genuinely plan led and all that Paragraph 15 of the Framework says about providing a positive vision and a platform for local people to shape their surroundings.*” (para.86 of his report). “As a consequence, the clear conflict with the strategy in the Neighbourhood Plan, delivered through the explicit detail of FNPI10 and FNPI11 is a matter that attracts considerable weight.” (Para.87). His conclusion was Para 103. In these circumstances, a grant of planning permission for development that so clearly goes against the wishes of the Neighbourhood Plan would be a serious undermining of it and its underlying strategy for balancing housing growth with environmental objectives.
- 2.8 In Para. 91 the Inspector talks about “Harm from developing an unallocated site outside the BUAB” but gives little consideration to FNPI14 which she calls permissive and was the policy which decided, using careful criteria, which sites to allocate sites. In so doing, she is also disagreeing with the recent Hawthorn’s Appeal Inspector. on this point. She is also ignoring the fact that The Farnham Neighbourhood Plan is delivering housing above those allocated in Local Plan part 1 as recently acknowledged by the Inspector for Lower Weybourne Lane in

May. Unfortunately, in this context, Farnham's over delivery is set against the wider under delivery across Waverley as a whole.

- 2.9 The Neighbourhood Plan no longer retains the 2 year protection for Made Neighbourhood Plans and the proposed NPPF changes (announced by Rt Hon Michael Gove in a Written Ministerial Statement in December 2022) extending this to 5 years have not yet come into place. The Borough is short of its five-year land supply because approved sites are not being built out, which puts sites allocated in Neighbourhood Plans in a worse position than sites allocated in Local Plans which enjoy a five year protection in up-to-date Local Plans).
- 2.10 The AONB planning advisor's views were incorporated in the brief submitted for the Counsel's advice, and the summary of the KC reflects the points raised by the AONB team.

3 Summary of key points from the Legal advice undertaken

- 3.1 The summary of the advice received by Waverley is contained at EXEMPT Annex 5 and the advice commissioned separately by Farnham Town Council from a leading King's Counsel who is familiar with the Farnham Neighbourhood Plan is attached at EXEMPT Annex 4. If Members wish to discuss the detail of this advice, Council will need to move into confidential session.
- 3.2 The conclusion of both sets of advice are that the Inspector seems to have demonstrated to a sufficient degree that she has considered the issues at most concern (Site allocations, the landscape quality and the harm that will result, and the candidate status of the land for inclusion in the AONB) and does not have to necessarily explain every element she has taken into consideration. There are also other elements that were seemingly not provided in evidence at the appeal, and these cannot be raised at a judicial challenge. The Inspector has, in a general sense, shown that she has taken these factors into account even if she has dismissed them in coming to her conclusion. There is generally a "benevolent" approach to the construction of decision letters with the result is that the potential grounds for a successful challenge are limited.

4 Issues for consideration and next steps

- 4.1 Council is asked to consider the following issues:
- i. Should there be a legal challenge based on the advice received and if so, on what basis – by FTC alone or in support of the Borough Council if the Borough Council will take the matter forward. If supporting the Borough Council, this would be as a 'Rule 6' supporter with a seat at the table and by potentially committing to the Borough Council costs. Any contribution would need to be in discussion with the Borough Council and reflect the Aarhus principle that costs for town and parish councils would be expected to be capped;
 - ii. If, on balance, no legal challenge were to be made, what other actions can be undertaken to mitigate harm from this Inspector's decision. For example, should Waverley be asked to put out to scrutiny all documents relating to the discharge of conditions on this site, noting that the Inspector talked about potential harm to landscape and its surroundings in Para 51 but did not impose a specific condition to minimise that harm;
 - iii. Given that the Neighbourhood Plan, as part of the Development Plan for Waverley, is seemingly not always supported by planning officers, how can the policies in the Neighbourhood Plan be given greater emphasis in determining planning applications and defending appeals;
 - iv. What are the implications for the review of the Neighbourhood Plan.

Recommendations

It is recommended that Council determines whether or not it wishes to:

- 1. a) Instigate a Judicial review on its own; or b) Support a Judicial Review led by Waverley Borough Council as a Rule 6 supporter, and with a financial contribution; or c) not pursue a further legal challenge having considered the potential prospects of success.**
- 2. Pursue any other matters in relation to this appeal.**
- 3. Authorise the Town Clerk to negotiate the best way to progress decisions agreed by Council in consultation with the Co-Leaders and Mayor.**



Appeal Decision

Inquiry held on 18-21 April 2023

Site visit made on 21 April 2023

by Lesley Coffey BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2023

Appeal Ref: APP/R3650/W/22/3311941

Land West of and Opposite Old Compton Lane, Waverley Lane, Farnham, Surrey, GU9 8ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wates Developments Ltd against the decision of Waverley Borough Council.
 - The application Ref WA/2022/01621, dated 16 June 2022, was refused by notice dated 11 November 2022.
 - The development proposed is the erection of up to 146 dwellings (with all matters reserved except for access) together with the
 - provision of Suitable Alternative Natural Greenspace (SANG) and other open space, parking, infrastructure and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 146 dwellings (with all matters reserved except for access) together with the provision of Suitable Alternative Natural Greenspace (SANG) and other open space, parking, infrastructure and landscaping at Land at Waverley Lane, Farnham, GU9 8ET in accordance with the terms of the application, Ref:WA/2022/01621, dated 16 June 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The address above is taken from the Council's decision notice since it more accurately reflects the location of the appeal site.
3. The proposal is an outline application for up to 146 dwellings with all matters except the access reserved for subsequent approval. The Appellant submitted a plan showing how the development might be accommodated, but the plan is for illustrative purposes only. Whilst there could be alternative layouts for the site, the submitted plan nevertheless provides a useful guide when considering the proposal before me.
4. The Appellant submitted an Agreement under Section 106 of the Town and Country Planning Act 1990, dated 9 May 2023, which covenants to provide affordable housing, First Homes, openspace, play areas, SuDS, a SANG, and a management plan in respect of the open space. The planning obligations in relation to transport include a car club contribution, cycle route improvements, a Travel Plan, provision of pedestrian footways and crossing points. These planning obligations are discussed below.

5. The parties submitted a Statement of Common Ground in respect of planning matters, as well as topic specific Statements of Common Ground in relation to housing land supply, transport matters and landscape.
6. The Council's decision notice referenced policy C7 and D7 of the Local Plan 2002. On 21 March 2023 the Council adopted the Local Plan Part 2 (LPP2) which superseded the Local Plan 2000. The parties agree that LPP2 Policy DM11 replaces policies C7 and D7, although they disagree as to the implications of this change.¹ This matter is addressed below.
7. There are several previous planning decisions in relation to the appeal site. A previous planning application for 157 dwellings on the appeal site was dismissed at appeal by the Secretary of State in March 2018 contrary to the recommendation of the Inspector.² There were a number of material changes between the submission of the Inspector's Report and the date of the Secretary of State's decision. These changes included the adoption of the Waverley Local Plan Part 1; the making it the Farnham Neighbourhood Plan; and the conclusion that the Council could demonstrate a five-year housing land supply.
8. The Secretary of State agreed with the Inspector that there would be a limited impact on the character and appearance of the area and a minor degree of harm to the intrinsic visual worth of the area. He found that these matters carried limited weight. He also found that the residual cumulative impacts on the wider highway network would not be severe. He refused consent due to the conflict with the relevant development plan policies, particularly the policies of the Neighbourhood Plan which he considered carried substantial weight against the proposal. In reaching his conclusion he had regard to paragraph 198 of the Framework.³
9. A subsequent application for 146 dwellings was refused by the Council on 10 July 2020.⁴ The reasons for refusal included matters in relation to flood risk, biodiversity net gain and a number of matters that could be addressed by way of planning obligations. The reasons for refusal also included that the proposed housing would be located outside of the built-up boundary and within an area of high landscape value and sensitivity contrary to the spatial strategy. At the time of determination, the Council considered that it could demonstrate 5.9 years housing land supply.
10. The appeal scheme was refused contrary to the recommendation of Council Officers. The parties agree that the second reason for refusal, in relation to the Thames Basin Heath Special Protection Area and the third reason for refusal in relation to the provision of affordable housing and various infrastructure matters could be addressed by way of a suitable conditions and a s106 agreement. I agree with this view.
11. Surrey Hills Area of Outstanding Natural Beauty (AONB) consultation published by Natural England. This was published on 7 March 2023. I address this matter below.

