LAPORTE WORKS SITE, NUTFIELD

Appellant's Closing Submissions

Introduction

1. For all the many documents before you, sir, at the close of the inquiry the issues between the parties are narrow. Most of the important points are now agreed with the Council:

   (a) The shortfalls in housing delivery in Tandridge are **serious** and **chronic**, the level of unmet need for affordable housing is **acute**, and a **step change** in delivery is required.

   (b) Adoption of a new local plan that could provide a solution is not months but **years** away.

   (c) There has been no strategic review of the green belt boundaries in Tandridge since 1958. We agree that those boundaries are not only *deemed* out-of-date, but are *substantively* out-of-date, too.

   (d) We agree that if the Council is to meet its needs for housing, the use of green belt land is **inevitable**.

   (e) We agree that the appeal site is **grey belt**, and that if green belt is to be developed it is preferable to develop grey belt sites first.

   (f) We agree that if the tests at §155 NPPF are passed (meaning the development is "not inappropriate" in the green belt), then **permission should be granted**.

(g) As regards §155(a), we agree that four of five green belt purposes would be unaffected, and that with the scheme in place, Tandridge's green belt could still effectively serve purpose (c).

(h) On §155(c), we agree that the site already benefits from **excellent** public transport provision and that a range of amenities are accessible by bike or on foot. We agree the scheme would improve the area's sustainability. Critically, we agree that residents would be offered a **genuine choice** of sustainable modes.

(i) As to the balance, on one side of the scale, we agree that the appeal scheme brings with it a number of benefits, including the delivery of much-needed market and affordable homes, care, and self and custom-build accommodation. On those central benefits, we differ only slightly in respect of weight: the Council gives each **substantial** weight, whilst the Appellant gives some **very substantial** weight.

(j) We also agree the other upsides of the scheme would include local employment, biodiversity net gain, improvements to the bus service, and pedestrian and cycle route upgrades.

(k) On the other side of the scales, it's agreed that the heritage balance under §215 falls in favour of **approval**. It's also agreed that this is not a valued or designated landscape and that impacts on character and appearance would be **very limited** and **highly localised**. If there is harm to the green belt, the same would apply.

(l) Finally, we agree that there are no technical constraints to delivery – whether in relation to highways, drainage, air quality, ground contamination, or anything else.

2. In the end, if the Council ever wants to start meeting its shortfall not of tens or hundreds but of **thousands** of homes, this is exactly the sort of scheme it must start approving. The

benefits clearly outweigh the harms, and the planning balance lies in favour of a consent, whether the test applied is that at §11(d)(ii) or §153 of the NPPF.

3. We close our case under 7 headings:

   (a) The plan-led system in Tandridge is broken.

   (b) The housing shortfalls are severe.

   (c) The scheme's benefits are very substantial.

   (d) The scheme is not inappropriate development in the green belt.

   (e) The heritage balance falls in favour.

   (f) Landscape impacts would be limited and localised.

   (g) The benefits clearly outweigh the harms.

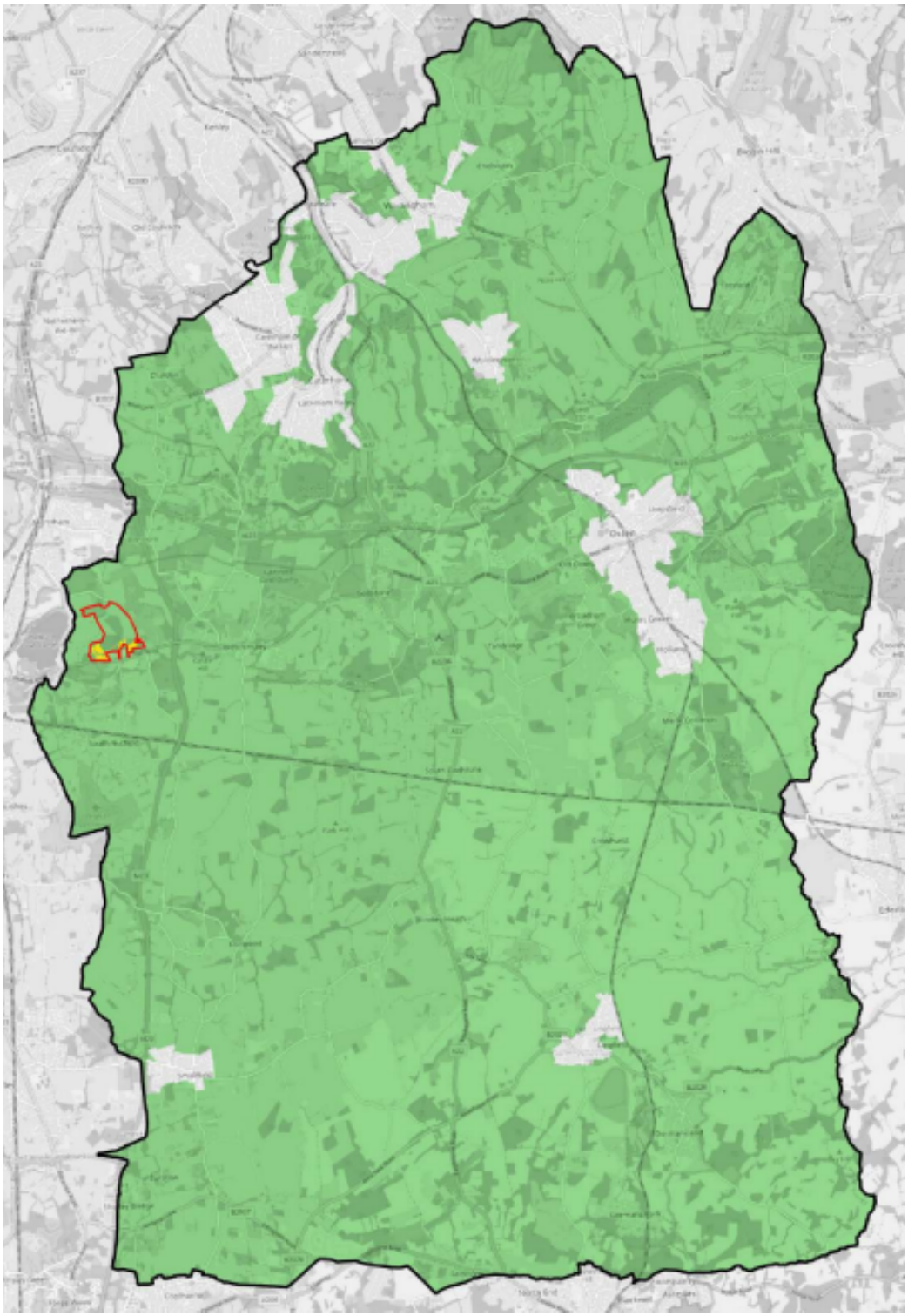
The plan-led system in Tandridge is broken

