

Appeal Decision

Hearing Held on 6 July 2022

Site visit made on 7 July 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2022

Appeal Ref: APP/P3610/W/21/3280881

Langley Bottom Farm, Langley Vale Road, Epsom, KT18 6AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Joe Cheeseman of Fairfax Properties against the decision of Epsom & Ewell Borough Council.
 - The application Ref 20/00475/FUL, dated 19 March 2020, was refused by notice dated 22 February 2021.
 - The development proposed is the demolition of the existing buildings on the site and the construction of 20 residential dwellings of which eight (40%) would be affordable together with associated access, landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings on the site and the construction of 20 residential dwellings of which eight (40%) would be affordable together with associated access, landscaping and parking at Langley Bottom Farm, Langley Vale Road, Epsom, KT18 6AP, in accordance with the terms of the application Ref 20/00475/FUL, dated 19 March 2020, subject to the conditions set out in the attached schedule.

Main Issues

2. The appeal site is in the Green Belt and so the main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt.
 - whether the site is in a sustainable location with access to a choice of modes of transport other than the private motor vehicle.
 - whether the proposal would deliver adequate affordable housing provision, and,
 - if the proposal is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

Reasons

Whether inappropriate development in the Green Belt

3. There is no dispute between the parties that only part of the site is previously developed land. The evidence is that much of the appeal site was historically part a working farm which ceased in 2014 when the majority of the farmland was sold to the Woodland Trust. The appeal site now comprises a cluster of buildings including a dwelling, car workshop with associated break down recovery hard standing area and an auction room coupled with some buildings and silos used for agricultural purposes and some buildings currently in commercial or non-agricultural storage use.
4. There is no dispute between the main parties that unit 1 is previously developed land. I have no reason to disagree with this agreed position. There is dispute between the main parties in respect of the lawful use of units 2, 3, 4, 5 and 6. I acknowledge that much of the evidence is based on leases, some of which do not appear to be dated, but nevertheless I have not been provided with any persuasive evidence to contradict the appellant's contention relating to start dates and continued B2 or B8 uses of the aforementioned buildings. I acknowledge that the Council does not appear to have details of business rates being paid in respect of these buildings, but that in itself does not mean that they have not been used for commercial purposes for ten or more years. Furthermore, there is no reasonable evidence to suggest that a break in occupation/use of unit 5 of seven months amounted to a substantial interruption to the ten years use period.
5. I acknowledge that as part of the appeal the local planning authority has questioned the lawful use of units 2, 3, 4, 5 and 6 on the site. However, it is nevertheless of note that in its planning committee report it stated that *'planning permission for the Danish Barn for a change of use to an auction room has been granted and certificate of lawfulness for the parking of breakdown vehicles (both granted in 199) whilst a number of other commercial uses have existed at the site in excess of 10 years'*. I therefore have some concern about whether the Council has been reasonably consistent in terms of the assessment of the proposal relative to previously developed land matters. Furthermore, I am concerned that in considering this matter in the statement of common ground dated 22 June 2022, it considered the likely lawful position of buildings on the site on the basis of *'beyond reasonable doubt'*, which is a criminal standard as opposed to the relevant civil standard which is the *'balance of probabilities'*, i.e. more likely than not.
6. It is proposed to demolish the existing buildings on the site and to erect twenty dwellings. Paragraph 149 of the National Planning Policy Framework 2021 (the Framework) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt unless a number of listed exceptions are met. One exception, as identified in paragraph 149 (g) of the Framework, is the *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting*

an identified affordable housing need within the area of the local planning authority’.

7. Annex 2 of the Framework defines ‘*previously developed land*’ and excludes ‘*land that is or was last occupied by agricultural or forestry buildings*’. Part of the appeal site includes land that is occupied by buildings and structures that have been last used for agricultural purposes. The appellant claims that as at least part of the site is previously developed land, then the proposal would not amount to inappropriate development in the Green Belt given the wording in exception 149 (g) of the Framework.
8. I find that the wording of 149 (g) of the Framework is clear. It refers specifically to the partial or complete redevelopment of previously developed land and not to the partial or complete redevelopment of land that is partly previously developed. Annex 2 of the Framework specifically excludes land that is or was last occupied by agricultural buildings from the definition of previously developed land. It would therefore be perverse, in Green Belt policy terms, if the identified agricultural buildings were permitted to be demolished and replaced with housing development just because part of the application site was previously developed.
9. For the above reasons, I therefore conclude that the proposal would amount to inappropriate development in the Green Belt. In this regard, there would be conflict with policy CS2 of the Epsom and Ewell Borough Council Core Strategy 2007 (CS). Furthermore, the proposal would not meet any of the exceptions listed in paragraph 149 (a) to (g) of the Framework. This is a matter to which I afford substantial weight in the planning balance. Paragraph 147 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I deal with the latter matter later on in the decision.