¹ Supplementary Statement of Common Ground date 4 April 2023

² CD4.1 APP/R3650/W/15/3139911

³ Paragraph 14 of the current Framework

⁴ CD 2.7 WA/2019/1926

Main Issues

12. The main issues in respect of this proposal are:
- The effect of the proposed development on the character and appearance of the surrounding area;
 - Whether any conflict with the development plan is outweighed by any other matters, including the housing land supply position and the benefits of the proposal.

Reasons

13. The appeal site is located immediately adjacent to the settlement of Farnham.⁶ Housing abuts the northern and eastern sides of the site, including residential development at Abbots Ride. The site is located within easy walking and cycling distance of many facilities including a nearby primary school, train station and the main shopping centre of Farnham, the primary town centre in Waverley

Character and appearance

14. The appeal site is located adjacent to the built-up area of Farnham. It comprises three fields of pasture, with a total area of 12.17ha. It comprises two parcels of land, one on each side of Waverley Lane. The northern parcel is a single field (the northern field), covering approximately 4.4 hectares. It undulates and slopes downward towards the east and it has hedgerow and tree cover on its eastern, southern, western and part of its northern boundaries. It has a more open boundary with Elm Cottage, a single dwelling in a large plot, which is served from Old Compton Lane.
15. The southern parcel is about 7.75 hectares in area and consists of two fields (the central field and the southern field). The former is about 3.04 hectares and the latter about 4.71 hectares. Both are undulating with the land in the southern field falling towards the Bourne Stream along its southern and eastern boundaries.
16. It is common ground between the parties that the adverse visual effects of the proposal are localised due to the enclosed nature of the site. Mr Peacock, on behalf of the Council, accepted that the main viewpoints are largely confined to Waverley Lane and would be a consequence of the access arrangements, in particular the removal of the hedgerow in these locations in order to provide the necessary visibility splays. The Council acknowledges that most views would be glimpsed views experienced by motorists, but considers that whilst landscaping would limit such views, there would nonetheless be visual harm.
17. I agree that there would be glimpsed views of the site from this part of Waverley Lane even after mitigation. However, having regard to the limited extent of the views, the landscaped areas within the site close to the access roads and the proposed reinforcement of the hedgerow boundaries, I find that the Council's assessment of moderate – major adverse visual effects significantly overstates the extent of harm.
18. The previous Inspector found the appeal site to be rural in character. He noted the change in the character of Waverley Lane at Old Compton Road where he found that *"the landscape starts to become more open with containment maintained by roadside hedgerows which allow glimpses into both the northern*

and central fields. Nonetheless, Waverley Lane, at this point, is evidently wholly rural in character.”⁵

19. On behalf of the Council, Mr Peacock stated that he agreed with the description of landscape character within the previous Inspector Report except for paragraph 6.44. This refers to an abrupt change in character at “*Old Compton Lane and progression westwards, towards Abbot’s Ride, moves markedly into the suburban edge.*”
20. It is important that an Inspector’s decision or Report is read as a whole, and the preceding paragraphs clearly explain the reasons for the Inspector’s conclusions. I agree with the previous Inspector that there is a change in character along Waverley Lane when moving from Old Compton Lane towards Abbots Ride. The sunken lanes to the east of Old Compton Lane noted by the Inspector are replaced by a more open landscape, albeit enclosed by trees and hedgerows. In addition, the roadside signs are visible, as is the more suburban style planting and residential development to the south. These features are characteristic of a suburban edge, albeit the change is more noticeable a short distance to the west of Old Compton Lane. I do not find that the reference to the abrupt change in character undermines the findings of the previous Inspector.
21. There have been no material changes to the character of the area since the date of the previous appeal decision. Neither the previous Inspector, nor the Secretary of State considered the appeal site to be a valued landscape for the purposes of paragraph 174 of the Framework. The Council submit that new evidence, taken together, justify a different conclusion on this matter. This evidence includes the AONB boundary review, the historic landscape characterisation and associated evidence, and the Farnham Landscape Character Assessment.

The ANOB

22. Natural England has commenced a review of the Surrey Hills AONB boundary. It advises that the site is located partly within/ within an area which Natural England has assessed as meeting the criterion for designation as an AONB (known as a Candidate Area for Designation) and may be included within a boundary variation to the Surrey Hills Area of Outstanding Natural Beauty (AONB). It confirms that this assessment process does not confer any additional planning protection, however, the impact of the proposal on the natural beauty of this area may be a material consideration in the determination of the appeal.
23. The statutory consultation on the proposed extension to the Surrey Hills AONB review commenced on 7 March 2023 for a 14 week period ending on 13 June 2023. It is understood that Natural England would expect to submit a Variation Order to the Secretary of State for a decision by August 2023 on the extended areas. Therefore, there is no certainty that the boundary changes currently proposed would form part of the recommended review, or that the Secretary of State would confirm the variation order. Natural England advises that following the issuing of the Variation Order, but prior to confirmation by the Secretary of State, a Variation Order would carry great weight as a material consideration in

⁵ CD 4.1 paragraphs 6.39-6.40

planning decisions. In this case the Variation Order has not been submitted and I afford the consultation document limited weight.

Historic Landscape Characterisation

24. Mr Peacock stated that the appellant's Landscape and Visual Assessment(LVA) did not take account of cultural time depth. Technical Guidance Note 02/21, published by the Landscape Institute, sets out matters that may be taken into account when assessing landscape value. It states that these factors are broadly the same as GLVIA3, but that 'conservation interests' is separated into natural heritage and cultural heritage factors.
25. The Technical Guidance Note states that cultural heritage includes landscape which offers a dimension of time depth. This includes cultural time depth such as the presence of relic farmsteads, ruins, historic field patterns, and historic rights of way. In the case of the appeal site, Mr Peacock identifies the hedgerows to the fields and also that Monks at Waverley Abbey would have used Waverley Lane as evidence of time depth.
26. He submits that there is an intact historic field pattern across the undulating landform of the fields and this provides a strong landscape structure, distinctively enclosed within wavy edges defined by surrounding vegetation of woodland and hedgerows along Waverley Lane. In addition, he believes the hedgerows along Waverley Lane represent an Important Hedgerow under The Hedgerows Regulations (1997).
27. The appellant's LVA found no evidence of cultural heritage value within the appeal site or its immediate context. The hedgerows and field boundaries were assessed on behalf of the appellant by a heritage consultant. She found that the northern field could come within Type 106 of the Surrey Historic Landscape Characterisation , but noted that there has been boundary loss within the area and boundary changes to the northern side. The land to the South of Waverley Lane was considered to be more likely to be Type 102, but there was insufficient evidence to be confident that this was the case. Overall, she found that neither area had sufficient interest to be considered as a heritage asset in its own right and neither were part of a cohesive landscape that may hold heritage value.
28. It is evident from the LVA that the issue of cultural heritage was not ignored by Mr Smith, on behalf of the appellant. Moreover, as one of the co-authors of the Technical Guidance Note he would have been aware of the of the need to take account of cultural time depth. On the basis of the submitted evidence, I conclude that the site does not have significant cultural value. Consequently, the appellant's LVA does not under-estimate the value of the site in this regard.

The Farnham Landscape Character Assessment

29. The purpose of the Farnham Landscape Character Assessment was to inform an update to the Farnham Neighbourhood Plan, and in particular to determine its local landscape value and sensitivity. The landscape sensitivity was defined as "*The extent to which a landscape can accept change of a particular type and scale without unacceptable adverse effects on its character.*"
30. The appeal site comes within the Compton Wooded Slopes Landscape Character Area (LCA) which is assessed as being of high sensitivity and landscape value. In terms of sensitivity each LCA was assessed against six

