

Appeal Decision

Inquiry held 9-11, 16-18 and 23 January 2024

Site visit made on 12 and 24 January 2024

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 24th May 2024

Appeal Ref: APP/R3650/W/23/3327643

**Land off Midhurst Road at Scotland Park, Midhurst Road, Haslemere
GU27 3DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Redwood South West Limited against the decision of Waverley Borough Council.
 - The application ref. WA/2022/01887, dated 22 June 2022, was refused by notice dated 2 May 2023.
 - The development proposed is a hybrid application consisting of an: outline application (all matters reserved except access) for up to 110 residential dwellings accessed from the proposed access road (linking to Midhurst Road), associated landscaping, restricted access for emergency access, community growing space and associated infrastructure, including green infrastructure. A full application for the erection of 1 dwelling and associated works; a junction alteration from Midhurst Road, associated access road to serve the development (including the diversion of a public footpath), car park, associated landscaping and drainage; the erection of a scout facility/nursery (use class F) and an education facility (use class F); a Suitable Alternative Natural Greenspace (SANG).
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Decision

1. The appeal is dismissed.

Preliminary matters

The development proposed

2. The hybrid proposal is for up to 111 dwellings in the Surrey Hills Area of Outstanding Natural Beauty ('SHAONB'), 'major development' in the terms of paragraph 183 of the National Planning Policy Framework (published 20 December 2023, the 'NPPF'). I have treated as illustrative any indications on plans and documents as to reserved matters.¹ The proposal is intended to connect to a neighbouring site where development was allowed at appeal (the 'previous' appeal or site).² The previous site, accessed via Scotland Lane, was instead within the locally designated Area of Great Landscape Value ('AGLV'). It is referred to in the evidence before me as 'Scotland Park', and was advertised as such on construction hoarding at the time of my site visits.
3. The description of development reproduced in the banner heading above is that agreed in the Statement of Common Ground of 8 December 2023

¹ The distinction between the elements of the site for which detailed permission and outline permission is sought is shown on plan no. 6046 / PL 02A [CD1.19].

² As shown on plan no. 6046 / PL 05A [CD1.2], the previous appeal decision being [CD9.1].

(‘SoCG’) between Waverley Borough Council (‘WBC’) and the appellant (together the ‘main parties’). It is more precise and succinct than the description of development in the application form. I acknowledge Midhurst Road, the A286, runs for some distance. The description of development in the application form refers to ‘residential development’ rather than to a specified number of proposed dwellings. However as access is proposed via Midhurst Road, as the previous appeal is known as Scotland Park, and as the plans and documents detail the location and extent of the scheme,³ there is no force in the argument that either the address or description of the proposal were inaccurate.

Evidence

4. The proposal is supported by an Environmental Statement (‘ES’).⁴ There is also an addendum to the ES (‘ESA’).⁵ They consider the implications of 130 dwellings, providing some headroom in terms of likely effects of a scheme for up to 111. The ES and ESA, alongside associated evidence and the discussion at the inquiry, represent an adequate evidential basis in respect of likely environmental effects.
5. On 22 January 2024 an appeal was dismissed at Land East of Knowle Lane,⁶ in respect of which there has been the opportunity for comment. Via correspondence of 27 February 2024, Howard Brown, on behalf of the Haslemere South Residents’ Association (‘HSRA’), brought my attention to the provisional making of a Tree Preservation Order on 22 February 2024 (‘TPO 06/24’). TPO 06/24 relates both to a group of trees beside Midhurst Road (G1), the associated officer report referring to one common beech within that group as ‘possibly veteran’,⁷ and to a Douglas fir slightly set into the site (T1). Whilst T1 would remain, a significant proportion of G1 would be removed in order to facilitate vehicular access.⁸ I sought, and have taken account of, the comments of the main parties in respect of TPO 06/24.

The dispute between the main parties

6. WBC’s decision notice in respect of application ref. WA/2022/01887 set out 6 reasons for refusal. By the time of the inquiry, however, WBC maintained an objection to the development proposed only in respect of part of the first reason for refusal related to landscape effects. In relation to their first reason for refusal, WBC no longer contend that that the proposal would have an adverse effect on the setting of the South Downs National Park (‘SDNP’).
7. At the point in time that the SoCG was agreed, WBC’s second reason for refusal related to ecology remained insofar as implications for bats and hazel dormice were concerned. At the inquiry, however, and in the light of subsequent studies and engagement with Surrey Wildlife Trust, WBC came to

³ [CD 5.3d, appendix 1]. WBC’s officer report explaining how a package of revised documentation was reconsulted upon during their determination of application ref. WA/2022/01887 [CD4.2].

⁴ Pursuant to the Planning (Environmental Impact Assessment) Regulations 2017 as amended (the ‘EIA Regulations’).

⁵ [CD2.33]

⁶ [ID5.41]

⁷ Likely tree no. T109 identified in the appellant’s Arboricultural Development Statement [CD1.39].

⁸ As shown on plan no. 6046 / PL 03A [CD1.33].

the view that suitable ecological mitigation in those regards would be achievable via conditions.⁹

8. The proposal is now also accompanied by 3 executed deeds under section 106 of the Town and Country Planning Act 1990 as amended (the '1990 Act'), committing those with an interest in the land to certain obligations in the eventuality the appeal were to be allowed, conditional on my reasoning. One is a bilateral agreement with WBC of 7 February 2024.¹⁰ Another is a bilateral agreement with Surrey County Council ('SCC') of 13 February 2024.¹¹ The third is a unilateral undertaking related to offsite allotments permitted via permission ref. WA/2023/00029.¹²
9. WBC's current position is that the obligations contained in the bilateral agreements would overcome the third, fourth and fifth reasons for refusal given in their decision notice. In summary those reasons related to affordable housing provision, onsite provision of Suitable Alternative Natural Greenspace ('SANG'), and the implications of the scheme in respect of transport and rights of way. Similarly, and also with reference to the updated information referenced in the ESA,¹³ WBC no longer maintain an objection to the scheme based on their sixth reason for refusal related to highways implications.

Notification error

10. Application ref. WA/2022/01887 attracted extensive local opposition, the associated officer report referring to 183 letters of objection and to 7 of support. The vast majority of those who made representations at appeal also object to the development proposed. Only two interested parties, however, spoke at the inquiry on 9 January 2024,¹⁴ during a session I scheduled to hear from local residents.¹⁵
11. At the inquiry I clarified the following. I have taken careful account of all representations received in respect of the proposal, now nearing a thousand. An observation to a scheme is an observation, however it is made. The key considerations in respect of any observations are their materiality and weight, regardless of the means by which, or the number of times, they are made. Throughout the inquiry I asked questions of witnesses based on my review of third party representations.¹⁶
12. On 9 January 2024 WBC believed that individual notification of the inquiry had been appropriately served. However, at my prompting in the light of extensive correspondence I received over the course of the inquiry, on 15 January 2024 WBC identified that only around 70 people were individually notified of the inquiry. A 'large number' of those who made representations at appeal had not been individually notified.

⁹ [ID5.12].

¹⁰ [ID5.49].

¹¹ [ID5.50].

¹² [ID5.51], to which [ID5.23] relates.

¹³ As noted in [CD5.6], which refers to R (Linda Davies) v SSCLG [2008] EWHC 2223 (Admin), consultation responses to updated highways information at [CD14.1].

¹⁴ Alfred Lawson's speech is at [ID5.7], to which [ID5.24] also relates, Robert Coombe's speech at [ID5.8].

¹⁵ [CD5.5], dated 16 November 2023.

¹⁶ [ID3.2], Appendix 1, paragraph 14.vi.

13. To address that error, on 16 January 2024 I arranged for a virtual inquiry session to be held on 23 January 2024 as an opportunity to hear from any interested party. That session was attended by around 246 individuals (the number of attendees varying throughout). I heard from several individuals at that session. On 17 January 2024 I also made provision for any additional statements to be made within a period of 14 days, i.e. by 31 January 2024. In that context 129 statements were received.¹⁷
14. Through the foregoing I sought to ensure fair opportunity for any relevant views to be expressed. Some welcomed those opportunities. Some welcomed those opportunities conditionally. Others raised concerns regarding the differential process, in-person cross-examination of witnesses compared to a virtual discussion involving third parties.¹⁸
15. Details of the inquiry, including of the scheduled session to hear from local residents referenced above, were nevertheless available on WBC's website since 15 December 2023. Site notices were also displayed by the appellant on 22 December 2023. Site notices were present at the time of my site visits. As above, around 70 people were individually notified. Many more individuals became aware of the inquiry judging by the volume of correspondence received from 9 January 2024. Notwithstanding WBC's notification error, the inquiry was nevertheless publicised through various means well in advance.
16. HSRA represent around 280 local residents. They have made detailed representations in respect of the current scheme, both before and during the inquiry. Their website referred to the inquiry as starting in the week of 8 January 2024 before it opened.¹⁹ Some local residents express concern, rather than in relation to individual notification, that they were not sent an inquiry programme or informed about when they might have been able to speak. There are, however, no requirements in those respects.²⁰
17. In short, given the publicity of the forthcoming inquiry before it opened, and the opportunities I put in place for additional participation, I cannot see that any party has been either disadvantaged or advantaged in terms of their ability to contribute. If anything, the circumstances that have occurred have likely generated greater participation, and certainly more representations, than would otherwise have occurred. WBC are of the same view as the appellant in that the 'procedure the Inspector has set is conspicuously fair'.²¹

Impartiality

18. Third parties have raised concerns about perceptions of bias in respect of the scheme, including as to my conduct. I have reflected on how I might be inadvertently perceived in that context. It is, however, important to contextualise those concerns. Construction at Scotland Park, formerly within the same ownership as the appeal site and before that part of the extensive grounds of grade II listed Red Court, was underway at the time of my site visit. There was significant local opposition to it.

¹⁷ [ID6.1] to [ID6.129].

¹⁸ Notably Jeremy Barton [ID6.129].

¹⁹ [ID5.1].

²⁰ Within the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 as amended.

²¹ [ID3.2, Appendix 1], [ID4.3].

19. Whilst each scheme turns on its merits, and although not subject to challenge, the outcome of the previous appeal has been perceived locally as disheartening. Through representations, and by virtue of certain points made in the virtual inquiry session of 23 January 2024, I appreciate how many nearby residents feel that scheme is adversely affecting them.
20. In short circumstances that occurred before this inquiry appear to have left a legacy in people's minds. HSRA were a 'Rule 6' party at the Scotland Park inquiry.²² In respect of this inquiry their website carried the line 'how much rate-payers money is this [appeal] wasting when 1 day to just say no?'.²³ It also at that juncture contained the phrase 'profit is put over everything logical, ethical and sensible'. Numerous third party representations refer to the morality of the development proposed.
21. At the inquiry my attention was drawn to Waverley Web's website.²⁴ That website referenced how many appeals in Waverley 'have the same outcome', and carried the by-line 'Oh what a tangled web we weave, when once we practise to deceive'. There is clearly a broader narrative here, setting aside that WBC decided to pursue only part of one of the original reasons for refusal at appeal.
22. To some the inquiry notification error further contributed towards a feeling of distrust of the system. Recognising that, at the virtual session on 31 January 2024 I set out my commitment to upholding fairness, openness and impartiality, and reiterated the points made in paragraph 11 of this decision.
23. My sincere intention behind any actions I took over the course of the inquiry, along with my conduct and behaviour throughout, was to help create a welcoming, open and supportive environment in which all parties felt comfortable expressing their views, promoting the positive role of planning. I thanked, and thank, everyone equally for their presence and contributions.