Openness of the Green Belt

10. There is common ground between the main parties that in respect of built form on the site, the proposal would lead to an overall reduction in footprint by about 58.9% and a 46.9% reduction in volume. Furthermore, and in terms of the spread of residential development across the appeal site, this would remain relatively tight-knit. It would not result in a significant change to the scattering and spread of buildings when compared to existing development on the site and, overall, the proposal would result in a reduction in the height and massing of most replacement buildings and reduced hardstanding.
11. Furthermore, the development would be appreciated only from very localised viewpoints, such as nearby public footpaths and bridleways, given the surrounding land topography and intervening existing and proposed vegetation. Given the existing landscaping, coupled with new areas of planting, the development would not be conspicuous when seen from Langley Close.
12. I acknowledge that there is potential for the development to have some limited adverse impact on the visual openness of the Green Belt as a result of domestic paraphernalia in the garden areas such as tables, chairs, trampolines etc. However, this impact would essentially be confined to areas contained within the site and would be more than offset by the relative reduction in the volume and footprint of existing buildings on the site as well as the resultant absence of vehicles which are permitted in specified areas in accordance with

the certificate of lawfulness 99/00605/CLE. Furthermore, and in spatial openness terms, it would be possible to maintain some future control relating to extending the dwellings, or erecting curtilage structures/buildings, by removing specified permitted development rights from the proposed dwellings. Such a condition was agreed by the appellant at the hearing.

13. Taking all of the above into account, I find that the proposal would lead to an overall improvement in the openness of the Green Belt. In reaching this view, I have taken into account both the spatial and visual dimensions of openness and the spread of the proposed development. This finding does not, however, alter or outweigh my conclusion that the proposal would amount to inappropriate development in the Green Belt.
14. Reference has been made by interested parties to the site falling within land designated as an Area of Great Landscape Value and that it was assessed by Atkins as part of a Green Belt study as having a '*high sensitivity to change*'. I do not disagree with the views expressed by Atkins, but nevertheless the evidence demonstrates that the proposal would not have a harmful impact on landscape character. Overall, the proposal would not cause harm to the character and appearance of the rural area. Furthermore, and in this respect, I do not find that any visual harm would be caused to the openness of the Green Belt.
15. At the hearing, a number of interested parties commented that Natural England was currently considering whether to extend the Surrey Hills Area of Outstanding Natural Beauty and that it may include the appeal site. However, I do not afford this possibility any material weight in decision making terms. It is necessary that I determine this appeal on the basis of the designations that exist now and not on the basis of what may or may not happen in the future.

Purposes of the Green Belt

16. Paragraph 138 of the Framework indicates that there are five purposes of the Green Belt. The appeal site is located about 200 metres away from the village of Langley Vale and hence is beyond a built up area. Furthermore, the site contains existing buildings. The proposal would not lead to the unrestricted sprawl of a large built-up area and hence there would be no conflict with this Green Belt purpose. Furthermore, the site is not within the setting of an historic town or designated heritage asset and so the proposal would have no adverse impact on this Green Belt purpose.
17. The proposal would lead to the re-development of some previously developed land. However, the previously developed part of the appeal site is not 'derelict'. I do not consider that the proposal would positively contribute towards the Green Belt purpose of encouraging the recycling of derelict and other urban land, but there would be no specific conflict with it either.
18. The site is close to the village of Langley Vale, but it is not near any other built up settlements. This is acknowledged within the Council officer report which states that '*there is currently no inter-visibility between Langley Vale and the site with its surrounding settlements due to the intervening topography and extensive level of tree cover. The development of the site would therefore not result in a merger of built-up areas, due to the level of physical and visual containment the site has within the wider landscape*'. I do not disagree with this comment and hence the proposal would not lead to towns merging into

one another. There would be no conflict with this Green Belt purpose. Indeed, the Council has confirmed in its statement of case that there was an error in its Planning Committee report about this matter and hence there is no dispute between the main parties that the proposal would not conflict with this Green Belt purpose.

19. One of the purposes of Green Belt is to assist in safeguarding the countryside from encroachment. The site includes a number of existing buildings and areas of hardstanding. The latter has the continued potential to be used for the parking of vehicles. Overall, and taking into account the existing use, characteristics and extent of development on the site, I am satisfied that subject to the imposition of planning conditions the proposal would not lead to countryside encroachment and hence there would be no conflict with this Green Belt purpose.

Sustainable location

20. Langley Vale is within reasonable walking and cycling distance of the appeal site. It contains a limited number of facilities and amenities such as the 'Park and Shop' petrol filling station convenience store, 'The Shop on the Corner', garage, village hall, pre-school and primary school. I acknowledge the Council's comment that 'The Shop on the Corner' appears to have ceased trading. There is of course some possibility that the property could be used again as a shop but, in any event, 'The Park and Shop' does provide some food and drink provision albeit that I acknowledge that it would likely only be used on the basis of day to day 'topping up'.
21. The site is located in close proximity to bus stops within Langley Vale and includes bus service E5 every two hours to Epsom (Monday to Saturday) and school service 618 (Monday to Friday). Furthermore, three mainline railway stations are located nearby (Epsom, Epsom Downs and Tattenham Corner) providing commuting services to London and access to destinations further afield. There is also bus service 408 from Epsom to Cobham and stopping at Leatherhead and which runs Monday to Friday calling at Langley Vale once a day. I acknowledge that services are not very frequent but nevertheless I find that some of the proposed residents would use them on occasion.
22. The evidence is that the site is served well by a number of public footpath and cycle routes where some limited opportunities would be available, primarily in the day time and when there is no inclement weather. These could be used to visit services and amenities both locally and further afield.
23. Given the location of the site, and the relatively infrequent nature of bus services to Epsom, where there are a greater number of facilities, services and employment opportunities, it could not be reasonably said that the appeal site is in an exceptionally accessible location. Indeed, I find that it is very likely that there would be reliance placed on the use of the private motor vehicles for a high proportion of trips to and from the site. However, the evidence is that the appeal site includes land used for a mixture of both agricultural and other commercial activities and hence some trips to and from the site already take place using private motor vehicles.
24. In this case, I find that the residential use of the site would not mean that all journeys would be made using private motor vehicles. Some occupiers would be likely, albeit occasionally, to use public transport to travel further afield, and

while I recognise the incline from the site to Langley Vale some would nonetheless undertake trips to these local facilities and amenities by either bicycle or on foot. Such trips would be made safer as a result of the widening of the footway on Langley Vale Road and the upgrading of Bridleway 33.