- attributes on a scale of 1-5. The Compton Wooded Slopes scored 19 points which represents the threshold for a substantial level of sensitivity.
31. The assessment of sensitivity acknowledges that the northern and western areas are formed by the settlement of Farnham, whereas the southern and eastern edges are open to the surrounding countryside. Moreover, part of the character area lies within the AONB and the Green Belt. The appellant criticised the assessment in that it applies a uniform sensitivity and value, although it acknowledges the diversity within the parcel.
 32. The key characteristics of the LCA include an undulating landscape located between Farnham and the Upper Wey River. The identified land uses include small fields in pasture interspersed with blocks of woodland and tree belts. The LCA references the hedgerows line the lanes that run through and adjacent to the Character Area. The tree and vegetation cover provides a strong sense of enclosure and intimacy. The majority of the LCA lies within the AONB or the Green Belt. Whilst some of the characteristics identified by the LCA are evident within or close to the appeal site, the southern field is the most sensitive part of the site, and this area would not be developed for housing, but would be used for the SANG. Moreover, the site does not form part of the AONB or the Green Belt.
 33. On the basis of the evidence submitted to the Inquiry and my observations at the time of my site visit, it is apparent that the sensitivity of the LCA varies considerably and that the site lies within a less sensitive part of the LCA. It is well screened and there is potential for further mitigation. Therefore, whilst the sensitivity of the LCA as a whole may be high, I find the area where the appeal site is located to have moderate sensitivity.
 34. At the time of the previous appeal the Inspector concluded that the site was not part of a valued landscape. On behalf of the appellant Mr Smith carried out an assessment of landscape value based upon the most recent guidance, and he concluded that the southern field forms part of a valued landscape, but that the central and northern fields are not part of the same valued landscape.
 35. The Council consider that the northern and southern fields also form part of a valued landscape. In my view the southern field is distinguishable from the other fields, due to the public right of way close to the boundary, the tree line separating it from the central field and the manner in which the site falls towards the Bourne Stream.
 36. Notwithstanding Mr Smith's assessment in relation to the southern field, the matters raised by the Council do not elevate the site to a valued landscape or detract from the previous Inspector's conclusions.

Effect on Landscape Character

37. The proposed development differs from that considered at the time of the previous appeal in that it proposes a lesser number of dwellings. It also provides an enlarged SANG, provides space for additional mitigation planting adjacent to the existing hedgerows, and provides for a new area of woodland to provide additional screening to Elm Cottage to the north of the northern field. In most other respects it is broadly the same as the proposal considered at the time of the previous appeal.

38. Vehicular access to the dwellings within the northern and central fields would be from Waverley Lane. The SANG would occupy about 42% of the site and the public open space and landscaping would occupy a further 12% of the site area. The net development area would represent about 35% of the total site area.
39. The proposed development would retain the majority of the existing hedgerows and trees within the appeal site. There would be significant areas of new woodland, hedgerow and scrub planting. Two lengths of hedgerow would be removed to facilitate the vehicular access points. Up to 28 metres of hedgerow would be removed to the north of Waverley Lane and up to 36 metres would be removed to the south. The existing hedgerows would also need to be cut back either side of these access points. A much smaller gap would be created at the southwest corner of the northern field to provide a footpath link to the improved bus stop.
40. The appellant acknowledges that the proposal would harm the landscape character of the site but submits that this is an inevitable consequence of developing a greenfield site with housing. There would also be some limited harm to the character of Waverley Lane arising from the formation of the access and the introduction of a footpath this would be mitigated to some extent by the proposed landscaping.
41. The southern field would remain open, as would much of the adjacent part of the central field. With the exception of the access the hedgerows in and around the site would remain intact. I agree with the previous Inspector that due to the well-established boundaries to the site, the influence and perception of the development would be limited to its immediate surrounds, including the public vantage points of Old Compton Lane, Waverley Lane and PROW73. There would be no wider effects on views or landscape designations. Overall, the landscape character of the surrounding area would be largely unaltered by the proposed development.
42. The existing hedgerows would be managed and supplemented to enhance their depth and density. The proposed dwellings would be set back from the site entrances with the intention of screening the new housing from outward public views other than from within the immediate vicinity of each site entrance, the retained pedestrian access point into the northern field (existing field gate access) and the new pedestrian access opposite Abbot's Ride. The illustrative plans show that the proposed dwellings would be separated from the entrance by areas of open space thus further limiting glimpsed views of the dwellings by passing motorists. Such views would not be uncharacteristic of the area to the west, including Abbots Ride.
43. The illustrative layout shows that the rear boundaries of the dwellings would not face the public open space or SANG. Consequently the rear boundaries and domestic paraphernalia associated with rear gardens would not intrude on views from the PROW and would allow for a high quality interface with the openspace and the SANG.
44. The northern edge of the appeal site comes within the Area of Great Landscape Value (AGLV). The only direct effect on this designation would be the creation of a new footpath link and the retention of existing vegetation. Nevertheless, there would be some very limited conflict with LPP1 Policy RE3 which seeks to retain AGLV for its own sake and as a buffer to the AONB.

45. Overall I agree with the previous Inspector that the proposed development would have a very limited effect on the character of the wider landscape.

Whether any conflict with the development plan is outweighed by any other matters

46. The development plan includes the LPP1 adopted in February 2018, LPP2 adopted March 2023 and the Farnham Neighbourhood Plan (made in 2020). The SoCG sets out that there is considerable agreement between the parties in terms of the extent to which the proposal would conflict with development plan policies. Policy ALH1 of the LPP1 aims to deliver at least 11,210 homes over the plan period. It anticipates that 2,780 of these homes would be delivered within Farnham. It is common ground between the parties that the location of the site outside of the built-up area boundary does not amount to a conflict with policy SP2. I address those policies where the parties identify conflict below.
47. Policy SP2 in so far as it seeks to avoid major development on land of the highest amenity and landscape value, such as the Surrey Hills AONB and to safeguard the Green Belt. However, the appeal site does not lie within these designations. Although it is part of a candidate area for the Surrey Hills AONB Boundary Review for the reasons given above I attach limited weight to this matter. The supporting text to Policy SP2 acknowledges that development would need to take place outside of existing settlements, and that there would be a need for expansion on the edge of some settlements. I therefore find that the proposed development does not conflict with Policy SP2.
48. Policy RE1 states that the intrinsic character and beauty of the countryside will be recognised and safeguarded. The parties agree that the proposal would conflict with this policy. I found above that the proposal would harm the character of the appeal site and its immediate environs. Whilst it would not harm the character of the wider landscape, there would nonetheless be some conflict with Policy RE3 in addition to RE1.
49. FNP1 is principally a design policy that seeks to safeguard the distinctive character of Farnham. It requires development to follow the guidance within the Farnham Design Statement. These issues would be addressed as part of the reserved matters and I am satisfied that there would be no conflict with this policy.
50. The site is located outside of the built-up area boundary where Policy FNP10 seeks to protect the countryside from inappropriate development. The proposal does not come within any of the categories of development permitted outside the built-up area boundary and would therefore not comply with Policy FNP10. There would also be a breach of criterion d) of this policy in that the appeal site comes within an area of high landscape value and sensitivity as defined by the Farnham LCA, although for the reasons given above, I afford this matter limited weight. In addition, there would be a breach of criterion e) in that it would not enhance the landscape value of the countryside. I therefore conclude that there would be conflict with Policy FNP10 as a whole.
51. The principle aim of Policy FNP11 is to prevent coalescence between the settlements specified. The monitoring indicators and targets for the policy support this view. It does however state that development proposals outside the built-up area boundary will be assessed in terms of their potential impact upon the visual setting and landscape features of the site and its surroundings

as well as other relevant planning considerations. Therefore, in this regard I find that it is relevant to the appeal proposal. Based on the evidence submitted to the Inquiry I consider that the effects of the proposal can be satisfactorily addressed and therefore I conclude that the proposal would not conflict with Policy FNP11.

52. Policy FNP 14 sets out the housing allocations necessary to meet the housing requirements for Farnham within the LPP1. It does not preclude development on other sites within the Neighbourhood Plan area. I therefore find that the proposal does not conflict with Policy FNP14. I am aware that I have reached a different conclusion on this matter from my colleague in the Hawthorns Decision.⁶ In my view Policy FNP14 is a permissive policy and sets out guidance for specific sites. Whilst the allocated sites may be preferred, Policy FNP14 does not suggest that only these sites should be developed. Indeed, such an approach would be contrary to The Framework that seeks to significantly boost the supply of housing.
53. Policy DM11 of the LPP2 sets out that significant trees and hedgerows should be retained, and where significant harm cannot be avoided it should be mitigated or compensated for. The removal of sections of the hedgerows to facilitate access into the site would impact both on the hedgerow and its contribution to the green corridor along Waverley Lane. The harm would be mitigated by the proposed landscaping, although there would be a low level of residual harm. Looked at in the round I find that the proposal would comply with Policy DM11 as a whole.