Statutory context

24. Various statutory duties apply to my determination of this appeal. Of particular note is that section 85 of the Countryside and Rights of Way Act 2000 as amended (the '2000 Act') now requires that I 'seek to further the purpose of conserving and enhancing' the natural beauty of areas of outstanding natural beauty ('AONBs'). That duty was amended by section 245 of the Levelling-up and Regeneration Act 2023 (the '2023 Act').
25. The 2023 Act received Royal Assent on 26 October 2023, with section 245 taking effect on 26 December 2023. Beforehand that statutory duty was to 'have regard' to the purpose for which AONBs are established, namely conserving and enhancing natural beauty. Section 245 of the 2023 Act similarly revised the relevant statutory duty in respect of National Parks, now section 11A of the National Parks and Access to the Countryside Act 1949 as

²² Under the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 as amended.

²³ [ID5.1]

²⁴ [CD5.31]

amended. The northern boundary of the South Downs National Park ('SDNP') here is to the south of the site along Bell Vale Lane.²⁵

26. At face value 'to further' appears stronger than 'to have regard'. Given the recency of that change, however, no relevant case law has been brought to my attention in that respect. Nonetheless I have not treated the current duty under section 85 of the 2000 Act as representing a strengthened duty as there is instead continuity in respect of planning policy between the current version of the NPPF and the previous iteration (published 5 September 2023).
27. NPPF paragraph 182 sets out how 'great weight should be given to conserving and enhancing 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... the scale and extent of development within all these designated areas should be limited...'. That paragraph is the same as paragraph 176 of the previous iteration, albeit the second sentence is not relevant to considering major development.²⁶
28. It is incidental whether 'great weight', as in NPPF paragraph 182, applies to any landscape and scenic beauty implications of a scheme (whether negative or positive). In my view any negative or positive landscape and scenic beauty implications of a scheme within an AONB should be considered relative to one another to arrive at a balanced overall view on effects. That balancing would be unaffected if both negative and positive implications were accorded great weight at the 'calculation' stage. Similarly if the outcome of that calculation is negative or positive, that outcome should also be accorded great weight.
29. Since 22 November 2023 Areas of Outstanding Natural Beauty ('AONBs') have been referred to as National Landscapes. As above, however, AONBs remain referenced in relevant statute and policy. I therefore use the latter term in this decision. That AONBs are now referred to as National Landscapes appears essentially a terminological change.
30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended (the '2004' Act) requires that planning proposals are determined in accordance with the development plan unless material considerations indicate otherwise.²⁷ Here the development plan includes policies of the Local Plan, Part 1: Strategic Policies and Sites (adopted 20 February 2018, the 'LPP1'), of the Haslemere Neighbourhood Plan (made as part of the development plan on 12 November 2021, the 'HNP'), and of the Local Plan, Part 2: Site Allocations and Development Management Policies (adopted 21 March 2023, the 'LPP2').
31. The development plan must be read as a whole; different elements pull in different directions. Existing policies should not be considered out-of-date simply because they pre-date the publication of the NPPF; consistency with the NPPF is instead key. In addition to the NPPF I have had regard to all other

²⁵ [CD2.29] paragraph 10.2.24

²⁶ R. (Advearse) v Dorset Council [202] EWHC 807 [CD10.5].

²⁷ Michael Eastham acknowledging that section 93 of the 2023 Act, referred to in paragraph 6.10 of his proof [ID2.7], has not yet been commenced (and is contingent on the existence of 'any national development management policies').

relevant material considerations including the Planning Practice Guidance ('PPG') and the Surrey Hills AONB Management Plan 2020-2025 (the 'MP').²⁸

Policy context

The Local Plan, Part 1 ('LPP1')

32. Waverley is highly constrained: 61% is Green Belt, 77% AONB or AGLV, and 92% is 'rural'.²⁹ Nevertheless the LPP1 was constructed so as to meet housing needs forecast to arise in Waverley and also a proportion of unmet needs in the wider housing market area.³⁰ In that context LPP1 policy ALH1 makes provision for the delivery of 'at least 11,210 net additional homes in the period from 2013 to 2032 (equivalent to at least 590 dwellings a year)'.
33. LPP1 policy SP1 reflects the presumption in favour of sustainable development in the NPPF, setting out that the plan seeks to 'secure development that improves the economic, social and environmental conditions in the area'. Following on from it, LPP1 policy SP2 'Spatial Strategy' sets out 8 high-level criteria guiding the distribution of development, prefaced with 'to maintain Waverley's character whilst ensuring that development needs are met in a sustainable manner, the Spatial Strategy to 2032 is to:...'.³¹
34. Policy SP2 criterion 1 is to 'avoid major development on land of the highest amenity and landscape value, such as the Surrey Hills Area of Outstanding Natural Beauty and to safeguard the Green Belt.' That is logically consistent with section 85 of the 2000 Act and the approach in the NPPF. LPP1 policy SP2, criterion 2 is that development will nevertheless be focussed at the 4 main settlements in the Borough, of which Haslemere is one. At the time the LPP1 was prepared Haslemere had a population of around 17,000.³¹ Haslemere is constrained by virtue of protective landscape designations and the Green Belt.³² In that context LPP1 policy ALH1 apportioned at least 990 new homes to come forward at Haslemere over the plan period, the smallest proportion of any 'main settlement'.
35. LPP1 policy RE3 sets out how 'new development must respect and where appropriate enhance the distinctive character of the landscape in which it is located.' Criterion i. is that 'the protection and enhancement of the character and qualities of the Surrey Hills Area of Outstanding Natural Beauty... that is of national importance will be a priority and will include the application of national planning policies together with the Surrey Hills AONB Management Plan...'. LPP1 policy RE3, criterion ii. sets out how 'the same principles for protecting the AONB' will apply in respect of AGLV. It continues that AGLV 'will be retained for its own sake and as a buffer to the AONB', until there is a review of the SHAONB boundary.³³
36. The original criteria or methodology for assessing land for inclusion within the SHAONB or AGLV are not before me. They appear to have passed into history.

²⁸ [CD7.9].

²⁹ [CD2.3], figure 1.

³⁰ [CD7.57], paragraph 31.

³¹ Larger than Cranleigh at around 11,000, smaller than Godalming and Farnham (respectively 22,000 and 39,000).

³² [CD2.54], Figure 10.2.

³³ Criterion ii also recognising that the protection of AGLV is 'commensurate with its status as a local landscape designation'.

In early 2023 Natural England consulted on potential additions to the SHAONB, several of which are within WBC's administrative area.³⁴ Cumulatively those potential additions would, if effected, increase the SHAONB by around 100 square kilometres. It is ambiguous as to whether Natural England's work constitutes a review as envisaged by LPP1 policy RE3 given that it considers only additional land that may meet the criteria for inclusion as part of the SHAONB with reference to Natural England's Guidance on Assessing landscapes for designation (updated June 2021, 'GALD').³⁵ In any event it may be several years before that process concludes,³⁶ and as such only limited weight may yet be placed on any potential implications.

37. Along with being within the SHAONB next to the SDNP, the site is also identified via LPP1 policy RE1 as 'countryside beyond the Green Belt'. Policy RE1 guides how in those locations 'the intrinsic character and beauty of the countryside will be recognised and safeguarded in accordance with the NPPF'. NPPF paragraph 180.b) similarly refers to 'recognising the intrinsic character and beauty of the countryside...'. However, by virtue of the site falling within the SHAONB, there is no dispute that it is part of a 'valued landscape' within the terminology of NPPF paragraph 180.a).

The Local Plan, Part 2 ('LPP2')

38. The LPP2 was designed to fulfil a role following on from the LPP1 rather than to review or to amend it. It describes itself as a 'daughter' document. The LPP2 references how, as of 1 April 2022, there were 795 committed dwellings for Haslemere, resulting in an outstanding minimum of 195 to achieve the ALH1 figure of 990. LPP2 allocations DS1 to DS11 were anticipated to deliver 265 additional dwellings relative to that outstanding figure.³⁷ Over half that number were envisaged to come forward via allocations within the SHAONB.³⁸ Land at Sturt Road, or Sturt Farm, partially within the SHAONB, also secured permission for up to 135 dwellings via WBC decision of 30 March 2015.³⁹
39. LPP2 policy DM11 sets out how development should retain woodland, important trees, groups of trees and hedgerows, and where significant harm in that respect 'cannot be avoided, it should be adequately mitigated for, or, as a last resort, compensated for'. Policy DM11 also establishes that proposals which would have a detrimental impact on the landscape character of the area will not be permitted unless there are 'wholly exceptional reasons'.
40. LPP2 policy DM15 'development in rural areas' sets out, in brief, at criterion a) how development located there should not be isolated and that dependency on private vehicles should be avoided. At criterion b) policy DM15 sets out how development should recognise the natural beauty and undeveloped character which is intrinsic to the open countryside. Criterion c) is that the benefits of best and most versatile agricultural land should be recognised.

³⁴ [CD13.2].

³⁵ [ID5.3]

³⁶ [ID3.2, Appendix 4].

³⁷ LPP2, paragraph 7.17., not including 4 allocations counted as commitments (DS03, DS05, DS10, DS11).

³⁸ LPP2 allocations DS06, DS08 and DS09.

³⁹ [CD11.4]

The Haslemere Neighbourhood Plan ('HNP')

41. HNP policy H9, the only one cited in WBC's first reason for refusal, is similar to LPP2 policy DM11. Criterion H9.2, seeks to avoid damage to, or loss of, mature or semi-mature trees of 'value' other than in 'exceptional circumstances'. HNP policy H9 also accords support to development that conserves and enhances trees, hedgerows and woodlands of value and proposals which add to native hedgerows (criteria H9.1 and H9.3).
42. The HNP sets a settlement boundary for Haslemere via policy H1, criteria H1.1 and figures 1a-1c. HNP policy H1, criterion H1.2 accords in-principle support to development within the boundary. Conversely criterion H1.3 sets out how development outside the settlement boundaries will be strictly controlled, and how 'development proposals in such locations will only be supported which would otherwise conform with national and local planning policies'.
43. By virtue of the nature of the proposal, and the agreements under section 106 of the 1990 Act, the proposal would create a permanent 'natural' boundary to Haslemere. That is, however, incidental. As the site falls within the SHAONB, beyond the HNP settlement boundary, and as the southern boundary of the SDNP is by Bell Vale Lane, in terms of both policy and landscape designations there is already a clear boundary.
44. A more stringent approach to controlling development outside the settlement boundary than HNP policy H1 was deleted pursuant to the HNP examiner's recommendation (in order to achieve the necessary consistency with other elements of the development plan). The HNP did not allocate sites, preceded the adoption of the LPP2, and at the time of the inquiry had not been reviewed as envisaged by HNP paragraph 4.4.