25. Furthermore, some may use public footpaths and routes to visit facilities in other nearby villages, although I acknowledge that this would likely relate to trips during leisure time rather than on a day to day basis. I acknowledge that given that off-road cycle routes and footpaths are unlit, coupled with their surfaces, the use of bicycles would not be a very frequent occurrence. Nevertheless, a limited number of more experienced cyclists would likely travel to some amenities and facilities within 8km of the site albeit in the context of the Epsom Downs Regulation Act 1984.
26. Comments have been made by a number of interested parties, including ward Councillors, about the potential conflict between horses, including those using the gallops that cross or are near bicycle and walking routes leading from the site to Tattenham Corner Railway Station. At the hearing, I was informed that some of the gallops included the use of marshals at specified times and, in that regard, there would be a degree of safety for cyclists and walkers at this time.
27. I appreciate that users of the national cycle route and footpaths would need to be alert to the use of the area by horse riders and indeed those using the horse gallops. However, there is no reason why the proposed residents would not become familiar with these arrangements in time, as seems to be the case in respect of existing members of the local community. Furthermore, information about the timing, location and use of the gallops could be conveyed to residents as part of an application to discharge condition 17 in the attached schedule of conditions.
28. Overall, I do not find that the existence of bridleways and gallops would deter all residents from walking or cycling to Tattenham Corner Railway Station or that the route to it would lead to unacceptable safety impacts. I acknowledge that off road routes to Tattenham Corner Railways Station would be unlikely during inclement weather, or in winter months when it is dark. However, that does not mean that no journeys at all would be made by proposed residents using this route. Furthermore, and, in any event, I would add that there is an acceptable alternative walking and cycling route from the site to such a railway station using Langley Vale Road and Tattenham Corner Road which is predominantly lit and where surfaces are better.
29. In assessing this main issue, it has to be considered in the context that there is no dispute between the parties that the local planning authority (LPA) cannot demonstrate a deliverable five year supply of housing sites in the Borough. The housing undersupply position is very poor at a currently undisputed very low level of 0.68 years. Furthermore, at the hearing the Council confirmed that housing delivery was also poor with the 2022 Housing Delivery Test result showing that only 35% of required housing delivery had been achieved. The Council also commented at the hearing that it was possible that sites outside existing villages and settlements would be needed to address the shortfall in the supply of housing sites in the Borough. In other words, and going forward, it is quite possible that some sites will need to be released for housing that are not as sustainably located as main settlements.

30. In addition to the above, I would add that paragraph 105 of the Framework states that '*significant development should be focused on locations which are or can be made sustainable*' and '*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making*'.
31. In my judgement, the proposal does not quite meet the threshold for being 'significant' development in the context of paragraph 105 of the Framework. Furthermore, and, in any event, in respect of paragraph 110 of the Framework I am satisfied that given the type of development and its location, the proposal would appropriately provide opportunities for residents to take up sustainable transport modes. The proposal includes opportunities to improve walking links to Langley Vale where there are some local facilities and amenities and bus stops. There is no reasonable evidence before me that the proposal would lead to any unacceptable highway safety impacts or that the residual cumulative impacts on the road network would be severe.
32. I acknowledge that the appeal site is in a rural area, but it is nonetheless within convenient walking and cycling distance of Langley Vale. Pedestrian connectivity to this village and the nearby bus stops would be improved through the widening of the footway along Langley Vale Road and the upgrade of Bridleway 33. This would also deliver some benefits to the existing community and could be controlled by means of a planning condition/section 106 agreement. I note comments made by some interested parties about the incline from the appeal site to facilities and bus stops at Langley Vale, but for most this would not represent a significant impediment to walking or cycling.
33. For the above reasons, and also in the context of the LPAs housing land supply and delivery position, I do not find that the site would be unsustainably located. There would be some opportunities to promote walking, cycling and the use of public transport, and not all trips would need to be undertaken using the private motor vehicle. I also note that it is now a requirement of the Building Regulations that all new dwellings have a fast charging electric vehicle charging point. This is, in any event, proposed by the appellant and, to that extent, there would be potential for some mitigation in terms of reducing air pollution impacts from encouraging greater use of electric motor vehicles.
34. The provision of identified cycle stores would also encourage the use of bicycles for some local trips. The appellant has indicated that a Travel Information Pack would also be provided to the first occupiers of each dwelling to detail local sustainable travel including public transport timetables, walking/cycling route maps and local taxi numbers/information. At the hearing, the appellant confirmed the intention to provide a cycle voucher for each household. These are all matters that could be controlled by means of the imposition of a planning condition. In this case, I am satisfied that appropriate opportunities to promote sustainable transport modes have been considered given the location of this development.
35. For the above reasons, and overall, I do not find material conflict with the sustainability, accessibility and safety requirements of policies CS8 and CS16 of the CS 2007 and paragraphs 104, 105, 110 and 111 of the Framework. I would add that in considering this matter fully, I have had regard to sustainability in the round, which at paragraph 8 of the Framework encompasses economic,

social and environmental objectives. I elaborate further on this matter later on in the decision.