Housing Land Supply

54. The parties submitted a Housing Land Supply Statement of Common Ground. They agree that the LPP1 is more than five years old, and the Standard Methodology should be used to calculate the housing requirement. On this basis the requirement for the five-year period from 20 February 2023 is 779 new homes per annum equating to a total requirement of 3,896 homes over the five-year period including a 5% buffer.
55. The Council submits that it has 4.28 years supply, whereas the appellant considers the supply to be closer to 3.34 years. This results in a shortfall of between 558 and 1,292 dwellings. I agree with the parties that given the acknowledged shortfall by the Council it is not necessary to determine the precise extent of the shortfall.
56. Evidence in relation to housing land supply was presented to the Inquiry. The most significant difference between the parties concerns large sites with outstanding planning permission. The Council considers that these will deliver 2,325 dwellings, whereas the appellant believes that they will only deliver 1,784 dwellings. On the basis of the evidence submitted to the Inquiry, including the evidence in relation to Dunsfold Park, I consider that the figure is likely to be closer to the appellant figure of 3.34 years, but in any event, even the Council's figure of 4.28 years represents a significant shortfall and adds substantial weight in favour of the proposal.
57. Policy ALH1 seeks to provide 11,200 dwellings over the plan period, equivalent to 590 dpa. At the Inquiry I was advised that this includes 83 dpa towards the

⁶ CD 4.5

unmet need for housing within Woking. The housing requirement that Policy ALH1 seeks to meet is significantly lower than the 742 required by the Standard Method.

58. A report on the review of the LPP1 was submitted to the Council in February 2023. This concluded that the LPP1 requires updating. It sought an endorsement of this conclusion to enable work to proceed on identifying the scope of an updated plan and the timetable for its preparation. The Report states that the difference between the strategic housing requirement in the LPP1 and local housing need calculated using the Government's Standard Method is a significant matter in determining that the plan needs updating. The recommendation was accepted by the Council.
59. Therefore, Policy ALH1 is out of date since it fails to provide for the minimum number of homes needed using the Standard Method. Consequently, those policies in relation to housing allocations, and settlement boundaries are also out of date since they relate to the housing requirement at the time at which the LPP1 was adopted. I acknowledge that LPP2 has been adopted very recently, however, the purpose of LPP2 is to provide development management policies and allocate sites for housing and other uses consistent with the strategic policies within LPP1. Therefore the policies within it that restrict development are also out of date.
60. The proposal would deliver a number of benefits. The parties agree that the delivery of market housing should be afforded substantial weight. The proposed development would also deliver 37% (54 dwellings) as affordable housing compared to the 30% required by Policy AHN1 of the LPP1. Given the worsening affordability of housing within Waverley in recent years this would be a further substantial benefit of the proposed development. The appeal site occupies a sustainable location, and future residents would not be dependant on the use of a car. In this regard the proposal would comply with Policy ST1 of the LPP1 and DM15 of the LPP2.
61. The proposal would provide 10% biodiversity net gain and would therefore comply with Policy FNP13 of the Farnham Local Plan and Policy NE1 of LPP1 and be a further benefit of the proposal. Whilst there is no policy requirement for a particular level of biodiversity net gain, the 10% proposed reflects government policy that will come into effect later this year.
62. There would also be economic benefits through the creation of jobs during the construction stage and the additional spend within the area arising from the additional households. The proposal makes provision for two car club spaces that would support sustainable transport choices for future and existing residents.
63. Overall there would be conflict with development plan policies RE1, RE3, and FNP10. For the reasons given above I do not find conflict with Policies SP2, FNP1, FNP11, FNP14 or DM11.
64. Considerations that weigh in favour of the proposed development include the delivery of market and affordable housing, the sustainable location of the appeal site, the provision of car club spaces, and the fact that the development plan does not provide for the housing need as assessed by the Standard Method. I conclude on this matter in my planning balance below.

Other Matters

Thames Basin Heath SPA

65. The Appeal site lies within the Zone of Influence for the Thames Basin Heath SPA (TBHSPA) and the Wealden Heaths Phase 1 SPA. European and national legislation requires that '*any plan or project*' should not give rise to any likely significant effect upon these areas. In order to avoid any likely significant effect, proposals for development are required to demonstrate that they can avoid or mitigate any such effect. The proposal in combination with other projects has the potential to affect the integrity of the TBHSPA as a result of increased recreational pressures that would arise out of the increase in the local population.
66. The Council carried out a Habitats Regulation Assessment (HRA) at the time of the application. The Conservation of Habitats and Species Regulations 2017 ('Habitat Regulations') are engaged and it is necessary for me as the competent authority in this case to carry out the required Appropriate Assessment under the Habitat Regulations. The Habitat Regulations require that the competent authority may only give permission for the proposal after having ascertained that it will not adversely affect the integrity of the European site. In so doing, they may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the SPA would not be unreasonably affected.
67. The Council's Thames Basin Heaths Special Protection Area Avoidance Strategy (the 'Avoidance Strategy') provides guidance to developers on the level of avoidance measures that the Council expects to see incorporated within planning proposals. It was prepared with reference to Natural England's advice that any application for residential development that results in an increase in the number of dwellings within 5 km of the SPA will, without avoidance measures, be likely to have a significant effect within the meaning of the Habitats Regulations. Mitigation and avoidance are identified in the Avoidance Strategy as being the provision of SANG or financial contributions towards the management of strategic SANG, and Strategic Access Management and Monitoring (SAMM) contributions used at the SPA.
68. The SPA is designated for its population of breeding Nightjar, Woodlark and Dartford warbler. The proposal would provide a bespoke SANG that would form an integral part of the proposed development and is provided in order to avoid and mitigate for potential adverse effects from increased recreational pressure on a number of internationally designated sites including the TBHSPA and the Wealden Heaths Phase I SPA.
69. The proposed SANG has been designed in light of the guidance issued by Natural England. The proposals are designed to encourage and facilitate public access, and it is considered the establishment and future management of the site, will fully complement the proposals to deliver SANG in perpetuity.
70. The SANG has been agreed with Natural England (and is in accordance with the Thames Basin Heaths Avoidance Strategy, 2016). Natural England raised no objection to the proposal, subject to securing the appropriate contributions via a S106 agreement.

71. The delivery of the SANG, together with its specification and a management plan, are secured by the s106 Agreement. The s106 Agreement also provides for a financial contribution towards wider SAMP of the SPA. Subject to these measures I conclude that the development would not adversely affect the integrity of the SPA either alone or in combination with other plans and projects in relation to urbanisation and recreational pressure effects. The proposal would accord with section 15 of the Framework and Policies NE1 and NE3 of LPP1.
72. Representations from Councillor Hyman suggest that the effectiveness of the mitigation provided by the SANG and the SAMP has not been assessed. The purpose of the SAMP is to monitor the effectiveness of the measures. A 2018 Visitor Survey Report for the Thames Basin Heaths SPA concluded that there had been a statistically significant drop in visitor numbers overall, despite an increase in housing numbers within 5km. The survey explains that whilst several factors can influence visitor numbers and behaviour, it is likely that the implementation of the SANG and SAMP has had the greatest impact in reducing visitation. Natural England considers the use of SANG as an accepted approach to reduce visitor pressure on a SPA or other protected site. There is no substantive evidence before me to suggest this approach would be ineffective in this case.
73. Councillor Hyman is also critical of the absence of car parking at the SANG to attract visitors away from the SPA. However, the purpose of the SANG is to mitigate the impact of the proposed development on the SPA. Given that it is immediately adjacent to the site it is well located to achieve that aim. The provision of the footpaths that are secured by the s106 Agreement may also encourage other residents in the locality to visit the SANG and thereby reduce pressure of the SPA. Therefore, Councillor Hyman's submissions do not alter my view above, namely that subject to the measures secured by the s106 Agreement the proposed development would not adversely affect the integrity of the SPA either alone or in combination with other plans and projects.

Highway Safety

74. Mr Hutchings is concerned that the proposed visibility splays at the site entrances may be inadequate for the speed of traffic using Waverley Lane. Based on the speed survey the 85th percentile speed exceeds 37 mph. He acknowledges that the appellant proposes speed reduction measures, including speed roundel markings on the road and a vehicle speed activated sign. Mr Hutchings questions whether these measures would reduce speeds sufficiently to bring the 85th percentile speed down to 37 mph or less.
75. These speed reduction measures could reduce speeds by 3 – 9 mph. Surrey County Council, the Highway Authority, agree that these measures could realistically reduce traffic speeds by about 5 mph. In addition, the visibility at the access points has been subject to an independent road safety audit. On the basis of this the Highway Authority remains satisfied that the proposed access arrangements will deliver a safe and suitable arrangement. I have no reason to reach a different conclusion.
76. Mr Hutchings also considers that the data used in the Transport Assessment and the Travel Plan is inconsistent. In particular he considers that the number of peak hour car trips should be calculated using the Farnham residents car mode share and not the car mode share from TRICS.