4. As we explained in opening, this part of Surrey has long been let down by the planning system.

5. Years go by – decades pass – national policies come and go. But through it all, this Council has managed to keep its head buried firmly in the sand. For too long, Tandridge has been frozen in aspic.

6. Some 23,300 of the 24,820 hectares of land in Tandridge – 94% of the district – are washed over by the metropolitan green belt, drawn up in the 1950s to curb the outward sprawl of

Greater London.[1] That 94% is the most of any authority in England. It covers everything outside the settlement boundaries:



[1] See the key diagram in CD4.2 Core Strategy at PDF p.86.

7. Given that constrained green belt geography (before we even come to other constraints such as the 2 areas of National Landscape in Tandridge), the position is clear: if this Council is to come anywhere near meeting its needs for housing, use of land currently washed over by the green belt isn't a choice. It's a certainty. As Mr Lee agreed, there is literally no other option.

8. The Council has recognised that fact in various plan-making papers over several years[2], noting e.g. in the evidence base for its now-abandoned local plan that "*development within the Green Belt is necessary*" given, among other things, "*(i) the acuteness/intensity of the objectively assessed need for housing, (ii) the inherent constraints on supply/availability of land prima facie suitable for sustainable development and (iii) the consequent difficulties in achieving sustainable development without impinging on the Green Belt*".[3] So, it's common ground that the use of land in the green belt to meet housing needs here is **inevitable**.

9. Not only is development in the green belt necessary, but the Council's own evidence shows that only a small amount can be provided around Tier 1 and 2 settlements.[4] To get any needs met at all, sites will have to be found further afield.

10. If green belt land is to come forward to meet needs now, Mr Lee told the inquiry that it would be preferable to start with sites – like this one – that meet the grey belt definition. And if sites can't be found around Tier 1 and 2 settlements in Tandridge, the obvious option is to look for sites on the fringes of an even larger subregional centre, just across

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[2] See CD6.60 Urban Capacity Study which refers to the potential for 723 homes from urban sites (PDF p.28), set against an annual current requirement of 993 homes (CD8.3 PDF p.7). See also the Exceptional Circumstances paper CD6.59 at PDF p.48 which accepts that green belt land is required to meet housing needs.

[3] CD6.59, p.48, §4.19.

[4] Exceptional Circumstances paper CD6.59 at PDF p.48.

the border in Reigate and Banstead. We will return to the importance of nearby Redhill shortly.

11. National policy expects the review and amendment of green belt boundaries to happen through the local plan process, i.e. at least every 5 years, so that needs are properly accommodated.

12. But here, the green belt boundaries have been essentially **unaltered** since they were established in 1958. **67 years ago**. In a totally different local, regional and national policy context. Those boundaries were not drawn up all those years ago to reflect any particular landscape, ecological, historic or environmental qualities of Tandridge. Their purpose was simple. They were drawn up for a basic spatial planning reason: to curb London's outward sprawl. The appeal site plays no role whatsoever in that core spatial function.