Affordable housing

36. As part of the appeal, the appellant has submitted a completed section 106 agreement, dated 1 July 2022, relating to the provision of affordable housing on the site. Eight affordable homes would be provided on the site comprising two 3-bedroom homes and six two-bedroom homes thereby according with the requirements of policy CS9 of the CS. I am satisfied that the submitted section 106 agreement meets the tests as laid out in paragraph 57 of the Framework. It is needed to make the development acceptable in planning terms.
37. The Council confirmed at the hearing that reason for refusal 4 had now been suitably addressed by the appellant. I therefore conclude that the proposal accords with the affordable housing requirements of policy CS9 of the CS and paragraph 64 of the Framework.

Other considerations

38. The proposal would deliver twenty homes on the site in the context of a very poor housing land supply and delivery position. This is a positive matter to which I afford considerable weight in the planning balance.
39. I acknowledge that Policy CS8 of the CS seeks to direct new housing development to the defined built-up areas. The principle of the strategy in Policy CS8 is to direct higher density development to central locations such as Epsom town centre and other local centres, close to existing services and facilities and accessible by public transport, walking and cycling. I note that the appeal site does not fall within a defined built-up area. However, Policy CS8 is prohibiting an adequate supply of housing sites in the Borough. In this regard, I find that the policy is out of date and hence I attribute only limited negative weight to the proposal's conflict with Policy CS8 of the CS.
40. The proposal would deliver eight affordable homes on the site which is a very positive social matter in favour of allowing the appeal. There would be some economic benefits arising from the construction of the dwellings, although I accept that this would be a short lived benefit. Occupiers of the dwellings would no doubt support existing facilities in nearby Langley Vale and, in that regard, the proposal would make some positive contribution towards enhancing and maintaining the economic vitality of this rural community by helping to support local services.
41. While the proposal would be inappropriate development in the Green Belt, this has to be considered in the context that overall the proposal would result in a benefit to the openness of the Green Belt. In addition, there would be no conflict with any of the purposes of the Green Belt. I acknowledge that a relatively small amount of the site is not previously developed. However, the Council do not disagree with the appellant's marketing conclusions and accept that it is very unlikely that these buildings/structures would be used intensively for agricultural purposes again.
42. The appellant could have removed the agricultural buildings/structures from the appeal proposal, but, in this case, I find that it would likely have resulted in a less coherent and well-designed development proposal overall. It is of note that paragraph 150 of the Framework would not in itself prohibit the 're-use of

buildings' in the Green Belt 'provided the buildings are of permanent and substantial construction'. While it is acknowledged that the agricultural buildings are to be demolished in respect of this appeal proposal, in my judgment at least some of them are permanent and substantial in the context of paragraph 150 of the Framework. In this regard, there is potential for residential use of at least some of the existing agricultural buildings in pure Green Belt policy terms. This is not in itself a determinative matter, but there does exist the possibility of a separate planning application being made to convert some of the buildings to residential use and, in national Green Belt policy terms, such a proposal would not, in principle, be unacceptable in this location.

43. My site visit revealed that some of the buildings and silos on the site, including those that had been used for agricultural purposes, were not currently in use. A number of the lawful agricultural buildings could not be reasonably said to be very attractive in appearance. Indeed, there is common ground between the main parties about this matter with the Council stating, in its statement of case, that *'it is factual that the existing site is not attractive from a visual aspect'*. In this context, I find that the proposal would holistically and coherently improve the visual appearance of the whole site, particularly when seen by passers-by from localised viewpoints such as from the bridleways/public footpaths crossing and close to the site. To this extent, there would be environmental benefits associated with the proposal.
44. In reaching the above view, I do not agree with the Council's statement that *'predominantly, agricultural buildings are unattractive, but they are also typical features within countryside locations'*. Not all agricultural development is unattractive, and even if this were the case it would not reasonably justify withholding planning permission for a scheme which would be well designed and make the countryside more visually attractive. I do not share the Council's view that because the development would essentially be residential in character and appearance it automatically equates to harm.
45. In addition to the above, I note that there is common ground between the main parties in respect of agreeing with the findings of the appellant's marketing report. This sets out that the site has been marketed for 24 months, without anyone finding it to be suitable for continued employment use owing to location, building quality/security issues and internal facilities/services.
46. I acknowledge that the site's planning status is such that it could make some economic contribution from an employment point of view. However, the Council finds that this contribution is limited and states that there is therefore justification for considering the proposed alternative residential use of the site taking into account paragraph 123 of the Framework. Indeed, I find that the evidence is that the proposal would make a very positive contribution to meeting another development need, i.e. addressing a significant undersupply of housing sites in the Borough. This would be achieved in such a way as to make efficient and effective use of the land without conflicting with the openness and purposes of the Green Belt.
47. The proposal includes new on-site planting. This would have the effect of providing a greener local environment when the trees reach maturity as shown in the appellant's 'verified visual montages' appended to the landscape and visual matters statement of case. Furthermore, the evidence is that the

proposal would result in biodiversity net gain on the site, considerably exceeding statutory requirements. These are all very positive environmental matters to weigh in the planning balance.