Interaction of the development plan and the NPPF

45. Some third parties find it hard to fathom how development such as the appeal scheme can be proposed within the SHAONB. That is understandable given applicable statutory and policy protections set out above. However, as reflected in paragraph 38 above, housing development within the SHAONB has been the necessary corollary of achieving the remit set by the LPP1.
46. Moreover LPP1 policies RE1 and RE3, along with HNP policy H1, each refer to the application of national policy (which is, in any event, material). In addition to NPPF 182 as above, NPPF paragraph 183 sets out how planning permission should be refused for major development within AONBs 'other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest...'
47. The public interest may or may not coincide with the prevailing sentiment of the local community. It is the function of planning to address the public interest. The Monkhill judgements have been referenced by many residents,⁴⁰ which relate to a dismissed appeal at nearby Longdene House.⁴¹ However, and

⁴⁰ [CD10.3], [CD10.14]

⁴¹ [CD9.3]

setting aside any specific judgements reached by the Inspector in that case,⁴² the proposal there was not for major development.

48. Establishing if exceptional circumstances exist is a matter of judgement informed by the non-inclusive list of factors in NPPF paragraphs 183.a) to c). Those are: 'a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated'.
49. The Inspector who reported on an appeal at Turnden set out how 'the relevant legal authorities indicate that, while it is not a conventional balancing exercise, all of the benefits of the development in question can be taken into account, each benefits does not have to be exceptional alone nor do they have to be unlikely to occur in a similar fashion elsewhere.'⁴³ Whether or not exceptional circumstances exist may include the consideration of alternative sites across different geographies, as reflected in Wealden judgements.⁴⁴ The test is 'ultimately a matter of planning judgement'.⁴⁵
50. In respect of Sturt Farm, partially within the AONB, WBC acknowledged that some negative effects would result in respect of landscape character.⁴⁶ In terms of the 'the scope for' developing outside the designated area, now referenced in NPPF paragraph 183.b), in that instance WBC reached a view based on an area of search limited to Haslemere only.⁴⁷ The evidence before me in that regard, however, covers both Haslemere and Waverley.
51. There is no dispute between the main parties that, if there are exceptional circumstances in line with NPPF paragraph 183, the scheme would accord with the development plan as a whole. The converse is also agreed.

Main issues

52. The main issues are (i) the landscape and visual effects of the development proposed, (ii) the implications of forecast housing supply in Waverley and at Haslemere, and (iii) whether or not there are exceptional circumstances to justify granting permission with reference to NPPF paragraph 183.

Reasons

The site and its surroundings

53. The site is a swathe of land of approximately 23ha, formerly part of the extensive grounds of Red Court. It includes footpath 597 beside Midhurst Road. The site extends to and across Midhurst Road itself, and to Bell Vale Lane to the south by which runs the river Wey. Towards the north are properties along Chiltern Close and Scotlands Close, both off Scotland Lane,

⁴² Noting the Inspector there found that the proposal would result in 'significant overall harm to the character and appearance of the area' [CD9.3], paragraph 31.

⁴³ [CD9.28]

⁴⁴ [CD10.1], [CD10.7]

⁴⁵ [CD4.4]

⁴⁶ [CD7.39]

⁴⁷ [CD11.5]

encircling an historic property named Scotland Farm. Buildings at Scotland Farm are shown on Ordnance Survey ('OS') mapping of 1897.⁴⁸

54. As is the case of much development peripheral to Haslemere, Chiltern Close and Scotlands Close are typically characteristic of mid-to-late twentieth century suburban development. Properties there, many altered successively over time, are simple in form and understated in design. They are set at comparatively low density in regular spacious plots. Chiltern Close and Scotlands Close are shown on mapping of 1969,⁴⁹ such that by that time Scotland Farm no longer adjoins fields formerly next to it. The SHAONB boundary here does not appear to have been altered since its establishment in 1958. It would have been curious had it pre-emptively excluded Chiltern Close and Scotlands Close, albeit the original map is not before me.
55. Nonetheless the appeal site has not been actively used for agriculture for many decades, in all likelihood long before 1969 (being incorporated into the grounds of Red Court around the turn of the twentieth century). About 4.4ha of the site is agricultural land classification grade 3a, a category of best and most versatile agricultural land ('BMV'). However given the particular history to the site, and the absence of any realistic prospect that an agricultural use would be resumed at several modest fields disconnected from any agricultural concern, loss of BMV would be theoretical rather than significant.⁵⁰
56. Approximately 14ha of the site is wooded. There are wooded areas of the site shown in OS mapping of 1890, increasing in extent through to 1969. Much of the woodland appears to have grown up 'naturally'; most fields revert to secondary woodland if left untended. Woodland has, however, suffered from colonisation by invasive species. That is notably the case of rhododendron, with also some Himalayan balsam and bamboo present. I saw that the River Wey nearby has similarly suffered from extensive colonisation by bamboo.
57. Landscape architecture immediately around Red Court, and a separately-listed grade II lodge formerly associated with it by Scotland Lane, is instead more formal. Formal landscaping is somewhat orientated towards the south, likely to make best advantage of views towards Bell Vale Lane and beyond. Aside from near a modern tennis court, there is otherwise relatively substantial screening between the formal landscaped areas of Red Court and the site, variously by virtue of trees, walls and fences. WBC raise no objection to the scheme in respect of its effect on the setting of any listed buildings.
58. The site has evidently been managed historically and more recently. It features various level changes, paths, and some areas of cleared or managed woodland and hedgerows. Bands of trees were planted around the northern boundary of the site in 2018. I have noted local residents' perspectives on the management of the site over time. Nevertheless WBC have not indicated that anything that has occurred to date on site has needed authorisation, failed to secure that, or is subject to enforcement investigation.

⁴⁸ [CD2.37]

⁴⁹ Ibid.

⁵⁰ Nor would conflict arise with reference to the relevant provisions of LPP2 policy DM15, criterion c) or relevant elements of NPPF paragraph 180.b) in that respect.

59. The landform rises from the junction of Scotland Lane and Midhurst Road through Chiltern Close and Scotlands Close to the northern fields, which are at a high point in the undulating topography.⁵¹ There is a marked difference between the ground level at which properties along Scotlands Close are set and the appeal site beyond. From the northern fields the topography declines towards Bell Vale Lane and also to the south-west towards Bell Road. From where site access is proposed Midhurst Road rises to around Courts Hill Road as it heads towards the town centre, declining thereafter.
60. Historically Haslemere developed in a straggling linear form, extending outwards from the junction of High Street, Petworth Road, Shepherd's Hill and Lower Street along those roads. The Haslemere Conservation Area ('HCA') is drawn around that junction and those roads rather than around a concentrated nucleus. Many of the Town's services and facilities are located within and around the HCA, the site being some 850m from the town centre. The wider landscape around Haslemere is punctuated with grand historic properties, often set with expansive estates such as at Red Court, reflecting growing nineteenth century affluence and conspicuous architectural display.
61. The HCA extends to within approximately 400m of the site, stopping by Courts Hill Road. Between Courts Hill Road and Scotland Lane there are scattered properties either side of Midhurst Road, many of similar era to those at Scotlands Close. They tend to be accessed via lengthy driveways or roads, spurring somewhat haphazardly off the A286, albeit generally flanked by substantial trees and hedges. Haslemere has very much expanded into its surroundings incrementally over time.
62. The settlement boundary for Haslemere set via the HNP, which extends around Chiltern Close and Scotlands Close, reflects the organic growth of the Town. Haslemere grew up around an historic road network which was not designed to accommodate the intensity of use it now receives. As such, although Midhurst Road is part of the A286, it possesses a strongly rural character hereabouts.
63. I walked extensively around the Town during my site visits. Some elements of Haslemere within the settlement boundary are significantly further away from the High Street and nearby train station than the appeal site, and are similarly set within an undulating topography. That is the case to the west around Woolmer Hill, to the north around Farnham Lane, and to the north-east around Peperham Road. Not all services and facilities at Haslemere are concentrated around the HCA. Haslemere Recreation Ground, for example, is off Scotland Lane near Scotland Park. The scheme proposes pedestrian and cycle connectivity through to Scotland Park (in addition to the path to be delivered extending into the appeal site in association with the latter).
64. In terms of distance to services and facilities, and experientially, the location of the site would not be at odds with the prevailing nature of the area. No conflict in that respect would arise with the expectations of LPP2 policy DM15 (or LPP1 policy ST1 'Sustainable Transport'). By consequence there is no necessity of contributing towards provision of a demand responsive bus

⁵¹ Plan no. 6046 / PL 00 [CD2.2].

service, the contribution to which in the bilateral agreement of 13 February 2024 is, in any event, without robust justification.⁵²

Landscape and visual effects

65. GLVIA3 and TGN02/21 set a methodology for evaluating the effects of proposals in respect of the landscape as a resource and visually.⁵³ TGN02/21 applies outside of designated landscapes, and was therefore particularly relevant in respect of the previous appeal. TGN02/21 also provides commentary on GLVIA3. Both have informed the main parties' evidence.
66. It is common ground between the main parties as to how the site may be subdivided into 7 areas, LCA1 to LCA7,⁵⁴ in order to make assessment more precise. That subdivision is rational in reflecting the different nature of different elements of the site and the physical features separating them. There are, however, distinctions within individual areas and as to how aspects of the proposal relate to different elements of the site.⁵⁵
67. LCA1 encompasses much open land beside Midhurst Road and footpath 597, albeit also fields by Chiltern Close and Scotlands Close. LCA2 also encompasses some of the northern fields by Scotlands Close and Scotland Park. In terms of landscape and visual effects, it is common ground between the main parties that adverse landscape and visual effects would occur only in respect of LCA1 and LCA2.
68. Up to 110 homes (the 'outline element') are proposed at LCA1, LCA2 and LCA7. Site access off Midhurst Road, which would bisect footpath 597, would be at LCA1. LCA1 would also accommodate the road serving the outline element of the scheme, tracking upwards in the rising topography from the A286. A significant stretch of Midhurst Road is to be widened. A gatehouse is also proposed close to the site access, as is a ramblers' shelter and parking associated with provision of the SANG.
69. The SANG is proposed to mitigate the adverse ecological effects that would result from additional recreational pressure associated with a growing population to the Wealden Heaths Phase II Special Protection Area (the 'SPA').⁵⁶ The 9.69ha SANG would cover LCA5, LCA6 and part of LCA4.⁵⁷ An enlarged SANG of 12ha, which Natural England endorse but which has emerged as a potential approach as the scheme has latterly evolved, would extend also into LCA3 and LCA7.
70. Neither the 9.69ha nor 12ha SANG is limited in capacity to addressing the potential implications of up to 111 homes proposed; both contain headroom that could be used for SANG offsetting related to schemes elsewhere. The Scouts and Forest School are intended to be accommodated within LCA4. Allotment provision is to be off site, on the opposite side of the listed lodge.

⁵² [ID3.2], paragraph 11.1.