77. Mr Wall, on behalf of the appellant, acknowledges that there is a difference in the figures. The potential trip generation (by all modes) of the appeal scheme has been estimated using residential trip rates from comparable survey data contained within the TRICS trip generation database and retains the agreed 2019 assessment, considering both 'person' and 'vehicle' trips. The Transport Assessment found that the 2019 trip rate estimates were higher than the 2022 estimates, but were retained, to provide a robust assessment.
78. The resulting vehicular trip rates are agreed between the Highway Authority and the appellant, and make no reduction for a mode shift towards non-car modes resulting from local transport improvements funded by the appeal scheme.
79. The Highway Statement of Common Ground states that the Highway Authority has assessed the Transport Assessment in detail and is fully satisfied that the traffic impact on the local highway network is acceptable. Subject to the agreed mitigation package, the parties agree that the development will not result in a severe residual cumulative transport impact in the context of paragraph 111 of the Framework. On the basis of the available evidence I have no reason to reach a different conclusion.
80. A local resident suggested that it was unclear whether the proposed pedestrian access from the development south of Waverley Lane into Farnham town centre could be provided. The concern relates to a sewage drainage field under that part of the verge. The matter has been reviewed by the appellant. A comparison of the adopted public highway plans and the proposed access plans demonstrates that the irrigation drains / septic tank for Plot 28 / 56 Abbots Ride are located outside of the public highway and are not impacted by works required for the delivery of the footway scheme on the southern side of Waverley Lane.

Biodiversity

81. The Bourne Conservation Group consider that the proposed development would have a detrimental effect on biodiversity. Mr Moss drew attention to the practical work that the group have undertaken in and around the site. Work carried out in conjunction with Surrey Wildlife Trust identified the Bourne Valley as one of the main corridors through the urban area. He is concerned that the proposal would reduce biodiversity and obstruct this corridor.
82. The proposal would retain the linear features within the site, with the exception of the hedgerow to be removed for the accesses. The retention of these features would provide a network of green infrastructure corridors which link the SANG, with the wider area. The retention and enhancement of habitats within the SANG, would ensure that these habitats are safeguarded and managed in perpetuity, thereby ensuring with certainty that these habitats will continue to provide opportunities for fauna and species. Moreover, the proposal is required to deliver a minimum of 10% Biodiversity Net Gain and therefore would not reduce biodiversity on the site.

Planning Obligations

83. The submitted section 106 agreement would secure 37% affordable housing (54 Dwellings), which exceeds the 30% required by Policy AHN1 of the LPP1. Whilst it exceeds the requirement of Policy AHN1 I consider that the affordable

housing is necessary to make the development acceptable and is fairly and proportionately related to the proposed development.

84. The S106 Agreement includes an obligation to deliver the play areas, openspace and SuDS and a management plan in relation to their future management. It also, as discussed above provides for the delivery of the SANG and its future management in accordance with the management plan.
85. In terms of highways and transport, it is proposed to pay financial contributions towards a car club, cycle route improvements, Travel Plan monitoring, a sustainable travel voucher, car club use by future residents and the cost of altering the Traffic Regulation Order. I consider that these measures are necessary to promote and encourage sustainable travel and are fairly and reasonably related in scale to the development.
86. I am satisfied that all of the above obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.

Planning Balance

87. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
88. I have found above that the proposal would not recognise the intrinsic character and beauty of the countryside. The landscape harm and visual harm would be localised, but looked at in the round the proposal would fail to comply with LPP1 Policies RE1 and RE3. Due to the very localised nature of this harm I afford it moderate weight. The proposal would involve development outside the built-up boundary of Farnham contrary to Policy FNP10 of the Farnham Neighbourhood Plan. I conclude that significant weight should be given to this harm in that the Farnham Neighbourhood Plan has sought to allocate sufficient land to deliver the housing requirements for Farnham as set out at Policy ALH1 of LLP1.
89. The proposal would accord with Policies FNP13 and NE1 in terms of biodiversity, Policies ST1 in terms of sustainable transport and Policy AHN1 in terms of affordable housing. These matters add some moderate weight in favour of the proposal. Whilst the proposal would not conflict with policies SP2, FNP1, FNP11, FNP14 and DM11, these do not add positive weight in favour of the proposal. Overall, I conclude that the proposed development would fail to comply with the development plan as a whole.
90. I have found above that the Council cannot demonstrate a 5-year supply of deliverable housing land. Accordingly in line with paragraph 11(d) of the Framework, the policies most important for determining the application are out of date. The tilted balance is therefore engaged. The parties agree that the policies most important for determining the application are SP2, ALH1, RE1, RE3, FNP1, FNP10 and FNP11. The Framework states that planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Although paragraph 14 of the Framework provides specific protection for Neighbourhood Plans in some circumstances,

this protection is not applicable in this case since the Neighbourhood Plan was 'made' in April 2020, more than 2 years ago. In this regard the appeal proposal differs from the Lower Weybourne Lane Appeal.⁷

91. The adverse benefits of the proposal would be the harm to the intrinsic character and beauty of the countryside, and the localised landscape harm and visual harm. There would also be harm from developing an unallocated site outside the built-up area boundary contrary to Policy FNP10.
92. The delivery of 146 dwellings, including 54 affordable dwellings would significantly boost the supply of housing in accordance with the Framework. Given the significant need for Market and affordable housing within Waverley, I accord substantial weight to these benefits. Not only is there an absence of a five-year housing land supply, but as illustrated by the LLP1 review recently agreed by the Council, the difference between the strategic housing requirement in the LPP1 and local housing need calculated using the Government's Standard Method, LPP1 requires updating. This process is at a very early stage and it is likely to be some considerable time until the review is complete.
93. There would also be short term economic benefits during the construction period, and more long-term benefits to the local economy due to the increased spending in the area. These benefits are afforded moderate weight.
94. The site is well-located for local services and would allow residents to access them without reliance on a private car, which attracts moderate weight. The provision of new public open space also attracts moderate weight. This would accord with Section 9 of the Framework. The proposed footpaths and cycle links are necessary to make the development acceptable but they would nonetheless provide a benefit to the wider population, particularly those wishing to visit the SANG. The car club provision would also provide some benefit to the wider population and I afford it limited positive weight.
95. The proposal would provide new publicly accessible open space on the edge of Farnham, together with biodiversity net gain. These matters attract limited weight in favour of the proposal.
96. Overall, I conclude that the adverse effects of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
97. In reaching this conclusion I have had regard to various other appeal decisions submitted by the parties, including the recent Lower Weybourne Lane decision.⁸ As explained by the Inspector for that case, the judgements reached turn on their own circumstances and that, whilst it is desirable to decide like cases in a similar way, a small number of decisions following one approach is not always determinative of an issue. In this appeal I found no conflict with Policy FNP11 and the degree of landscape harm was very limited. Consequently, I find the circumstances of this appeal differ from the Lower Weybourne Lane appeal, and that decision does not alter my conclusions above.