48. At the hearing, there was some discussion about whether the proposed sustainable drainage system (SuDS) would amount to a benefit as opposed to mitigation. The appellant considered that it was the former on the basis that the site has no SuDS and the Council considered that it was instead mitigation to be made to make the development acceptable in planning terms. This is a moot point, but for the purposes of my planning balance I have not treated the provision of SuDS as a benefit. This does not mean that it is not necessarily a benefit, but rather that it has not been necessary for me to consider it as such on the basis that it is not a determinative matter in the overall planning balance.
49. Notwithstanding the above, at the hearing Mr Woolfe raised concern about the findings reached by the appellant in terms of the water catchment and the provision of SuDS on the site. His view, as per his written evidence provided at the hearing, is that SuDS would not be suitable on the site. He raises doubts about the extent of infiltration in the area and hence questions the effectiveness of the proposed swale. As part of his oral evidence, he commented that he did not consider that any form of acceptable surface water drainage scheme would be possible on the site. This is despite the findings of the Lead Local Flood Authority (LLFA) who, after seeking further clarification from the appellant's consultant (Santec), raised no objection to the proposal in this regard. The LLFA recommended a pre-commencement surface water drainage condition and the main parties have agreed such a condition.
50. In the interests of fairness and given the lateness of the new written and oral evidence of Mr Woolfe at the hearing, I afforded the appellant an opportunity to respond in writing to his comments. In respect of this matter, the appellant has submitted comments from Yellow Sub Geo Ltd with the authors of the document being involved in the original flood risk assessment (including addendum) and SuDS strategy prepared by Santec.
51. I have taken the aforementioned response to Mr Woolfe's comments into account, coupled with the lack of objection from the LLFA. On the evidence that is before me, I am persuaded that it would be possible to provide SuDS on the site, without harm being caused from a flooding or pollution point of view. I am satisfied that the evidence provided by Santec is suitably robust. Very detailed matters would be capable of being fully addressed and considered by the local planning authority by means of the imposition of a pre-commencement condition. Furthermore, and in respect of foul drainage, I am satisfied that appropriate management measures could be put in place to ensure that the pumping station operated acceptably. A condition has been agreed by the main parties in this regard.
52. The Council has drawn my attention to paragraph 120 of the Framework which states that decisions should '*give substantial weight to the value of using suitable brownfield land within settlements for homes*'. I acknowledge that the appeal site is not within a settlement. Nevertheless, it is close to a settlement and is partly brownfield. Furthermore, and importantly, the evidence is that the Council is unable to demonstrate a deliverable five supply of housing sites. In this case, I give very considerable weight to the supply and delivery of homes

on the appeal site in the context of an existing woeful housing land supply and delivery position.

Other Matters

53. A significant number of third parties have objected to the proposed development. Some of the concerns raised have already been addressed in the main issues above.
54. The proposed development is located within approximately 3.9 km of a nationally designated landscape, namely the Surrey Hills Area of Outstanding Natural Beauty (AONB). It is noted that the site is separated from the AONB by the M25 motorway which is on a raised embankment for much of the intervening section and that there are substantial areas of broadleaved woodland screening the application site in views from the direction of the AONB to the south. I find that the proposal would cause no harm to the AONB.
55. I am satisfied that the proposal would be acceptable in terms of its design. The dwellings on either side of the road (plots 1-3 and 17-20) at the entrance to the site would be designed to represent agricultural workers cottages and plots 4-26 and 14-16 would be designed as barn style structures. The dwellings near the existing farmhouse would have the appearance of grain store type buildings (plots 7-13). The dwellings would have a variety of eaves and ridge heights and would include a traditional palette of facing and roofing materials. Subject to the imposition of conditions, I am satisfied that the proposal would constitute good design and that in this regard there would be no material harm caused to the character and appearance of this rural environment.
56. I acknowledge that there would likely be a small increase in light spillage from the site given the overall increase in the number of windows on the site. However, this impact would be mitigated to an extent by existing and proposed tree planting and, in any event, given the contained and relatively tight knit nature of the proposed buildings on the site, I do not consider that light pollution at night would be materially harmful.
57. Concerns raised about street lights on the access road leading to the proposed dwellings are not well founded. Indeed, the appellant confirmed at the hearing that there was no intention to provide any form of external lighting on the access road. As part of my site visit, I was able to appreciate the access road, set within open fields, from the rear garden of No 12 Langley Close. From this property, and indeed from the rear of some other dwellings on Langley Close, I find that the provision of future lighting along the access road would cause some harm, particularly at night, to the otherwise dark and more rural landscape when seen from these private residences.
58. The appellant has agreed to a condition which would expressly exclude the provision of lighting on the access road and the submission of details of external lighting within the complex of dwellings. In respect of the latter, the appellant confirmed at the hearing that there was no intention to include street lighting within and between dwellings on the site. Subject to the imposition of an external lighting condition, I do not find that the proposal would be intrusive in the landscape when viewed by users of nearby footpaths or from the elevated dwellings at Langley Close.