⁵³ The Landscape Institute and Institute of Environmental Management & Assessment's Guidelines for Landscape and Visual Impact Assessment: Third edition (updated November 2021, 'GLVIA3'). the Landscape Institute's Technical Guidance note 02/21 'Assessing landscape value outside national designations'.

⁵⁴ [CD2.54, Appendix 10.1], figure 10.5.

⁵⁵ Acknowledging that the proposal is partially in outline, the 'Detailed Application Area Landscape General Arrangement Plan' is a useful reference [CD1.25].

⁵⁶ Designated pursuant to European Council Directive 1979/409/EEC.

⁵⁷ [CD1.24], sufficient to cater for around 504 dwellings.

71. The dispute between the main parties centres on the extent of landscape and visual effects, taking account of the degree to which those would be offset and mitigated. That dispute is underpinned by different judgements as to landscape sensitivity and visual effects. Whilst the representations of local residents may not reference the terminology in GLVIA3 or TGN02/21, those observations, founded on lived experience, are no less valid.
72. Against the context above, I firstly explain landscape and visual appraisal methodology to clarify terminology. I then review relevant landscape studies. Thirdly, I set out my view in respect of the landscape and visual sensitivity of the site. Fourth, I conclude on the effects that would result.

Methodology

73. 'Landscape' itself is a complex concept; the site, of some 23ha, is both a landscape and part of wider landscapes. GLVIA3 references the 'inclusive nature' of the term landscape as in the European Landscape Convention;⁵⁸ 'landscape is an area, as perceived by people whose character is the result of the action and interaction of natural and/or human factors', closely intertwined with landscape history.⁵⁹ Landscape character is therefore 'not just about the physical elements and features that make up a landscape, but also embraces the aesthetic, perceptual and experiential aspects of the landscape that make different places distinctive.'⁶⁰
74. Components of the landscape that are likely to be affected by development are 'landscape receptors'. Within the terminology of GLVIA3, and TGN02/21, the sensitivity of landscape receptors is arrived at by combining judgements about value and susceptibility. 'Landscape value' is summarised in TGN02/21 as 'the relative value or importance attached to different landscapes by society on account of their landscape qualities', the 'inherent' component, which is independent of the development proposal, while the other component, susceptibility is development specific.⁶¹
75. Establishing the visual baseline of a site involves establishing 'the area in which the development may be visible, the different groups of people who may experience views of the development, the places where they will be affected and the nature of the views and the visual amenity at those points.'⁶² As with landscape receptors, 'visual receptors' are the people who will be affected by changes in views or visual amenity at different places, who will likely have differing responses depending on the context.⁶³
76. As set out in GLVIA3 the Institute of Environmental Management and Assessment recommends adopting the term 'nature' of receptor and effect. However the 'sensitivity' of visual receptors, and 'magnitude' of effect, are also commonly used terms, including in the evidence before me.⁶⁴ Terminologically the 'sensitivity' to be accorded to visual receptors is also

⁵⁸ ETS No. 176.

⁵⁹ Council of Europe, 2000.

⁶⁰ GLVIA3, paragraph 2.19.

⁶¹ TGN02/21, paragraph 2.3.1.

⁶² GLVIA3, paragraph 3.15.

⁶³ GLVIA3, paragraph 6.14.

⁶⁴ GLVIA3, box 3.1.

arrived at by combining judgements about the value attached to views and susceptibility.⁶⁵ The 'magnitude' of effect comprises judgements about the size and scale of the effect, the geographic extent of the area that will be affected, and the duration of the effect and its reversibility.⁶⁶

77. For all the foregoing terminology, however, assessing landscape and visual effects is founded on a sequence of judgements. Consequently different practitioners applying the same methodology may rationally arrive at different judgements. For that reason also, GLVIA3 cautions how numerical scoring or weighting can suggest a 'spurious level of precision', and therefore recommends the use of 'word scales' summarising underlying reasoning instead.⁶⁷ Word scales, however, are inevitably imprecise and vary from practitioner to practitioner.⁶⁸

Relevant landscape studies

78. As above, the SHAONB was established in 1958. It stretches across Surrey's North Downs and covers about a quarter of the County. Whilst the SHAONB inevitably encompasses various settlements and buildings, it was nonetheless established for the purposes of conserving and enhancing 'natural' beauty, a point to which I will return.
79. The statement of significance in the Management Plan ('MP') includes the following high-level description of the SHAONB: 'its landscape mosaic of farmland, woodland, heaths, downs and commons has inspired some of the country's greatest artists, writers and architects over the centuries...'. TGN02/21 references that the National Trust, established in 1895, was 'the first organisation to use the term natural beauty'. Local residents have drawn my attention to the association between Sir Robert Hunter, a founding member of the National Trust, and Haslemere (if not to the site specifically).
80. The MP lists the key features of the SHAONB as including woodland, country lanes, farmland, parkland and its tranquillity. 'Sunken' lanes are also mentioned elsewhere in the MP.⁶⁹ MP policy P2 is that 'development will respect the special landscape character of the locality, giving particular attention to potential impacts on ridgelines, public views and tranquillity.' Although the original mapping, criteria and judgements that informed the designation of the SHAONB have passed into history, Natural England's current advice in that respect is in GALD as referenced above.
81. Table 3 to GALD sets out the following 'factors related to Natural Beauty': landscape quality, scenic quality, relative wildness, relative tranquillity, natural heritage features, and cultural heritage. Table 3 is referenced in TGN02/21, which also sets out at table 1 'factors that can be considered when identifying landscape value'. It is not for me to reach a judgement as to whether the appeal site, or elements of it, should be within the SHAONB.

⁶⁵ GLVIA3, paragraphs 6.32 to 6.37.

⁶⁶ GLVIA3, paragraphs 3.26 and 6.39.

⁶⁷ GLVIA3, paragraphs 3.27 and 8.10.

⁶⁸ Noting that Michael Eastham's proof in respect of planning matters applies a three tier word scale [ID2.7], Charles Collins' proof of a five tier scale [ID3.2].

⁶⁹ At paragraphs 1.9, 2.8, and 2.10.

However it is nonetheless relevant to consider landscape sensitivity in order to gauge the effects of the scheme.⁷⁰

82. As set out in the Surrey Landscape Character Assessment ('SLCA'),⁷¹ the site falls within landscape character type 'GW5, Hindhead Wooded Greensand Hills'. That name derives from underlying greensand or sandstone, which remains visible as a building material on occasion. The SLCA sets out how GW5 is characterised by a complex and heavily wooded topography dotted with small scale fields, often pastoral, with occasional expansive views from higher ground. At a local level the site is part of segment 'HE05A' of the WBC's August 2014 Landscape Study – Part 2: Haslemere & Godalming (the '2014 Study').

Landscape sensitivity

83. In respect of landscape value, there are divergences between the site and the characteristics referenced in the foregoing landscape assessments. There are also certain detracting features. I acknowledge that broad-brush landscape character assessments can only provide so much detail in terms of a particular site. Whereas a predominance of agriculture is referenced in the MP, in this instance the site has not been used for agriculture for many decades. GLVIA3 and TGN02/21 refer to recreational opportunities as factors relevant to landscape value. Aside from footpath 597, and the path to be created in association with Scotland Park, the site has otherwise, in all likelihood, not been publicly accessible for a similar length of time.
84. At LCA6 there is a conifer plantation, a distinctively human intervention where native trees tend to prevail. At LCA7 there is a tennis court. There are power lines and infrastructure, including at LCA5. As noted above, the site has suffered from some colonisation by invasive species. Whilst Kirsten Ellis has referenced the historic connection between the wider area and various literary figures, that does not appear to extend as far as a specific associative or cultural connection with the site itself. There is, I acknowledge, little that is inherently distinctive in respect of the northern fields which form part of LCA1 and LCA2; WBC describe them as paddocks.
85. There are also factors with a bearing on the susceptibility of the site to change, which are not expressly addressed in Robert Petrow's proof on behalf of WBC.⁷² The northern fields are next to mid-to-late twentieth century suburban development arranged so as to occupy a former hillside. Christopher McDermott argued on behalf of the appellant, evidentially as opposed to in terms of their being within the SHAONB, that there is little difference in respect of the character of those fields and those occupied by development now underway at Scotland Park.
86. The SLCA sets out how the 'Devil's Punch Bowl and Gibbet Hill are popular visitor attractions but as a whole, this heavily wooded and undulating character area, is peaceful and remote...'. Here, on account of the presence of housing nearby, and of the A286, there is a qualified sense of peacefulness and remoteness around the northern and western fringes of the site

⁷⁰ Consistent with GLVIA3, paragraph 5.47.

⁷¹ [CD7.10]

⁷² [CD2.8]

(suggesting a degree of susceptibility to development). The south of the site is more tranquil, the centre more tranquil still. I note that the 2014 Study describes the landscape value of HEO5 as 'medium'.

87. Midhurst Road is part of the A286, an arterial route. Around where access is proposed the site is effectively level with the carriageway. As above, Midhurst Road serves various other residential roads and accesses between the appeal site and the HCA (and also to the south at Bell Road). Five Gate Cottage, which appears inter-war, is immediately to the south of the proposed access next to footpath 597. The factors above are relevant to landscape value and susceptibility. Nonetheless, for 10 principal reasons, I do not consider that they are particularly meaningful.
88. Firstly the key features listed in the MP related to the SHAONB refer to parkland as well as farmland. Whilst the site has not been actively used for agriculture for many years, that is comparable with many historic estates peripheral to Haslemere and has no clear effect on landscape value.
89. Second, accessibility is not characteristic of landscape character type GW5. The SLCA notes in that respect how there is 'limited access within the majority of the character area'. Limited access contributes to tranquillity. Moreover GALD table 3 does not specifically refer to recreation in terms of establishing landscape value. GALD paragraph 7.1 goes further in explaining how 'AONBs may fulfil a recreational role but they are not designated for any recreational opportunities they may offer.'
90. Third, conspicuous human interventions are very slight. LAC7, where the domestic influence of Red Court is most clear, is a fractional element of the site. Power lines and infrastructure are very limited in nature (and also visually being set next to existing trees in the undulating landform). The SLCA also refers to 'extensive coniferous plantations' in GW5.
91. Fourth, there is a degree of historic landscape structure and continuity shown through map regression (notably in respect of the boundaries of the northern fields). The SHAONB itself reflects a complex overlay of human intervention in the landscape.
92. Moreover, fifth, as aptly noted in the appellant's LVIA 'for practical reasons designated landscapes cover a block of land and do not exclude smaller area of landscape within the blocks areas that might not meet the criteria'.⁷³ It would be illogical to suggest that each and every element of the SHAONB, however small, should in some way be clearly distinctive in itself or a fractal of the overall whole. Moreover, topographically the site strongly reflects the distinctive undulating complexity of the SHAONB. The northern fields represent part of a ridge in the landform, being at a notably higher level than Scotlands Close.
93. I recognise the finding of the previous Inspector in relation to the site at Scotland Park in its former condition, and have reviewed the photographs provided of that. However, sixth, the Scotland Park site is opposite Scotland Lane next to the listed lodge formerly associated with Red Court, opposite

⁷³ [CD2.29] paragraph 10.2.31.