⁷ CD 4.4

⁸ APP/ /R3650/W/22/3310793

Conditions

98. The agreed Statement of Common Ground contains a schedule of agreed conditions for consideration. The conditions were discussed at the Inquiry and I have modified them where necessary in the interests of precision. I have considered the conditions in the light of the advice in the Framework and PPG.
99. In addition to the standard time limits for the approval of reserved matters and the commencement of development, it is also necessary to specify the reserved matters and the approved drawings in the interests of certainty.
100. Notwithstanding some provisions for the Local Equipped Area of Play (LEAP) within the planning obligations, I shall include a condition which requires a detailed scheme for their design and timely provision.
101. A condition requiring the provision of car parking and turning areas prior to occupation of the dwellings is necessary to ensure suitable provision for future residents and in the interests of highway safety. A condition requiring the provision of cycle storage is necessary so that sustainable means of transport are encouraged. So that the access is suitably constructed and safe, conditions relating to its construction and the provision of visibility splays are necessary. It is also necessary to ensure the provision of the shared footway/cycleway, pedestrian crossing point and highway drainage infrastructure.
102. Details of a sensitive lighting plan, Landscape and Ecological Management Plan, and Biodiversity Net Gain are required in order to avoid harm to biodiversity and accord with Policy NE1 of the LPP1 and DM1 of the LPP2. In the interests of precision and clarity, and as discussed at the Inquiry, I have imposed a separate condition in relation to Biodiversity Net Gain.
103. A condition preventing a change of levels on any land within Flood Zone 2 or 3 is necessary in order to avoid any increased flood risk elsewhere. A condition requiring broadband delivery is necessary in the interests of sustainable construction and design. Details of a refuse and recycling scheme is required in accordance with Policy TD1 of the LPP1. A condition limiting water use is also required in the interests of sustainability and to comply with Policy CC2 of the LPP1.
104. In order to safeguard and record any archaeological remains it is necessary to impose a condition securing a Written Scheme of Investigation in relation to archaeological remains. A Construction and Environmental Management Plan is required in order to safeguard the amenities of surrounding residents and in the interest of highway safety. As agreed at the Inquiry a separate condition which limits the hours during which machinery and plant can be operated on the site and deliveries made during construction works is necessary to protect neighbouring residents. A condition to address any land contamination that may be encountered is required in the interests of human health.
105. So that the site is suitably drained I agree that conditions requiring the implementation of a suitable surface water drainage scheme and verification that this has been suitably implemented are necessary. An Arboricultural Impact Statement and Arboricultural Method Statement is required in order to protect the trees and hedgerows on the site. For the same reason, a condition requiring the commencement of works is necessary in order to ensure that the necessary tree protection is in place.

106. I have not imposed a condition requiring details of the mix of market housing to be agreed with the Council, since this would come within the scope of the reserved matters and is unnecessary. The Highway Authority seek a condition requiring the provision of electric vehicle charging points, but as confirmed by the Council this matter now comes within the scope of Building Regulations and therefore a condition is not necessary.
107. A condition was proposed by Thames Water requiring that prior to the occupation of the dwellings either any necessary surface water upgrades are completed, or a development and phasing plan is agreed with Thames Water. The appellant submits that the condition is unnecessary since Thames Water have confirmed that it would accept the flows into its sewers subject to a hierarchical approach to surface water discharge being followed and that the Local Lead Flood Authority (LLFA) have reviewed and approved the Strategy. The LLFA confirmed that the drainage strategy meets the necessary requirements and do not object to the proposal subject to a condition requiring the details of the SuDS scheme to be submitted and a verification report to confirm that the scheme is constructed as agreed. These conditions have been included in the attached schedule and therefore the suggested condition is unnecessary.

Conclusion

108. For the reasons given above I conclude that the appeal should be allowed subject to the conditions in the attached schedule.

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sasha White KC

He Called:

Asher Ross MRTPI

Jeremy Smith BSc(Hons) Dip LA, CMLI

FOR THE LOCAL PLANNING AUTHORITY:

Emma Dring of Counsel

She Called

Katherine Dove Waverley Borough Council

Joshua Peacock BA PGDip MA CMLI

Patrick Arthurs BA PGDip MA

Kate Edwards

INTERESTED PARTIES:

Councillor Carole Cockburn BEM

Richard Hutchings

Martin Angel

Zofia Lovell Chairman South Farnham Residents Association

Noel Moss

Sandy Mcleod Waverley Town Councillor

DOCUMENTS

1. Opening submissions for the Appellant
2. Opening submissions for the Council
3. Speaking notes Mr Hutchins
4. Speaking notes Councillor Carol Cockburn
5. Speaking notes Zofia Lovell
6. Speaking notes for Noel Moss the Bourne Conservation Group
7. Plan showing contours of the appeal site
- 8 Speaking notes of Mr Angel
9. E-mail dated 18 April 2023 from Building Control in respect of electrical charging points for vehicles
10. E-mail dated 18 April 2023 from Highway Authority in relation to electrical vehicle charging points
11. E-mail dated 14 April 2023 from Thames Water in relation to foul water drainage
12. E mail dated 19 April 2023 from Natural England in relation to the SANG Management
13. Appropriate Assessment Pro forma submitted by the Council
14. Comments from Surrey County Council in relation to section 106 and conditions
15. Addendum CIL Compliance Statement in relation to highway matters
- 16 Surface Water Strategy Note

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Schedule of conditions

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. Details of the appearance, landscaping, layout and scale of the development, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of two years from the date of this permission.
4. The development hereby permitted (in so far as it relates to site area and the provision of accesses only) shall be carried out in accordance with the following approved plans: Site location plan "Application boundary" dated May 2022; 2799 C 1005 SK 7; Site Access Arrangements Plan ITB9198-GA015 Rev G.
5. Prior to the first occupation of any dwelling hereby approved, details of the proposed Local Equipped Areas for Play (LEAPS) and Local Areas of Play (LAPS) shall be submitted to, and approved in writing by, the local planning authority. Such details shall include layout, surfacing, fencing, details of equipment and phasing of implementation. The provision of the LEAPs and LAPs shall be carried out in accordance with the approved details
6. No residential unit shall first be occupied until car parking provision relating to that unit has been laid out within the site in accordance with a scheme which has previously been submitted to and approved in writing by the Local Planning Authority for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.
7. The development hereby approved shall not be first occupied unless and until a scheme to provide secure parking of bicycles to serve each dwelling has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be provided prior to the first occupation of each dwelling.
8. Applications for the approval of reserved matters shall include the layout of internal roads, footpaths, footways and cycle routes. Such details shall include the provision of visibility splays (including pedestrian inter-visibility splays) for all road users, pram crossing points and any required signage and road markings. There shall be no obstruction to visibility splays between 0.6m and 2m high above ground level. The Development shall be carried out in accordance with the approved details prior to the occupation of the dwellings to which they relate and retained thereafter.
9. Prior to the commencement of the development, the following documents

shall be submitted to and approved in writing by the Local Planning Authority:

- a) Sensitive Lighting Plan
- b) Landscape and Ecological Management Plan including Protected Species Mitigation Strategies, Management and Monitoring. This should include but not be limited to badger, reptiles, bats and birds.

The development shall implemented in accordance with the approved documents and all mitigation and compensation actions identified within the approved documents shall be carried out in full.

10. Prior to, or concurrent with, the submission of the first reserved matters submission(s), a Biodiversity Net Gain (BNG) Strategy shall have been submitted to and approved in writing by the Local Planning Authority. The BNG Strategy shall detail proposals to redress loss of biodiversity and the mitigation strategy proposed to include all on-site habitats and any off-site habitats required to deliver the target 10% BNG uplift. The BNG Strategy shall use the Biodiversity Metric 3.0 Calculation Tool unless an amended statutory Biodiversity Metric Calculator associated with the Environment Act 2021 becomes mandatory.

On completion of each Phase, an update to the BNG Strategy shall be submitted to the Local Planning Authority, demonstrating how BNG has been delivered for that Phase and how the target 10% is anticipated to be delivered during the remaining course of development.

11.No land raising shall take place within land shown to be within Flood Zone 3 or 2.

12.Prior to the first occupation of the dwellings here by permitted the highest available speed broadband infrastructure shall be installed and made available for use.

13.Prior to the first occupation of the development, a detailed scheme for refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling provisions shall be made in accordance with the agreed scheme prior to the first occupation of each of the dwellings.

14.No development shall take place above damp proof course level until a Water Use scheme has been submitted to and approved in writing by the Local Planning Authority. The Water Use Scheme shall demonstrate that the water use for the completed development shall not exceed 110 litres per person per day. The development shall be constructed in full accordance with the approved document.

15.No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant and approved by the Planning Authority. The investigation shall take place in full accordance with the approved details prior to the commencement of the development. Works shall not proceed unless and until the County Archaeologist and Local Planning Authority have confirmed that archaeological requirements have been fully satisfied for the site.

16.No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:

- a. An indicative programme for carrying out of the works, including measures for traffic management and hours of work.
- b. The arrangements for public consultation and liaison during the construction works
- c. Measures to minimise the noise (including vibration) generated by the construction process to include proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s)
- d. Details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination
- e. the parking of vehicles of site personnel, operatives and visitors
- f. loading and unloading of plant and materials
- g. storage of plant and materials used in constructing the development
- h. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- i. Facilities to prevent dangerous road conditions resulting from operations involving the bulk movement of earthworks / materials to include wheel washing facilities
- j. measures to control the emission of dust and dirt during construction
- k. a scheme for recycling/disposing of waste resulting from demolition and construction works.