59. I have taken into account the appellant's Transport Assessment as well as the comments made by the Highway Authority. Subject to the identified highway improvements off site and the widening and resurfacing of the access road, the proposal would not result in any unacceptable highway safety impacts, including use of the access road by horses. The proposals have been safety audited and there is no reasonable evidence before me to indicate that the absence of lighting along the access road would lead to adverse safety impacts.
60. In addition, the evidence is that the residual cumulative impacts on the road network would not be severe. Furthermore, the development would meet the car parking provision requirements of the Council's standards. In reaching these conclusions, I am cognisant of the fact that the Highway Authority does not object to the proposal. I note the comment made at the hearing by Councillor McCormick that residents may own more vehicles than there would be car parking spaces. However, there is no requirement in policy terms to provide any more car parking spaces than shown. Furthermore, in reaching my view about the effect of the proposal on the openness of the Green Belt, I have taken into account the potential for additional vehicles to be parked within the site. This is not therefore a matter that alters or outweighs my openness findings.
61. I recognise that alterations would be made to the existing access road. However, these alterations would not be on a scale that would result in a significant urbanisation of the rural area. Furthermore, the introduction of 'street' trees along this route would soften the modest engineering proposals without looking out of place in the landscape.
62. Comments have been made by the British Horse Society about the safe and convenient use of the access road by horses, but the evidence is that in relative terms there would not be a significant increase in traffic movements arising from this proposal. Furthermore, I am satisfied that the changes to the width and configuration of the access road would not cause any material harm from the point of view of its safe use by horses and horse riders. It is also of note that it is proposed to include a scheme of traffic calming, including signage, along the new access road. This could be controlled by planning condition. In addition, there is no reasonable evidence that the proposal would in itself significantly impede the use of other existing footpaths or bridleways.
63. I acknowledge comments made that the land falls within an '*Area of Great Landscape Value*' and that it was assessed by Atkins as part of a Green Belt Study in 2018 as having a '*high sensitivity to change*'. The proposal would have the effect of confining well-designed new built dwellings in an area of land where buildings already exist. The alterations to the access road would not lead to material harm being caused to landscape character, subject to carefully controlling the provision of tree planting and preventing lighting along this route. Planning conditions could be imposed to address these matters. The Atkins Study may have concluded that the area was serving well as Green Belt but given the scale and massing of the proposed development, the evidence is that the proposal would not cause harm to the openness or purposes of the Green Belt.
64. Comments have been made that water pressure is low in the area. I do not have any objective evidence before me to substantiate this point and, in any

- event, this would be a matter that would need to be considered at Building Regulations stage and in consultation with the relevant utilities company.
65. Some interested parties have questioned the findings of the appellant's Ecological Impact Assessment. However, this has been appraised by the Council's Ecology Officer who raised no objection to the proposal subject to conditions. I have no reason to disagree with the comments made by the Council's Ecology Officer.
66. The evidence is that the proposal would not result in a material increase in traffic movements when compared to the existing use of the site. However, I have no reason to doubt what I heard at the hearing from existing residents about the quiet nature of the site and area at night. At night, I do not doubt that there would likely be some change to the otherwise very tranquil nature of the area arising from the comings and goings associated with the proposed residential use. However, given the quantum and type of development proposed, I do not find that this would on a scale that would cause material harm to the character of the rural area or that any significant harm would be caused to residents on Langley Close or elsewhere from a noise, disturbance or pollution point of view.
67. At the hearing, it was confirmed that some of the barns and silos were intermittently in use. Indeed, I was able to see this on my site visit although it could not be said that there was intensive use of any building for an agricultural purpose. The evidence from the appellant is that the buildings were mainly used by the Woodland Trust and their contractors on a *'temporary basis with permission and this is on a good neighbour basis with no payment'*. There is no evidence before me to indicate that the existing agricultural buildings are used frequently or indeed that formal and permanent arrangements are in place relating to such use.
68. The evidence is that while the site was historically a working farm this ceased in 2014 when the majority of the farmland was sold to the Woodland Trust. It is of note that a previous Inspector who allowed the discharge of a Section 106 agreement¹ relating to an agricultural occupancy obligation attached to a number of dwellings at Langley Bottom Farm commented *'it is a logical conclusion, and one that the Council accepts, that as agricultural activities no longer exist at Langley Bottom Farm, and that the obligation does not specifically require the dwellings to be occupied by anyone other than persons occupied in agriculture at Langley Bottom Farm, the obligation no longer serves a useful purpose'*.
69. I recognise that while the vast majority of the farmstead has been sold off to the Woodland Trust, the appellant does nonetheless also own some land/fields immediately around the appeal site. This is shown clearly in the land ownership plan handed to me at the hearing. However, the extent of land ownership is not significant. The appellant confirmed at the hearing that in the event that there was still an occasional need to store produce from land in their ownership, then alternative storage arrangements would be made elsewhere utilising existing contacts. I have no reason to believe that it would not be possible to have such arrangements in place. Hence, I afford concerns about the potential to erect new agricultural buildings in the Green Belt, in association with this proposal, only limited weight in the planning balance.

¹ Appeal Ref APP/P3610/Q/20/3264135

70. In addition to the above, some of the interested parties commented at the hearing that they would be concerned if planning permission were approved for the development in so far that it would set a precedent for further housing development in this part of the Green Belt. I do not accept that in approving planning permission for the appeal development it would set a precedent for more housing development in this part of the Green Belt. This is because I have reached a balanced judgment based on the individual planning merits of the case before me.
71. Mr Murphy representing the CPRE commented at the hearing that alternative options should be explored for the site including its possible re-use as an equestrian facility. It has been necessary for me to determine this appeal on its individual planning merits. There is no local or national planning policy which requires alternative uses to be explored before housing.
72. At the hearing, there was some discussion about flooding taking place on Langley Vale Road close to the entrance to the appeal site. On the site visit, I was shown where this localised flooding takes place. I was able to view inside two highway grates and there did appear to be some blocking. Notwithstanding comments made by Mr Woolfe, it is therefore possible that evidence of flooding on this road is as a result of blocked drains. This is a matter that will need to be taken up and discussed separately with Surrey County Council.
73. None of the other matters raised alter or outweigh my overall conclusion below.