Haslemere Recreation Ground. Those are factors which, to my mind, point to a greater degree of susceptibility to residential development relative to the way in which Haslemere has evolved historically. Whilst HE05A is scored 'medium' in terms of landscape value in the 2014 Study, that must be read as a relative judgement which takes account of Haslemere being encircled by various protective landscape designations.

94. Seventh, although there are various accesses off the A286 nearby, for much of its length Midhurst Road is sunken in the landform. As above, country and sunken lanes are characteristic landscape features which, in turn, contribute to the intimacy and seclusion of the SHAONB. By LCA1 I saw that Midhurst Road very much retains that character, including by virtue of the canopies of trees either side of it.
95. Four of the trees proposed for removal are classed by the appellant as 'B' with reference to British Standard 5837:2012,⁷⁴ setting aside that the officer report associated with TPO 06/24 suggests a higher value of some. In my view those trees have a value and importance, both by virtue of that categorisation and by their contribution in terms of landscape character as part of the tree line flanking Midhurst Road here. I note that Christopher McDermott's proof sets out how the A286 in this location has a 'strong rural character'.⁷⁵ I agree.
96. Eighth, as a whole, the appeal site is very much consistent with the characterisation of the landscape in the MP and SCLA. Much of the site is wooded. As noted above a woodland buffer has recently been planted between the site and Scotlands Close enhancing that characteristic at the northern fields. That planting, albeit currently immature, in my view serves to create some physical and visual separation with Scotlands Close (and there is little realistic prospect of it being removed regardless of the outcome of this appeal). LCA4 is extensively wooded, and to some extent that is true of LCA3 and LCA7 where trees are sparser. Similarly modest fields as at LCA1 and LCA2 are commonplace throughout the AONB, many of which are reclaimed from former woodland or sit by it.
97. Ninth, in my view 'susceptibility' is a concept which cuts both ways. The existence of contextual development does not necessarily justify further development diverging from landscape character. If susceptibility were to function in that manner, it would inevitably serve to reduce that landscape value which remains over time.
98. Furthermore and tenth, it is inescapable that the site has been within the SHAONB now for 66 years. It has therefore become valued in terms of NPPF paragraph 180.a) and imbued with a perceptual scenic quality over time. TGN02/21 notes how 'people today value different aspects of landscape than they did in the past or may do in the future...'.⁷⁶ Reflecting that the site is within the SHAONB the appellant's Landscape and Visual Impact Appraisal ('LVIA') rationally starts from the position that prevailing landscape quality is 'high'.⁷⁷

⁷⁴ 'Trees in relation to design, demolition and construction- Recommendations'.

⁷⁵ [CD2.3], paragraph 2.10.

⁷⁶ Paragraph A1.1.12

⁷⁷ [CD2.29], table 10.2.

99. In respect of LCA1 and LCA2 specifically, on account of the foregoing, in terms of the landscape as a resource their sensitivity may fairly be summarised as medium to high (taking account of landscape value and susceptibility).

Visual sensitivity

100. The site is far less widely visible than a featureless 'Zone of Theoretical Visibility' might indicate. The appellant's Zone of Visual Influence, instead undertaken via photography from elevated positions on site, shows that visibility of the outline element of the scheme in the wider landscape would be limited. Adherence to conditions could ensure the protection of surrounding trees and that dwellings do not reach higher than tree canopies. WBC's officer report notes that most of the housing would be relatively visually contained.
101. Whilst a number of residents have referred to the ostensible lack of consideration of views from Gibbet Hill, that is nevertheless referenced in the LVIA as approximately 3.5km from the northern edge of the site, and in Christopher McDermott's proof.⁷⁸ Views of the development proposed from there would, in my view, be barely appreciable. They would also inevitably be across much of the existing built form of Haslemere in the intervening ground.
102. There are various rights of way running through the SDNP to the south at varying degrees of elevation as the land rises beyond Bell Vale Lane. I walked into the SDNP there during my site visits. Nevertheless on account of the enclosed nature of rights of way, and the wooded nature of the SDNP, there is unlikely to be any meaningful visibility of the built development proposed. As above, and subject to conditions related to controlling illumination, WBC no longer maintain an objection to the scheme in that regard.
103. LCA4 is extensively wooded and is at a lower contour than the northern fields. Visually, compared to the periphery of the site and more open areas, there is greater susceptibility for change to be accommodated there without being obtrusive (or perhaps even apparent from certain vantage points). In visual terms, provision of the Scout and Forest School facilities would have little appreciable effect.
104. Turning to nearby visual receptors, parts of LCA1 and LCA2 are visible from various residential receptors, principally those living at Scotlands Close and Chiltern Close. Parts of LCA1 are visible from various vantage points along footpath 597, where there is relatively extensive intervisibility with other elements of the site, the wider landscape, and the SDNP. There is also visibility of LCA1 from the A286, filtered somewhat by intervening trees and hedges. There is little appreciable visibility of LCA1 from Bell Vale Lane or from footpath 35 (which spurs eastwards off the A286 and footpath 597 beyond Five Gate Cottage).
105. GLVIA3 sets out how residential receptors and users of public rights of way are likely to be visual receptors most susceptible to change. Their appreciation of the landscape might be described as active, as opposed to the landscape passively forming part of the backdrop to life. GLVIA3 also indicates that

⁷⁸ [CD2.29], paragraph 10.2.41. and [CD2.3], paragraph 3.18.

those travelling along roads tend to fall into an intermediate category of moderate susceptibility to change.⁷⁹

106. As with landscape sensitivity there are some nuances. Insofar as the outline element of the scheme is proposed, residential receptors would be a fair distance away. From private residential vantage points at Chiltern Close and Scotlands Close residential development would be somewhat screened by virtue of the topography and trees. In that respect visual sensitivity in relation to the outline element of the proposal may fairly be termed medium.
107. That is, however, in contrast to users of footpath 597. Whilst footpath 597 appears principally a local resource, from vantage points along footpath 597 there would likely be clearer views of the outline element of the scheme atop a ridge in the topography. There would also be clearer views still of site access, the road from the site access to the outline element of the scheme, the proposed gatehouse by Midhurst Road, rambles' shelter and SANG parking in conjunction with elements of the wider landscape.
108. From various vantage points along footpath 597 it is fair to say that expansive views of the landscape are likely to be the focus of attention. Sensitivity in that respect would be high. Sensitivity may fairly be termed medium to high in respect of those travelling along the A286 immediately by the proposed site access and via the road to the outline element of the scheme. Otherwise the visual sensitivity of those passing along Midhurst Road or footpath 37 to reach elsewhere may fairly be described as medium or medium to low. In summary there is a more mixed picture as to visual sensitivity.

Landscape and visual effects

109. The appeal site represents a small element of the SHAONB, potentially smaller still depending on the outcome of Natural England's work. It also represents a small element of GW5. Only around 22% of the site itself would be built upon. Visually, as above, the effects of the scheme would be comparatively localised on account of the topography and intervening features.
110. Nevertheless, crudely, less 'landscape' would exist. Combining a medium to high landscape sensitivity at LCA1 and LCA2 with the introduction of substantial built development across around 4.69ha would entail at least a 'moderate to large' magnitude of impact in terms of the landscape as a resource.⁸⁰ That categorisation applies similarly as in respect of sensitive visual receptors, i.e. users of footpath 597.⁸¹ In respect of other local visual receptors the magnitude of change may fairly be summarised as medium (in that there would be a partial alteration to existing features screened to varying degrees by natural features).
111. The appellant advances what might be characterised as various landscape benefits. Much of the site would be opened up as a public and community resource. The proposal would better reveal a second world war spigot gun emplacement near Midhurst Road and would entail significant tree planting, management of invasive species, woodland management, and the creation of

⁷⁹ GLVIA3, paragraph 6.33.

⁸⁰ [CD2.29], table 10.6.

⁸¹ Ibid., table 10.9.

a richer habitat throughout the site. No requirements in those respects exist presently. However, for 5 principal reasons, I am not of the view that the proposed benefits would significantly reduce or mitigate adverse landscape and visual effects in this specific instance.

112. Firstly, better revealing and providing information in respect of the spigot gun emplacement would add to the appreciation of the history of the site. However arguably any human intervention in the landscape has a degree of significance; there is very much a sliding scale. In that context better revealing an early-to-mid twentieth century concrete emplacement would not represent a particularly meaningful contribution. The emplacement embodies very little that speaks to the past in the present. Physically that element of the landscape is, and would remain, extremely small.
113. Secondly, I have noted above that recreational opportunities are relevant in terms of landscape value in general terms. They are also referenced in NPPF paragraph 183.c). However recreation is not specifically referred to in GALD, as referenced above. Opening up the site to greater public use, including by virtue of the Scouts and Forest School provision, would intrinsically reduce tranquillity. A sense of tranquillity is characteristic of much of the SHAONB.
114. Moreover 110 homes along with access and the proposed road tracking through LCA1 would markedly reduce tranquillity at the western and northern boundaries of the site compared to present. Footpath 597, proposed to be upgraded to a bridleway and relocated further away from the A286, would nonetheless become sandwiched between the A286 and the road to the outline element of the scheme for much of its length.
115. Whilst I acknowledge one of the purposes for which National Parks are established is to promote opportunities for public understanding and enjoyment, the SDNP is nevertheless presently accessible via footpath 597 and also via Byway 104 which spurs off Scotland Lane near the Recreation ground. In respect of recreation, the proposal appears to be intrinsically premised on creating a very different character (as opposed to enhancing that which already exists and is characteristic here).
116. Third, I accept that tree planting, management of invasive species, woodland management and the creation of a richer habitat throughout the site would forestall further decline and prevent other uses from occurring. However in large part those measures would relate to elements of the site which are already of higher value in landscape terms (in addition to LCA1 and LCA2).
117. Building on that point, that 78% of the site would be left undeveloped and become subject to landscape management relative to 22% which would be developed is a quantitative equation. It belies that built development and its associated impacts in terms of domestic activity, greater recreational use, along with vehicular movements, would be more impactful in qualitative terms than landscape enhancements. I have also reasoned above that detracting features, notably at LCA5, LCA6 and LCA7 are, in my view, slight.
118. I accept that as tree planting matures the visual effects of the proposal would be reduced to some extent, aiding the assimilation of development in what is an extensively wooded area. However, fourth, I have reasoned above that

Midhurst Road here is characteristic of country or sunken lanes within the AONB. The LVIA explains how around 180 metres of 'enclosed character' at Midhurst Road would be changed. It would, more accurately, be lost.