The development shall only proceed in full accordance with the approved details.

17. During construction, no machinery or plant shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site except between the hours of 08:00 – 18:00 Monday to Friday, 08:00 – 13:00 on a Saturday and not at any time on Sundays, Bank or Public Holidays.

18.Prior to commencement of development, other than that required to be carried out as part of demolition or approved scheme of remediation, the following shall be submitted to and approved in writing by the Local Planning Authority: If identified to be required following the further works completed in report reference C86041-JNP-XX-XX-RPG-1002-S2, JNP Group LTD a detailed remediation scheme shall be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property. The scheme shall include:

- (i) All works to be undertaken
- (ii) Proposed remediation objectives and remediation criteria
- (iii) Timetable of works
- (iv) Site management procedures

The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation works shall be carried out in strict accordance with the approved scheme. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

19.Upon completion of the approved remediation works, a verification report

demonstrating the effectiveness of the approved remediation works carried out shall be completed in accordance with condition 18 and shall be submitted to the Local Planning authority for approval prior to occupation of the development.

20. Following commencement of the development hereby approved, if unexpected contamination is found on site at any time, other than that identified in accordance with condition 18, the Local Planning Authority shall be immediately notified in writing and all works shall be halted on the site. The following shall be submitted and approved in writing by the Local Planning Authority prior to the recommencement of works: 2 a) An investigation and risk assessment, undertaken in the manner set out in condition 18 of this permission. b) Where required, a remediation scheme in accordance with the requirements as set out in Condition 18. c) Following completion of approved remediation works, a verification report, in accordance with the requirements as set out in Condition 19.

21. The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

a) The results of further infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels, in areas proposed as open space or communal parking courts.

b) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. The final solution should follow the principles set out Network Asset Management Highways Laboratory and Information Centre Merrow Lane Guildford Surrey GU4 7BQ 2 in the approved drainage strategy, including swales for conveyance and above ground attenuation. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 4.6 l/s/ha applied to the positively drained areas of the site only.

c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal high groundwater level and confirmation of half-drain times.

d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk.

e) Details of drainage management responsibilities and maintenance regimes for the drainage system.

f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

22. Prior to the first occupation of the development, a verification report carried

out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the surface water drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.

23. The applications for the discharge of Reserved Matters shall include an updated Arboriculture Impact Assessment, Arboriculture Method Statement and Tree Protection Plans. Such documents shall include;

- (a) Confirmation of retained trees, works to retained trees and ground level changes that would impact on tree roots.
- (b) Plans showing all additional electric, water, gas, telecommunications/TV/broadband cables, surface/suds and foul water drainage and other utility runs associated with this development
- (c) Detail of the site monitoring schedule in report format shall be submitted by the appointed arboriculturist prior to commencement of demolition/construction for Local Planning Authority approval
- (d) The site monitoring shall be carried out monthly by the appointed arboriculturist/delegated person, or as otherwise agreed with the Local Authority. This shall include key activities identified within the Arboriculture Method Statement. This part of the Condition shall be fully discharged on completion of the development and subject to receiving satisfactory written evidence of contemporaneous monitoring and compliance by the pre-appointed tree specialist throughout the development. The development hereby permitted shall be carried out in full accordance with the approved details. Reason: In the interests of the protection of the rooting areas of trees in the interests of the visual amenity and character of the area in accordance with Policies NE2 and TD1 of the of the Local Plan (Part 1) 2018 and Policies DM1, DM4, and DM11 of the Local Plan (Part 2).

24. The reserved matters application shall be accompanied by an Energy Statement demonstrating how emissions savings have been maximised at each stage of the energy hierarchy towards achieving minimal carbon emissions.

25. Prior to the commencement of the development hereby permitted, the Local Authority shall be notified at least 2 weeks before any demolition/construction activities and associated vehicular movement commences within the site to ensure ground and fence protection is in place and in accordance with the Arboriculture Method Statement and Tree Protection Plan.

Note for Farnham Town Council

Appeal Decision APP/R3650/W/22/3311941

Land West of Waverley Lane and Opposite Old Compton Lane, Waverley Lane, Farnham, GU9 8ET

Background

The inspector's decision issued on the 3rd July 2023 is to allow the appeal and to permit the development of up to 146 dwellings on the site. The application had originally been refused by Waverley Borough Council on 11th November 2023, with members overturning the officer recommendation to grant permission.

The appeal has been determined on the basis of the 'tilted balance' which applies when a local planning authority cannot demonstrate a 5 year supply of deliverable land to meet its housing target. There is no dispute that Waverley does not have a 5 year housing land supply, although exactly what figure it can demonstrate has fluctuated depending on the analysis of individual inspectors at recent appeals.

This decision follows on from two other recent appeal decisions at Hawthorns, Hale Road (APP/R3650/W/22/3302987) and at Lower Weybourne Lane, Badshot Lea (APP/R3650/22/3310793). In the first of these the appeal was allowed whilst in the latter the inspector dismissed the appeal.

The Town Council has asked for planning advice on the inspector's decision and reasoning with a view to considering whether the decision might be challenged. The Head of Planning at Waverley Borough Council has indicated that Waverley will not challenge the decision although she considers the decision to be 'very poorly phrased'.

The Town Council should be aware that the courts have been clear that inspector's decisions are not to be read 'forensically' with a view to finding errors of wording or phrasing that do not, in fact, demonstrate any failure of reasoning or judgement. Just because an inspector does not mention a specific policy for instance does not inevitably mean that they were unaware of it or did not take it into account. Even if a mistake is made, they will often be given the benefit of the doubt if it is considered that any error or lack of clarity would not have changed the outcome. To that extent I agree with Waverley that a poorly phrased decision should not be confused with a faulty decision.

However, it is important to consider the inspector's reasoning carefully and consider whether there are underlying inconsistencies or omissions which may call her conclusions into doubt. The two issues arising from the inspector's report to which I would draw attention to are set out below.

The status of part of the appeal site within the Surrey Hills AONB review

Part of the appeal site lies within the area which might form an extension to the Surrey Hills AONB under the formal review by Natural England of the AONB boundary currently in progress. The review has reached a relatively advanced stage in which 'candidate sites' for inclusion into the AONB have been identified. This means that they have been assessed and found to meet all of the relevant landscape and related criteria. It is therefore far more than speculation to believe that part of the appeal site (if it is not developed) would be included within the AONB in the future. The next stage in the process is for Natural England to formally propose the revised boundary by way of a Variation Order and make its request for confirmation to the Secretary of State.

The inspector considered this matter in paragraphs 22 and 23 of her report and concluded that as the Variation Order had not been submitted she would attach only limited weight to the consultation document.

However, nowhere in her report does she make any reference or give any attention to Policy FNP10 (c) of the Farnham Neighbourhood Plan (FNDP) which says:

Outside of the Built Up Urban Area Boundary, as defined on Map A, priority will be given to protecting the countryside from inappropriate development. A proposal for development will only be permitted where it would:

(c) Conserve and enhance landscape and scenic beauty of the Surrey Hills Area of Outstanding Natural Beauty and its setting – including those Areas of Great Landscape Value under consideration for designation as AONB.

The purpose of the policy is to give additional protection to any land which is being considered for inclusion within the AONB and which has not been allocated for development by FNP14. It is essentially a 'safeguarding policy' to ensure such land is not lost whilst consideration is given to whether it should be afforded AONB status. The policy operates within the context of the FNDP having made a full allocation of sites necessary to meet the housing requirement for Farnham identified in the Waverley Local Plan.

FNP(c) is not part of the AONB designation process – it is a separate policy and should be considered as such. It is fully consistent with the intent of Para 176 of the National Planning Policy Framework which states that:

Great weight should be given to conserving and enhancing the landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.

and which goes on:

The scale and extent of development within all these designated areas should be limited, while development with their setting should be sensitively location and designed to avoid or minimize adverse impacts on the designated areas.

I can see nothing in the inspector's report which suggests that she has considered the relevance of FNP10(c) or made any assessment of the weight which should be given to it. She does accept (at para 50) that there would be a conflict with FNP10 'as a whole' but this is only in the context of the general (and uncontroversial) point that the development is outside of the urban boundary of the town. FNP10(c) engages specifically with this site to a potentially important degree. The express purpose of the policy is to provide protection to a piece of land in precisely these circumstances - whether or not the tilted balance applies - and the omission of any consideration of the policy is potentially material.