Planning balance and conclusion

74. The proposal would amount to inappropriate development in the Green Belt. In this regard, there would be conflict with policy CS2 of the CS and paragraph 149 of the Framework. This is a matter to which I afford substantial weight against allowing the appeal. Nonetheless, and putting aside the fact that some of the site is not previously developed, the proposal would lead to some improvement to the openness of the Green Belt. Furthermore, there would be no conflict with the purposes of the Green Belt.
75. In this case, I find that the harm by reason of inappropriateness, and the conflict with Policies CS2 and CS8 of the CS, is clearly outweighed by the other identified considerations so as to amount to the very special circumstances necessary to justify development. Collectively, I afford the other considerations very considerable weight in the planning balance.
76. As I have found that there are very special circumstances that exist so as to amount to the very special circumstances necessary to justify development in the Green Belt, there is not a clear Green Belt reason for refusing the development with reference to footnote 7 of paragraph 11d of the Framework. To this extent, paragraph 11d of the Framework is engaged. I find that the identified adverse impacts of developing the site for housing, including the conflict with policy CS8 of the CS, would be significantly and demonstrably outweighed by the benefits outlined in this appeal decision when assessed against the policies in the Framework taken as a whole.

Conditions and planning obligation

77. The submitted and completed planning obligation is needed to make the development acceptable in respect of affordable housing and off-site highway works. It satisfies the tests as laid out in paragraph 57 of the Framework.

78. The conditions set out in the accompanying schedule are based on those agreed by the main parties. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance. All of the conditions meet the tests as outlined in paragraph 56 of the Framework. I have provided reasons for the conditions after each condition in the schedule of conditions.

D Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced within 3 years from the date of this decision.

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Drawing Number 1828/PL.01 Rev C; Drawing Number 1828/PL.02; Drawing Number 1828/PL.03 Rev C; Drawing Number 1828/PL.04 Rev D; Drawing Number 1828/PL.05 Rev A; Drawing Number 1828/PL.06 Rev A; Drawing Number 1828/PL.07; Drawing Number 1828/PL.08 Rev A; Drawing Number 1828/PL.09 Rev A; Drawing Number 1828/PL.10; Drawing Number 1828/PL.11; Drawing Number 1828/PL.12; Drawing Number 1828/PL.13; Drawing Number 1828/PL.14; Drawing Number 1828/PL.15; Drawing Number 1828/PL.16; Drawing Number 1828/PL.17; Drawing Number 1828/PL.18; Drawing Number 1828/PL.19; Drawing Number 1828/PL.20; Drawing Number 1828/PL.21; Drawing Number 1828/PL.22; Drawing Number 1828/PL.23; Drawing Number 1828/PL.24; Drawing Number 1828/PL.25; Drawing Number 1828/PL.26; Drawing Number 1828/PL.27; Drawing Number 1828/PL.28; Drawing Number 1828/PL.29; Drawing Number 1828/PL.30; Drawing Number 1828/PL.31; Drawing Number 1828/PL.32; Drawing Number 1828/PL.33; Drawing Number 1828/PL.34; Drawing Number 1828/PL.35; Drawing Number 1828/PL.36; Drawing Number 1828/PL.37; Drawing Number 1828/PL.38; Drawing Number 1828/PL.39; Drawing Number 1828/PL.42 Rev A; Drawing Number 1828/PL.43 Rev A; Drawing Number ITL14122-GA-011 Rev B; Drawing Number ITL14122-GA-012 Rev B; Drawing Number D2671/FAB/00/XX/DR/L/1001/PL01; Drawing Number D2671/FAB/00/XX/DR/L/1002/PL01; Drawing Number D2671/FAB/00/XX/DR/L/1003/PL01; Drawing Number D2671/FAB/00/XX/DR/L/1004/PL01.

Reason: For avoidance of doubt and in the interests of certainty.

3. The development hereby permitted shall not commence above slab level until details and samples of the external surfaces to be used for the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy 2007 and Policies DM9 and DM10 of the Development Management Policies 2015.

4. The development hereby permitted shall not be first occupied until a scheme of hard and soft landscaping has been submitted to the Local Planning Authority for approval. The scheme shall indicate the location and species of plants and trees to be planted. The approved hard landscaping shall be implemented prior to the occupation of the development hereby approved and thereafter retained. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of

the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy 2007 and Policies DM5 and DM9 of the Development Management Policies 2015.

5. No part of the development shall be first occupied unless and until the proposed modified access to Langley Vale Road, including the relocation of the uncontrolled crossing has been constructed and provided with visibility zones in accordance with the approved plan ITL14122-GA-011 Rev B and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

6. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans 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 purposes.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

7. The development hereby permitted shall not commence until a Construction Transport Management Plan, to include details of: a) parking for vehicles of site personnel, operatives and visitors, b) loading and unloading of plant and materials, c) storage of plant and materials, d) programme of works including measures for traffic management and marshalling if necessary, e) HGV deliveries and hours of operation, f) measures to prevent the deposit of materials on the highway and g) on-site turning for construction vehicles has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

8. No part of the development shall be occupied unless and until a Vehicle Activated Sign and Speed Limit Roundel have been provided on Langley Vale Road

following consultation with the County Highway Authority and in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The Activated Sign and Speed Limit Roundel shall thereafter be retained.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

9. No part of the development shall be occupied unless and until the following package of measures have been implemented at the applicants expense in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for:

a) The provision of a coloured surface 2m virtual footway within the 5.5m section of the access road for use by non-motorised users, in accordance with drawing ITL14122-GA-012 Rev B, b) resurfacing of the access road using a material appropriate for equestrian users, and c) signage to advise users of the bridleway that horses, pedestrians and cyclists retain priority. Thereafter, the approved details shall be retained.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

10. The development hereby approved shall not be first occupied unless and until the facilities for the secure parking of bicycles within the development site have been provided in accordance with the approved plans, and thereafter the said approved facilities shall be retained.