119. The widened nature of the A286 near the proposed site access itself would be clearly at odds with prevailing character. A number of semi-mature and mature trees would need to be felled to provide for access and visibility, such that it would be many years before even advanced nursery stock approaches comparable maturity (as shown in Accurate Visual Representation view 1 at year 10).⁸² Moreover, by consequence of road widening, tree canopies would, in all likelihood, fail in time to provide a similar level of enclosure to present. Existing character would not, therefore, be regained.
120. Fifth, as the LVIA puts it, around the site access, road to the outline element, gatehouse and ramblers' shelter the intention is to 'achieve an alternative landscape character'. I acknowledge the gatehouse would emulate gatehouses found throughout the SHAONB. Architecturally it bears much similarity with the lodge formerly associated with Red Court. However, I question the use of the word 'landscape' in that LVIA phrase. As reasoned in paragraph 78 above, the SHAONB was designated as regards 'natural' beauty rather than for its built environment.
121. Moreover, as Christopher McDermott's proof puts it, there is a conscious choice to create the 'perception of an entrance to a country estate'. Setting aside the intrinsic design merits of that element of the scheme,⁸³ in landscape and visual terms the intensity of built development around the site access would be clearly at odds with natural and scenic beauty. As with accessibility or recreation, the scheme again appears consciously premised on altering character.
122. By consequence the proposal would in my view fundamentally and seriously adversely affect landscape and visual character here (which presently contributes towards the landscape and scenic beauty of the SHAONB). There are, as above, various moderating factors. Nonetheless, particularly as regards implications for Midhurst Road, footpath 597 and LCA1, the effect of the scheme may fairly be termed significantly adverse, reducing only slightly from that gradation over time.
123. GLVIA3 also references cumulative landscape and visual effects, i.e. related to 'incremental changes caused by other past, present or reasonably foreseeable actions together with the project.'⁸⁴ Here, as noted above, Sturt Farm has secured permission and allocations have been made within the SHAONB around Haslemere. To some degree delivery there has adversely affected the landscape and scenic beauty of the SHAONB or, on the appellant's evidence,⁸⁵ would do so. The proposal would add to that harm.

Implications of forecast housing supply

Housing requirements

⁸² [CD2.51]

⁸³ Noting that WBC alleges no conflict in respect of the design of that element, or the potential design of the scheme as a whole, with reference to LPP1 policy TD1 'Townscape and Design'.

⁸⁴ Paragraph 7.1 onwards.

⁸⁵ [CD2.3], part 2.

124. It is common ground between the main parties that WBC cannot demonstrate a five year housing supply of deliverable sites relative to needs ('5YHLS') with reference to NPPF paragraph 77. LPP1 policy ALH1 makes provision for at least 11,210 net additional homes over the period 2013 to 2032, amounting to 590 dwellings per annum 'dpa'. 20 February 2023 marked five years since the adoption of the LPP1, a date which passed without a review having been undertaken.⁸⁶ By consequence the five year housing land supply requirement ('5YHLSR') now falls to be calculated relative to local housing need ('LHN') established via the standard method in the PPG.⁸⁷
125. LHN has two primary inputs, 2014 based household projections ('HHP') and the most recent median workplace-based affordability ratios (the 'affordability ratio').⁸⁸ HHP forecasts that in 2024 Waverley would accommodate 57,602 households, rising in 2034 to 57,602 households. That is a projected change of 3,884, or 388.4 households each year over that decade. The affordability ratio for Waverley stood at 17.37 in 2022.
126. Applying the standard method formula to the inputs above generates an annual figure of 713dpa, amounting to a 5YHLSR of 3,565 covering the monitoring years 2023/24 to 2027/28.⁸⁹ Unlike the 5 September 2023 version of the NPPF there is now no requirement for a 5% buffer. No previous undersupply is counted forward, and there is also no requirement for a 20% buffer given that Housing Delivery Test data ('HDT') is healthy.
127. Relative to 713dpa, WBC's position is that they can demonstrate a forward supply of some 2,936 homes, equivalent to 4.12 years' supply. The appellant says instead that only a demonstrable forward supply of 2,228 dwellings is in evidence, equivalent to 3.12 years' supply. Whilst the extent of any shortfall and the likelihood of it persisting are material, in either eventuality NPPF paragraph 11.d) is engaged. At the inquiry the dispute between the main parties in respect of anticipated delivery over the next 5 years focussed on lapsed permissions, windfall projections, and on 7 site allocations.⁹⁰ I address those in order.

Lapsed permissions

128. The main parties agree that the principal evidential basis upon which to forecast supply to 2027/28 is WBC's data as at 1 April 2023 (the 'base date'). Invariably the number of homes built will fall short of those permitted, the difference between the two being commonly referred to as a 'lapse rate'.
129. David Neame's proof sets out a review of 15 sites which do not involve major development that WBC anticipated as representing forward supply totalling 33 dwellings as at 1 April 2013.⁹¹ It is common ground between the main parties that the 3 dwellings at Gemini Chapel are counted twice as both commitments and completions, and should therefore be removed from the former category. All bar one of the remaining 14 sites, Land at Deerwood, are to be held up

⁸⁶ Pursuant to the Town and Country Planning (Local Planning)(England) Regulations 2012 as amended.

⁸⁷ PPG reference ID: 2a-002-20190220 explaining how LHN 'identifies the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic undersupply.'

⁸⁸ PPG Reference ID: 2a-007-20190220.

⁸⁹ [ID5.29]

⁹⁰ [CD5.3f].

⁹¹ [CD2.5], table 7.

against paragraph a) of the definition of 'deliverable' in the annex to the NPPF.

130. In respect of land at Deerwood I am not satisfied that it is justified to discount 3 dwellings from anticipated supply. Marketing material related to that site indicates those dwellings were completed before the base date. There is, however, a time lag between that and notifiable actions that trigger Council monitoring. WBC set out at the inquiry that they were unable to identify completions attributed to that site in monitoring data.
131. Similarly it would not be appropriate to discount 2 dwellings at Glebelands Farm, 1 at Furze Stud, and 1 at the Green, Elstead, as new permissions have been granted in place of those which have lapsed.⁹² Nevertheless that leaves 10 sites with a cumulative total of 23 dwellings that were considered deliverable at the base date where permissions have lapsed,⁹³ and which should be removed from anticipated supply. In my view it is acceptable to consider evidence in respect of sites included at the base date after that juncture, if not to account for additional sites.⁹⁴
132. David Neame does not invite me to apply a lapse rate to WBC's housing delivery forecasts *per se*, and to do so would run contrary to the Inspector's position who examined the LPP1.⁹⁵ However the foregoing shows that some caution is necessary in terms of forecast delivery. My view in that respect is reinforced by housing delivery in the Borough amounting on average to 21.07% less than predicted in monitoring years since 2018.⁹⁶

Windfalls

133. Consistent with the LPP1 examining Inspector's reasoning in respect of windfalls,⁹⁷ WBC anticipate some delivery from windfalls within the five year timeframe. That is based on data stretching back to 2003, windfalls being defined in this instance as unforeseen delivery of sites capable of delivering 5 or fewer dwellings. On that evidential basis WBC are of the view that 73 units will come forward as windfalls in years 4 and 5 of the five year timeframe (avoiding years 1 to 3 to avoid the potential for double counting relative to extant permissions).
134. NPPF paragraph 72 sets out that 'where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.' The appellant is of the view that on a pragmatic basis that figure of 73 units should be halved given that WBC's position is founded on historic data rather than with reference to 'expected future trends'. My attention has been drawn to an Inspector's decisions at Chidham and Hambrook in that context.⁹⁸

⁹² Respectively permissions refs. WA/2022/01722, WA/2022/02601, WA/2023/00418.

⁹³ I address the Old Grove subsequently.

⁹⁴ [CD9.6].

⁹⁵ [CD7.57], paragraph 46.

⁹⁶ [CD2.5], paragraph 5.4.

⁹⁷ [CD7.57], paragraph 46.

⁹⁸ Refs. APP/L3815/W/22/3295000 and APP/L3815/W/22/3295004.

135. I accept, briefly summarising what I heard from David Neame at the inquiry, that there is greater economic uncertainty now than at the time the LPP1 was adopted. By consequence, as with my position in respect of lapsed permissions, some caution to forecasts is due. However data in Waverley stretches back to 2003. Katherine Dove pointed out on behalf of WBC that since 2003 there have been various economic cycles, including that the Bank of England Base rate was comparable or greater than now.
136. Moreover median house prices in Waverley are high relative to median incomes indicating a buoyant market. House prices also appear to be increasing.⁹⁹ In the Chidham and Hambrook appeal decisions the Inspector addressed a 'major windfall allowance'. Windfall assumptions in respect of the LPP1 related instead to 'small and large windfalls' and included a discount of 15% relative to historic trends. As such, although some caution is also due, WBC's windfall assumptions appear more realistic.

Site allocations

137. Dunsfold Park was allocated via LPP1 policy SS7 for a total of 2,600 dwellings, with hybrid permission having been granted in March 2018.¹⁰⁰ I acknowledge there has been some remediation and infrastructure provision on site recently, and that certain temporary uses will cease in April 2024. I note that there have also been continued discussions between WBC and the site promoter regarding delivery of 374 dwellings over the next five years. However little substantively has changed relative to the Inspector's consideration of that site at an appeal at Waverley Lane,¹⁰¹ in respect of clear evidence that housing completions will begin on site within five years (for example the submission of reserved matters applications or the site being within the control of a developer). As such 374 dwellings should not be accounted for in the 5YHLS calculation in this respect.
138. WBC granted permission for 320 dwellings at Land at Coxbridge Farm via decision of 29 June 2023.¹⁰² I understand pre-application discussions have been ongoing. One reserved matters condition has also recently been discharged, related to condition 7 of the original permission. Notwithstanding that the site may not be within the control of developers intending to undertake all elements of the scheme, that is nevertheless in my view sufficient indication that 60 homes will likely come forward within 5 years.¹⁰³
139. Land at Wey Hill Youth Campus in Haslemere was allocated for 34 dwellings via LPP2 allocation DS 04. It is a complex site occupied by a number of community groups, the First Haslemere Scouts being adjacent. I understand that two community groups still need to be found alternative premises, and that there is evidence of historic contamination on site. As such there is no clear evidence that housing completions will begin at DS 04 within 5 years.
140. The Old Grove, in the AONB and AGLV, was allocated for 40 dwellings via LPP2 site allocation DS 08. WBC referred to applications for 6 and 18 dwellings there at the inquiry. However environmental mitigation measures

⁹⁹ [CD4.4], paragraph 43.

¹⁰⁰ Ref. WA/2015/2395.

¹⁰¹ [CD9.22]

¹⁰² Ref. WA/2019/0770.

¹⁰³ Consistent with the finding of the Inspector who determined the appeal at *Land East of Knowle Lane* [ID5.41].

remain unresolved. Although I was told the National Trust is in discussion with WBC about potential mitigation measures in that respect, nevertheless there is no clear evidence of likely delivery within 5 years.¹⁰⁴ There is similarly no evidence in respect of Land at Highcroft or The National Trust Car Park that circumstances have moved on materially since their allocation in the LPP2 (allocations DS 12 and DS 09 for 7 and 13 dwellings respectively).

141. Land at Secretts was allocated, amongst other things, for 177 dwellings via LPP2 allocation DS 14. On 23 August 2023 WBC resolved to grant permission subject to the completion of an agreement under section 106 of the 1990 Act. At the time of the inquiry that permission had not been granted nor had a section 106 agreement been finalised (which I understand relates, amongst other matters, to cross-boundary environmental mitigation). Including on the basis that a housebuilder was a joint applicant, David Neame indicated that 'some delivery' of approximately 110, as opposed to the WBC's estimation of 168, could occur within the 5 year period. Whilst David Neame's position is pragmatic, the information before me in this respect fails to represent clear evidence that any delivery will occur within 5 years.