The inspector has given attention to FNP10 only in general terms. She finds there to be a breach of the policy by virtue of the development taking place outside the urban area (which she can hardly fail to do) and indeed she mentions limb (d) and (e) specifically in the report. However she does not include any assessment of the separate harm which clearly arises from the fact that the proposal conflicts with FNP10(c).

Regardless of whether the inspector has approached FNP10(c) in this way, the question also arises as to whether the inspector has indeed given sufficient weight to the status of the site as a candidate for designation into the AONB. The site clearly lies within the setting of the AONB and indeed were it not for the development she has allowed, it is highly likely that part of the site would be included in the AONB in the not too distant future. Whilst the inspector does discuss and consider the issue of the landscape value of the site, and reach conclusions on that, she does not grapple with the question of why, if the site has achieved 'candidate' status for the inclusion in the AONB, it does not deserve some measure of protection under Para 176 of the NPPF on that basis.

The interpretation of policy FNP14

FNP14 is the policy in which the neighbourhood plan allocates those sites necessary to meet the housing requirement for Farnham in conformity with the Waverley Local Plan. It says:

The following sites, as defined on Map 1: Housing Allocations (see also Appendix 2), are allocated for housing development. Development which meets the following general development requirements and specific development guidance set out in the detailed site allocation policies will be permitted

The inspector states that the proposal "does not conflict with Policy FNP14" even though it is not a site allocated by FNP14. By way of explanation she says:

In my view Policy FNP14 is a permissive policy and sets out guidance for specific sites. Whilst the allocated sites may be preferred, Policy FNP14 does not suggest that only these sites should be developed. Indeed such an approach would be contrary to The Framework (sic) that seeks to significantly boost the supply of housing.

The inspector acknowledges that her colleague in the Hawthorns appeal, whilst ultimately allowing the appeal, did find that proposal to be contrary to FNP14 (which means that he considered FNP14 to be an engaged policy requiring an assessment of harm).

Whilst inspectors are indeed allowed to reach different judgements on applying the same policy given the facts of a particular case, I do not see that the interpretation of FNP14 here represents a matter of differing planning judgement. I believe the inspector in this appeal is wrong to state that FNP14 is not engaged and that as a permissive policy it has no negative corollary – that is to say that it does not prohibit that which it does not specifically allow. There is support for this view from the courts¹. She should therefore have given some weight (the amount of weight would be a matter of judgement) to the fact that the proposal is contrary to FNP14. This is the position that Waverley took in the submitted Statement of Common Ground, something the inspector fails to acknowledge.

Although in her conclusions she describes taking FNP14 into account as part of considering the development plan as a whole, since she has specifically stated that she gives no weight to the conflict with FNP14, the overall planning balance cannot have been accurately assessed. In my view that may represent a failure to properly consider development plan policies when determining the application.

¹ Gladman v Canterbury City Council [2019] EWCA Civ 669

Conclusion

I would suggest that given the importance of the decision and the issues of reasoning identified, it would be reasonable for the Town Council to seek counsel's opinion on the merits of the points raised in this note, and any others which counsel may identify. At very least this would ensure that the possibility of statutory challenge to the decision has been ruled out on the best possible advice.

Steve Tilbury

Steve Tilbury Consulting

16 July 2023

Representation made by South Farnham Residents' Association to Waverley Borough Council

Dear Councillor

I am writing to you in my capacity as Secretary of the South Farnham Residents' Association (SOFRA), a residents group which covers an area of over 600 households to the south of the level crossing in Farnham.

Our community has been stunned by the recent appeal decision to allow outline planning permission for up to 146 houses on the fields outside the built up area boundary in Waverley Lane, a proposal which we have fought for over 9 years. This site is not, and never has been, one of the sites chosen for development in the Farnham Neighbourhood Plan. Our disappointment at this decision is only increased by the fact that it is at odds with two recent appeal decisions in Farnham - Green Lane and Lower Weybourne Lane - where both Inspectors recognised the importance of the Farnham Neighbourhood Plan and turned down the appeals.

The Farnham Neighbourhood Plan is indeed delivering housing as required. If the principle and importance of Neighbourhood Plans goes unchallenged, then we are giving carte blanche to developers to build wherever they deem fit, and not where the community has chosen. In the immediate future, this is not a problem just for Farnham, but for any area within Waverley which goes to the trouble of creating a neighbourhood plan. This would obviously also have consequences for the Local Plan too.

I understand that the Waverley Lane case is to be discussed at the Waverley Executive Meeting on the 1st August and I would urge you to do all that you can to find a way to challenge this appeal decision.

If it is of any help, I can share three contentious points which have struck me after detailed scrutiny of the Inspector's report :-

The first point of concern is the Inspector's apparent reluctance to give regard to the recent decision on Lower Weybourne Lane, where that Inspector, despite knowing that the LPA could not demonstrate a 5 year HLS and despite knowing that the Farnham Neighbourhood Plan was more than two years old, still refused the appeal because he believed the FNP was performing well in supplying housing in Farnham. It seems to me that the Waverley Lane Inspector felt justified in distancing herself from the Lower Weybourne Lane decision because of what she says in paragraph 90 of her report. (See attached above). She talks about the timing of the FNP – being “made” more than 2 years ago – thus meaning that this case could not benefit from para.14 of the NPPF. This is true. She then says **“in this regard the appeal proposal differs from the Lower Weybourne Lane case”**. (She refers to footnote 7 C.D.4.4 Wates' Statement of Case, where they comment that unlike at the previous Waverley Lane appeal refusal in 2018, the LPA could not now demonstrate a 5 yr HLS. This note does not refer to Lower Weybourne Lane at all, so the footnote reference is baffling). If the Inspector believes that the Lower Weybourne Lane case was in a different position vis-à-vis the FNP validity, and if this caused her to give the FNP and the LWL decision little weight, then I believe she was mistaken.

Annex 3

My second concern is regarding the standing of the evidence that was used to support the revised Farnham Neighbourhood Plan in April 2020. Para. 5.150 of the FNP (copy above) clearly states that sites within the Green Belt, the AONB, Candidate AONB sites and areas of High Landscape Value and High Landscape Sensitivity were specifically excluded from the list of sites to be allocated for development within the FNP. The HLV and HLS status for Waverley Lane fields was the result of Hankinson Duckett Associates' "Landscape Character Assessment" of August 2018 (So it postdated the previous Waverley Lane appeal decision, so not surprising therefore that the Inspector and the SoS did not comment on it at the time). This HDA study was evidence to inform the selection of sites when the FNP was re-freshed and re-adopted in April 2020. The process, evidence and policies of the FNP had therefore been scrutinised and approved by the Planning Inspector at that time. The Planning Inspector in the current Waverley Lane appeal lays little store by the HDA landscape assessment and seeks to fragment the character areas assessed. (See paras. 33 to 36 of her report) – and thus she dismisses the fields as being of particular landscape importance.

My question is : Is it within the remit of a Planning Inspector for a particular appeal to query/challenge the evidence upon which the LPA's already adopted development plan is based, given that the Inspectorate has already given approval at the time when the Farnham Neighbourhood Plan was "made"?

My third concern is regarding the AONB Candidate Status that the Waverley Lane site has been granted by Natural England as part of the AONB boundary review. (The review predated the submission of the Wates planning application). As you will no doubt know, selection by Natural England of an AONB Candidate Area means that NE have already assessed the fields as being of Outstanding Natural Beauty, as this is the test for inclusion as a candidate area in the first instance. Having made their assessment to include Waverley Lane fields within the revised AONB boundary, NE carried out a public consultation from early March to June 13th. The Inspector makes no reference to the merits of this qualitative assessment of landscape by NE, but instead concentrates only on the process and timing of the review. (By the way, the Inspector is incorrect in the timings for this process – see her para. 23 and the report to the AONB Board meeting of June 2023 attached above).

By allowing this appeal, I believe that the Inspector is prejudging/pre-determining the outcome of an already well progressed government review. Natural England, the Government's own nature conservation expert, has already determined that this site is of outstanding natural beauty, and as such deserves inclusion in the AONB. Once the fields benefit from planning permission, their status as potential AONB is precluded. Surrey is one of the lead counties in the Government's Nature Recovery project, so the review of the AONB is an especially important element of this. Is it acceptable that an individual Inspector's decision can interfere with this process?

I thank you in advance for considering these arguments and hope that you will together come to a satisfactory course of action.

Yours sincerely

Pamela Pownall

Secretary of SOFRA