Reasons: In recognition of Section 9 'Promoting Sustainable Transport' in the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015.

11. No part of the development shall be occupied unless and until the footway on Langley Vale Road has been widened to 3m wide along the northern boundary of the application site in accordance with drawing ITL14122-GA-011 Rev B, and thereafter shall be permanently retained.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the National Planning Policy Framework 2021, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

12. 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 infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.
- 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. Storage volumes shall be provided using an infiltration based strategy.
- 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.).
- 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.
- e) A plan indicating full levels details and cross sections of the proposed overland surface water flood route including details of the number and location of the proposed check dams and the arrangement at Langley Vale Road and along the site's southern boundary.
- f) Details of the proposed measures to be developed in conjunction with SCC Highways to deal with surface water at Langley Vale Road on land within site ownership.
- g) Details of drainage management responsibilities and maintenance regimes for the drainage system.
- h) 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.

The approved surface water drainage scheme shall be fully implemented and thereafter retained.

Reason: To ensure the design meets the national Non-Statutory Technical Standards for SuDS and the final drainage design does not increase flood risk on or off site in accordance with Policy CS6 of the Epsom and Ewell Core Strategy 2007 and Policy DM19 of the Development Management Policies 2015.

13. 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, 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).

Reason: To ensure the Drainage System is constructed to the National Non-Statutory Technical Standards for SuDS in accordance with Policy CS6 of the

Epsom and Ewell Core Strategy 2007 and Policy DM19 of the Development Management Policies 2015.

14. Prior to any development on site, the following shall be undertaken in accordance with current best practice guidance:

a) a desk study, site investigation and risk assessment to determine the existence, extent and concentrations of any ground gas (including volatile v vapours) and contaminants with the potential to impact sensitive receptors on and off-site. The results of the investigation and risk assessment shall be submitted to and approved by the Local Planning Authority; and

b) if ground/groundwater contamination, filled ground and/or ground gas is found to present unacceptable risks, a detailed scheme of risk management measures shall be designed and submitted to the Local Planning Authority for approval. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved by the Local Planning Authority

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document 2015.

15. The development hereby permitted shall be carried out in strict accordance with the recommendation set out in Section 6.0 of the Ecological Impact Assessment, prepared by The Ecology Co-op, project reference P2851 and dated 12 February 2020.

Reason: To preserve and enhance biodiversity and habitats in accordance with Policy CS3 of the Core Strategy 2007 and Policy DM4 of the Development Management Policies 2015.

16. The development shall be carried out in strict accordance with the sustainable design measures contained in the report prepared by the Temple Group Ltd, dated 27 November 2019, prior to the first occupation of the building, and shall be maintained as such thereafter and no change shall take place without the prior written consent of the local planning authority.

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development in accordance with Policy CS6 of the Core Strategy 2007.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall take place within classes A to F of Part 1 of Schedule 2 of the Order unless expressly authorised by this permission.

Reason: There is clear justification to remove specified permitted development rights in this case, in order to retain control in terms of the openness of the Green Belt and the overall character and appearance of this rural location.

18. Prior to the first occupation of each dwelling on the site a Sustainable Transport Information Pack shall be provided to each household which shall include, as a

minimum, bus service timetables, walking and cycle routes/maps, taxi services, details of local amenities and facilities and the provision of a bicycle voucher for each household.

Reason: In order to encourage an increased number of sustainable trips in accordance with the National Planning Policy Framework 2021.

19. Prior to the first occupation of any dwelling hereby approved, a scheme of external lighting shall be submitted to and approved in writing by the local planning authority. Such a scheme shall not include lighting along the access road leading the approved dwellings. Only approved external lighting shall thereafter be provided on the site.

Reason: In the interests of the character and appearance of this rural location.

20. Prior to installation of the foul pumping station hereby permitted, full details of the pumping station together with a plan for its management and maintenance in perpetuity shall be submitted to and approved in writing by the Local Planning Authority. The proposed pumping station shall be carried out in accordance with the approved details and thereafter managed and maintained in accordance with approved plan.

Reason: In the interests of controlled water protection in accordance with Policy CS6 of the Core Strategy 2007 and Policy DM19 of the Development Management Policy Document 2015 and to secure a satisfactory appearance in the interests of the character and appearance of the area, and to prevent adverse living conditions impacts in accordance with Policy CS5 of the Epsom and Ewell Core Strategy 2007 and Policies DM9, DM10 and DM12 of the Development Management Policy Document 2015.

-----End of Conditions-----

APPEARANCES

FOR THE APPELLANT:

Richard Turney, Landmark Chambers

Ben Pope, Boyer

Andrew Smith, Fabrik

Duncan Findlay, i-transport

Paul Hayward – Manager of St Quinton Estates

FOR THE LOCAL PLANNING AUTHORITY:

Gemma Paterson, Principal Planning Officer

Justin Turvey, Planning Development Manager

OTHER INTERESTED PARTIES:

Robert Hollis, Epsom Civic Society

John Mumford, Woodcote (Epsom) Residents' Society

Tim Murphy, CPRE

Councillor Steve McCormick

Councillor Liz Frost

Councillor Bernice Froud

Bernard Wolfe, Resident

Alan Imeson, Resident

Jane Clarke, Resident

DOCUMENTS SUBMITTED AT THE HEARING

ID1 – comments from Bernard Woolfe, resident, concerning surface water drainage matters.

ID2 – Woodland Trust and appellant land ownership plan.