Implications for the Borough and Haslemere

142. The foregoing leads me to a figure of about 2,271 in respect of deliverable dwellings relative to the 5YHLSR of 3,565. That is a likely shortfall of about 1,291, amounting to around 3.19 years' worth (broadly comparable with the appellant's position). Given my reasoning in respect of lapsed permissions and windfall assumptions, that is likely to be over-optimistic to some extent. David Neame's proof lists 19 appeals dating back to 20 March 2017. In none of those appeals, both before and after the adoption of the LPP1, were WBC able to demonstrate a 5YHLS. WBC did not contest that point.
143. The foregoing amounts to a persisting and serious 5YHLS shortfall. Delays in short-term delivery also have implications over the plan period, David Neame's proof again setting out various scenarios where there is a potentially significant undersupply relative to 11,210 dwellings by 2032 (notwithstanding any implications of a greater LHN figure).
144. As at 15 January 2024, WBC set out that total affordable housing provision at Haslemere had been 16 units secured via section 106 agreements under the 1990 Act.¹⁰⁵ An additional 45 affordable units have been delivered by registered providers, and I heard that there may be more forthcoming at Sturt Farm. However, even if those 16 and 45 are added together (61), that represents only some 15% of 395 completions. LPP1 policy AHN1 sets the expectation of a minimum 30% affordable housing.
145. Moreover the affordability ratio means that the median house price in Waverley in 2022 was 17.37 times median income. Only 3 districts outside of greater London, including the Isles of Scilly, and 9 London Boroughs have a higher affordability ratio. The judgement in *Mevagissey* recognises that the need for affordable housing may be significant in the assessment of whether there are exceptional circumstances.¹⁰⁶

¹⁰⁴ Noting that 6 dwellings are included at the Old Grove in table 7 of David Neame's proof [CD2.5].

¹⁰⁵ [ID5.19]

¹⁰⁶ [CD10.4], paragraph 52.

Whether or not there are exceptional circumstances

146. NPPF paragraphs 183.a) and b) specifically refer to 'it', i.e. to the development proposed. As the Inspector reasoned in respect of the appeal at Turnden it is therefore logical to consider all the benefits of a particular scheme, which I address below. I have reproduced NPPF paragraphs 183.a), b) and c) at paragraph 48 of this decision. They represent factors relevant to the weight attributable to any benefits.

Housing

147. There are evidently clear and pressing needs for market and affordable housing nationally, in Waverley, and at Haslemere. Provision of housing resulting from the scheme, 35% affordable housing in excess of the minimum 30% set via LPP1 policy AHN1, and also 5 self-built plots, would clearly be beneficial socially, and economically,¹⁰⁷ in the light of delivery challenges set out above. Given the emphasis in the NPPF on 'significantly boosting' the supply of homes and building a strong competitive economy, amidst what the appellant aptly terms as a housing crisis, those are important national considerations.

148. However, in respect of 'the need for the development' referenced in NPPF paragraph 183.a), many authorities are similarly struggling with housing delivery. Many authorities are also unable to demonstrate a forward supply of deliverable sites approaching 3.19 years. Housing delivery in Waverley has also recently increased markedly, more so than in many other areas. In 2019/20 to 2021/22 HDT data indicates delivery of 605, 690 and 820 dwellings, 139% of requisite 'requirements'.¹⁰⁸ There is no indication that recent uplift arose principally, or meaningfully, by virtue of allowing development with comparably adverse landscape effects as would arise here. The social and economic benefits of housing provision, as well as landscape protection, are both national considerations.

149. Affordability in Waverley is acute, more so than in many other areas, despite a remarkably buoyant housing market. However there is some force in the argument that house prices in the Borough are likely to remain high relative to local income come what may (on account of the strength of the local economy, the proximity of Haslemere to London, and its desirability). The implications of either allowing or refusing the appeal would have little effect on the local economy or housing market in contrast to the significant of adverse effects to the SHAONB.

150. As above, the statutory basis for decision taking is section 38(6) of the 2004 Act. NPPF paragraph 15 builds upon that in setting out how the planning system should be genuinely 'plan-led'. That must also be a national consideration. Moreover, even in the absence of a 5YHLS development plan policies do not cease to exist.

151. In that context it is relevant that the LPP1 was not founded on meeting anything near full affordable housing needs, notwithstanding an uplift to the

¹⁰⁷ [CD2.13]

¹⁰⁸ Acknowledging that HDT requirements are calculated on a different evidential basis to LHN.

housing requirement to take account of market signals.¹⁰⁹ It is therefore unsurprising that affordability issues persist and are now more acute.¹¹⁰ Moreover, inherent in my reasoning in paragraphs 124 to 126 of this decision, some 46% of the LHN figure of 713dpa (324.6 dwellings annually) is itself a factor of housing affordability as opposed to deriving from household projections. Housing delivery and affordability evidently was, and remains, a stubborn and multifaceted issue.¹¹¹

152. Turning to NPPF paragraph 183.b), Christopher McDermott's evidence sets out an analysis of possible alternative housing sites in the Borough capable of delivering 50 or more dwellings. It rationally concludes that there are few sites that would be preferable in landscape and visual terms, none at the urban edge of Haslemere. Nevertheless the corollary is that there are such sites with potentially lesser effects in landscape terms alone (now the sole matter in dispute between the main parties). The appellant explains how 'on the face of it Farnham and Cranleigh are less constrained..'.¹¹² There is, moreover, nothing in respect of sites capable of delivering fewer than 50 units that might collectively amount to similar housing delivery as the appeal scheme.
153. I acknowledge housing provision of a minimum of 11,210 overall or 990 at Haslemere acts as a floor rather than ceiling, and that there is no 5YHLS. However permissions and allocations have been made in pursuit of the remit set by the LPP1 (paragraphs 38 and 50 of this decision). It is part of the appellant's case that provision in that regard provides some support for the development proposed. However, and recognising the particular landscape constraints at Haslemere, the LPP1 was nevertheless constructed so as to apportion a far lesser proportion of housing at Haslemere than other settlements less constrained by the SHAONB. Numerically 990 is less than 10% of the overall figure of 11,210; the smallest apportionment of any main settlement.¹¹³
154. Whilst 77% of Waverley is AONB or AGLV, that nonetheless indicates that 23% of the Borough may be less sensitive in landscape and visual terms. I note that the appellant argues that high-level landscape studies are of 'limited use' in assessing the particular implications of a given scheme in any event.¹¹⁴ There is also, in my view, a temporal issue. As at 1 December 2023, nearly 6 years since the LPP1 was adopted, some 805 dwellings have been delivered or received permission at Haslemere.¹¹⁵ Numerically that is over 80% of the minimum figure of 990 set via LPP1 policy ALH1. Although there are presently deliverability issues with allocations,¹¹⁶ if built out over the remaining 8 years to 2032, LPP2 allocations have sufficient capacity to more than surpass the figure of 990 numerically (setting aside any delivery from windfalls). A number of the LPP2 allocations are, in part, previously developed land.¹¹⁷ That

¹⁰⁹ [CD7.57], paragraph 23.

¹¹⁰ [CD2.12]

¹¹¹ An issue touched upon in *Hunston Properties Ltd v Secretary of State for Communities and Local Government and St Albans City and District Council* [2013] EWHC 2678 (Admin) referenced in [CD9.39].

¹¹² [CD4.4], albeit that there are still 'complexities' elsewhere.

¹¹³ As recognised in the appeal decision at Land south of Alford Garden Centre [CD9.30]

¹¹⁴ [ID4.4]

¹¹⁵ [ID5.22]

¹¹⁶ At DS 04, DS 08 and DS 09 in particular.

¹¹⁷ DS 06, DS 08, and DS 09.

is also strongly suggestive that some would have lesser landscape sensitivity than the site in this instance.

155. I accept that plan-making in Waverley has not previously been quick. However WBC have recently undertaken a call for sites in advance of preparing a revised LPP1 intended to be adopted before 2032. A full LPP1 review was committed to on 18 July 2023, with WBC intending to adopt a replacement in late 2027. Whilst late 2027 may be optimistic, there may nevertheless be scope for other sites to come forward before the end of the plan period as a result of that process and WBC's recent call for sites. In that context I note in respect of appeals at Great Missenden and Turnden it was relevant that the sites there had been through some form of evidence-based site assessment despite not being allocated.¹¹⁸ In short there is some, albeit I accept limited, scope for the housing proposed here to come forward outside of the SHAONB or to be met in some other way.

SANG and BNG

156. By virtue of the proposed SANG, whether 9.69ha or 12ha, it is common ground between the main parties that no adverse effects of the scheme to the ecological integrity of Wealden Heaths Phase II SPA would occur. Notwithstanding the critique of biodiversity net gain ('BNG') calculations in respect of Scotland Park, there is no robust evidence before me indicating that the level of BNG proposed in this instance (20%) is unachievable given the nature of the site.¹¹⁹ SANG provision and BNG above 20%,¹²⁰ would also have broader benefits in that more capacity is proposed relative to the implications of a scheme for up to 111 dwellings. SANG provision would, potentially, contribute towards delivery of LPP2 allocations where the lack of suitable environmental mitigation has forestalled delivery.

157. However there appears to be at least some SANG capacity elsewhere, albeit 'fast running out' at Farnham,¹²¹ and limited at Sturt Farm. Provision of SANGs and BNG is, importantly, not necessarily contingent on allowing harmful development; in this instance SANG and BNG provision is argued to be beneficial in terms of landscape implications. Furthermore much of Waverley is not within the buffer zones of the Wealden Heaths Phases I or II Special Protection Areas (including Cranleigh, along with parts of Farnham and Godalming). That has informed Natural England's position, in summary that SANG is not necessarily a benefit *per se*, in that it may be unnecessary by locating development elsewhere.¹²² There is no substantive evidence that provision of BNG is hampering development in Waverley.

Environmental and ecological effects

158. It is also common ground between the main parties that the scheme would not have a detrimental effect in terms of ecology or biodiversity (subject to adherence to conditions and obligations). However, setting aside BNG, that effectively secures a scheme which is acceptable rather than weighing

¹¹⁸ Noting that Michael Eastham's proof [CD2.7], paragraph 6.24 sets out how this site was assessed as part of 'LAA 987' for a lesser number of units, and not supported on basis of adverse landscape effects.

¹¹⁹ In accordance with LPP1 policy NE1, which does not set a specific percentage BNG uplift.

¹²⁰ As set out in the ESA, BNG of 33.56% is proposed. Provision in excess of 20% would be available in the form of credits that could be bought to address BNG elsewhere.

¹²¹ [ID4.4], page 61.

¹²² Acknowledging [CD10.11].

significantly in favour of allowing the appeal. Similarly I note the intention to achieve high environmental performance in compliance with or exceeding approach in LPP1 policies CC1 and CC2 in respect of buildings: Passivhaus standard, Building with Nature, Sustainable Drainage Systems ('SUDS') and Electric Vehicle ('EV') charging. Those measures would go some way to offsetting emissions inherent in undertaking development.¹²³ However achieving those standards are not intrinsically reliant on the landscape harm that would result. They are not inherently unachievable elsewhere. In respect of SUDS and EV, they are also now effectively the expectation.¹²⁴

Scouts and Forest School

159. The proposed Scout facility and Forest School would undoubtedly be of benefit to those organisations in line with LPP1 policy LRC1. They would both operate from a better environment than currently. The proposal would also enable their community-oriented work to expand. In respect of the First Haslemere Scouts, I heard extensively regarding the difficulties that they have had in securing a lease from WBC. I acknowledge their relocation to elsewhere may improve prospects of development at LPP2 allocation DS 04.

160. However, and setting aside the fraught history of negotiations between the First Haslemere Scouts and WBC, I understand they have been offered a lease in relation to their current facility (albeit short term and with a relocation clause). I understand that the Forest School would effectively relocate from a facility at which they have greater security in terms of tenancy, rather than the scheme representing a new community use. There is therefore some scope for those organisations to continue their work elsewhere. Similar to my reasoning above, securing an alternative facility for either organisation is not intrinsically reliant on adversely affecting the SHAONB.

Community Infrastructure Levy ('CIL') contributions

161. The scheme would be CIL liable. CIL receipts would therefore contribute proportionately to the provision of infrastructure projects in the WBC's Infrastructure Delivery Plan ('IDP').¹²⁵ At its very limits that may be defined as benefit; infrastructure funded by CIL benefits the population at large. However any weight in that respect would, logically, be commensurate with the delivery of up to 111 homes elsewhere in Waverley.

162. The PPG moreover explains how CIL is 'an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area'.¹²⁶ CIL is therefore tethered to necessity. CIL funded projects relate to the IDP which, although updated in 2021, was originally created to address needs forecast to arise relative to the LPP1 strategy. Logically if development were to occur elsewhere, or in different quantity, the IDP would need updating (and CIL contributions would be directed to different projects).

Allotments

163. It is difficult to see how the allotments proposed via permission ref. WA/2023/00029 are directly related to the development proposed. There is

¹²³ [ID2.1], table 15.1.

¹²⁴ With reference to NPPF paragraph 173.c) and the Building Regulations 2010 as amended.

¹²⁵ [CD7.59].

¹²⁶ Reference ID: 25-001-20190901.

demand for allotments at Haslemere. However, with a population of 17,000 at the time of the LPP1, there would be no tangible relationship between the demands resulting from up to 111 additional dwellings. There is moreover nothing in the development plan or NPPF to suggest that provision of allotments is necessary to make the development acceptable in planning terms with reference to NPPF paragraph 57.c). I therefore do not accord the provision of allotments weight in favour of the scheme.

Consideration

164. In summary I have reasoned, given the specific nature of the site and that the proposal consciously intends to create a different character here, that the scheme would fundamentally and seriously adversely affect landscape and visual character. That significant harm, which would only slightly lessen in time, is to be accorded 'great weight', and is relevant in respect of NPPF paragraph 183.c).
165. There is a clear need for the development proposed, in respect of housing and affordable housing provision in particular, in terms of NPPF paragraph 183.a). There is nevertheless some, albeit limited, 'scope for' developing outside the SHAONB or meeting the various needs the proposal seeks to respond to in 'some other way',¹²⁷ which serves to qualify the benefits to some extent.
166. It is also relevant to note how the apportionment of housing to Haslemere via the LPP1 was in the context of seeking to meet some housing needs arising from the wider housing market area. The PPG, however, indicates that policies for protecting AONBs, National Parks and the Broad 'may mean that it is not possible to meet objectively assessed needs for development in full through the plan-making process...'.¹²⁸ The MP, furthermore, sets out how development in the AONB should be 'shown to be a last resort'.¹²⁹
167. What results is a fine balance between adverse and positive implications relevant to the public interest, a tension also at the heart of successive plan-making in Waverley.
168. Although each scheme turns on its merits, other Inspector's decisions are nonetheless relevant. In addition to Great Missenden and Turnden referenced above, appeals at Sonning Common and Oakley have been brought to my attention by the appellant.¹³⁰ They are argued to support the case for exceptional circumstances existing here. It is worth paying close attention to those instances where Inspectors have found that exceptional circumstances existed elsewhere.
169. At Great Missenden, I accept that the inspector determined that the appeal site made 'no material contribution to the AONB in longer views'.¹³¹ In this instance visibility of the appeal site is relatively localised. However the Inspector there also identified that the site had already been indicatively identified in the WBC's Draft Housing and Economic Land Availability

¹²⁷ Recognising also that exceptional circumstances has been held to be a lower threshold of test relative to the 'very special circumstances' necessary to justify inappropriate development in the Green Belt.

¹²⁸ Reference ID: 8-041-20190721.

¹²⁹ [CD7.9], page 33.

¹³⁰ [CD4.4]

¹³¹ [CD9.26], paragraph 40.

Assessment as 'being appropriate in principle for accommodating housing.'¹³² That is not the case here, either in terms of the assessment of area HE05A in WBC's 2014 Study, or in other assessment work referenced in footnote 118 of this decision.

170. Furthermore, the scheme at Great Missenden was for the development of 34 dwellings, far smaller than the proposal here. It also entailed the 'demolition of 3 4-bed houses, a disused industrial building (Use Class B2) and 20 garages'.¹³³ The context and nature of the development proposed there appears markedly different from here; the Inspector there further reasoning that the scheme there would not entail 'any harm to the landscape and scenic beauty of the AONB'.¹³⁴
171. The Turnden Ministerial decision, which was extensively discussed at the inquiry, was quashed. However the Inspector's report there, in the context of a very modest shortfall of 77 dwellings over five years, concluded that 'the overall effects of the application proposals on the HWAONB within the site would be moderate adverse at completion and minor adverse/ neutral after the 15 years establishment period. I also agree that the effects on the wider HWAONB would be largely neutral.'¹³⁵ That is a different weighting to my view of the harm that would result here.
172. The Inspector there also explained that the site in that instance adjoined a neighbouring site with outline permission for 180 homes. It was also said that the site 'wraps around' a further adjoining parcel of land with residential permission.¹³⁶ The site under consideration at appeal had also been 'proposed to be allocated for residential development' in an emerging local plan.¹³⁷
173. At Sonning Common, whilst I acknowledge there is some comparability in terms of the representativeness of a given element of an AONB to its characteristics as a whole, there the Inspector nevertheless set out: 'I do not consider the appeal site or its local landscape context to be representative of the special qualities as set out in the Chilterns AONB Management Plan.'¹³⁸
174. Here I have instead reasoned that there is a clear affinity between LCA1 and LCA2 and the key features of the SHAONB defined in the MP. The Inspector there also set out that there was 'no formal access' to the appeal site, as opposed to footpath 597 in this instance, and that a neighbouring complex was 'institutional in scale'.¹³⁹ Circumstances there are not, therefore, directly comparable.
175. At Oakley the Inspector accepted that there would be 'some harm' arising from development within the AONB. However beforehand he explained how 'the site is very unusual in the AONB in that it is bounded by residential development on three and a half sides, and on the remaining fourth side is an engineered landscape.' That is clearly not the case here. Moreover housing

¹³² Ibid, paragraph 46.

¹³³ Ibid., banner heading.

¹³⁴ Ibid. paragraph 40.

¹³⁵ [CD9.28], paragraph 732.

¹³⁶ Ibid., paragraphs 5 and 6.

¹³⁷ Ibid., paragraph 41.

¹³⁸ [CD9.25], paragraph 52

¹³⁹ Ibid., paragraph 55.

land supply here is not as acute as in respect of Oakley, an agreed range of 1.6 to 2.9 years being referenced in that decision.

176. In summary none of the foregoing appeals grapple with development that would entail the extent of adverse effects that would result in this case (nor do any others to which my attention has been directed).¹⁴⁰ In short the body of appeals before me do not support the case for exceptional circumstances here.

Conclusion

177. The scheme would entail various benefits. As noted throughout this decision there are various elements of the development plan that would be complied with. The benefits of the proposal may fairly collectively be described as significant. I acknowledge the proposal has met with some local support with those in mind. However, and building on paragraph 77 of this decision, balancing different factors counting for or against a scheme is not reduceable to a formula.

178. There would also be fundamental and serious harm to the SHAONB. Having considered all the benefits of the scheme along with the scope for developing elsewhere, in some other way, and the consequences of dismissing the appeal, and even were I to reach a finding that the scheme were acceptable in all other respects, in my view exceptional circumstances have not been demonstrated. Collectively the benefits of the scheme are not sufficiently compelling to justify the harm that would result. Allowing the appeal would not be in the public interest.

179. The proposal would conflict with the expectations of section 85 of the 2000 Act and the approach in LPP1 policies SP1, SP2 (criterion 1), RE1, RE3 (criterion i), LPP2 policies DM11 (criterion a), DM15 (criterion b), and HNP policies H9 (criterion 9.2) and H1 (criterion 1.3). Following on from paragraph 51 of this decision, there would be conflict with the development plan as a whole.

180. Whilst there is no 5YHLS, inherent in my reasoning above is that there is nonetheless 'clear reason' for refusing permission with reference to NPPF paragraph 11.d)i. Having taken account of the development plan as a whole and all relevant material considerations, I therefore conclude that the appeal should be dismissed.

Tom Bristow

INSPECTOR

¹⁴⁰ [CD9.1] to [CD9.47].

SCHEDULE OF APPEARANCES

FOR THE APPELLANT:

| | |
|-----------------------|-----------------------------|
| James Maurici KC | Landmark Chambers |
| Matthew Dale-Harris | Landmark Chambers |
| Christopher McDermott | Sightline Landscape |
| David Neame | Director, Neame Sutton Ltd. |
| Matt Davies | Director, Engain |
| Charles Collins | Director, Savills |

FOR WAVERLEY BOROUGH COUNCIL ('WBC'):

| | |
|-----------------|----------------------------------|
| Emma Dring | Cornerstone Barristers |
| Robert Petrow | Managing Director, Petrow Harley |
| Katherine Dove | Principal Planning Officer, WBC |
| Michael Eastham | Principal Planning Officer, WBC |

THIRD/ INTERESTED PARTIES:

| | |
|--------------------|------------------------------------|
| Robert Coombes | Local resident |
| Alfred Lawson | Local resident |
| Jeremy Barton | Local resident |
| Howard Brown | Local resident, on behalf of HSRA |
| Dr Kirsten Ellis | Local resident |
| Katherina Dullaway | Haslemere Society |
| Colin McKinnon | Local resident |
| Farzana Aslam | Councillor, Haslemere Town Council |
| David Smith | Local resident |
| Geoff Miller | Local resident |

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|-----------------|------------------------------------|
| | |
| Sarah Claridge | Local resident |
| Paul Davis | Local resident |
| Elle Harris | Local resident |
| Rebecca Smith | Local resident |
| Tim Young | Local resident |
| Lesley Banfield | Councillor, Haslemere Town Council |