13. In any event, what is remarkable about this authority is that, generations later, despite needs of all kinds (and in particular needs for housing) having ballooned, the green belt boundaries have essentially been frozen. In the intervening decades, plan-making exercises have come and gone. But none of those plans have conducted a strategic review of those boundaries.

14. And that creates a Catch-22 which has stalled sensible development proposals in Tandridge for many years. It is inevitable that land which is currently within the green belt will be required for new homes. National policy generally expects the release of that green belt land to be managed in a plan-led way. But there is no plan-led mechanism to carry out that release, there has not been for a long time, and there will not be for **years** to come.

15. So, Tandridge's current development boundaries reflect the requirements of another generation. The Core Strategy was adopted almost two decades ago, in 2008, 4 years before

even the first version of the NPPF.[5] At that time, the national target was to achieve 200,000 homes a year – way off the current Government's objectives.[6] It is a plan for delivering just 125 dpa, as identified in policy CSP2. That is as little as **12.5%** of Tandridge's **current** requirement of 993 dpa under national policy.[7]

16. The Core Strategy is clearly wholly inadequate to meet the needs of the current era. But it was also inadequate judged against the actual needs for housing at the time it was adopted. That is because – as Mr Lee acknowledged – even back in 2008, it did not meet the now long-standing national policy requirement to meet objectively assessed housing needs.

17. Instead, the Core Strategy is predicated on housing numbers from policy H1 of the long-abolished South East Plan, which were themselves recognised as only a "*limited response*" to, and "*significantly below*", growth figures from as long ago as 2004.[8] As is explained within the document, the numbers were based on what was thought to be achievable, rather than intending to meet needs. The South East Plan records that independent advice to plan for significantly higher supply was not followed.[9] An intention to review the numbers under the Regional Spatial Strategy never happened because regional planning was abolished.

18. The Core Strategy itself tells us, the housing requirement in it is "*relatively limited*".[10] It's fair to say that is some understatement. It has nothing to do with real needs. And because the

[5] CD4.1.

[6] As explained in the now revoked South East Plan CD6.54 at §7.3 on p.56.

[7] See p.5 of the Housing Land Supply SoCG CD8.3.

[8] CD6.54, pp. 56-58.

[9] CD6.54, pp. 56-58, see §7.6.

[10] CD4.2 at §6.2.

numbers were so small, the Core Strategy made no changes to the green belt and did not even need to identify *a single* strategic site for housing.

19. In those circumstances, Mr Lee was right to accept that the most important policies for determining this appeal – including those which prescribe the green belt boundaries – are not only *deemed* out of date under national policy by virtue of FN8 NPPF. They are *substantively* out of date. It's now common ground that the Core Strategy is fundamentally inconsistent with the current NPPF, which makes objectively assessed housing needs the starting point for deriving the planned requirement.

20. Indeed, Tandridge has **never** had a local plan which attempts to meet its objectively assessed needs. Its most recent failed attempt to adopt a plan was predicated on a figure which – the examining inspector found – was only a **fraction** of true needs.[11] So it was a disappointment but no surprise that, after 5 years of examination, the Council's 2019 attempt to update the Core Strategy (work on which had begun at least as far back as 2015[12]) was set aside as unsound some 9 years later in 2024. Partly because it was not based on a robust housing requirement.[13]

21. And here we are, now back in the foothills of another plan-making exercise in Tandridge. But one with no early prospect of resolution. Even on the published Local Development Scheme ("**LDS**") which targets a date of July 2028,[14] we are not months but **years** away from the adoption of a new plan, and further still away from homes being delivered

[11] CD6.1, pdf p.35.

[12] CD6.57 is the 2019 submission local plan, which confirms at §3.1 on p.14 that reg. 18 consultations took place in 2015, 2016 and 2017.

[13] See CD6.41 at §67, §72, and §80.

[14] CD6.61.

pursuant to allocations in that plan. Given the last exercise took almost a decade, even at the time the LDS was published a 2028 date was highly optimistic.

22. But the LDS, adopted in February 2025, is now entirely out of date. The LDS says it will be monitored and reviewed if changes to national policy, plan-making procedure, or local government organisation occur.[15] And some really big changes have happened. There's a new draft NPPF. The plan-making system is being entirely reformed. And from April next year, Tandridge Council **will no longer exist** but will become part of a new East Surrey authority. But the promised LDS review has not taken place.

23. The resulting position is a regrettable one:

    (a) We have literally *no idea* when this area will adopt another local plan. We don't know who will adopt it, and we don't know anything about the new spatial development strategy it will be brought forward against. All we know is that it's at the very least **years** away.

    (b) Without a plan, unmet needs for housing in this district continue to spiral. Mr Lee agreed that the shortfalls are **serious**, **chronic**, and **lamentable**. We return to them below.

    (c) Mr Lee also fairly acknowledged that it is **unacceptable** for people in serious housing need to have to wait until a new plan is adopted. So, the Council has no in principle objection to schemes coming forward in advance of a new plan.

    (d) The use of land currently designated as green belt to meet those shortfalls is **inevitable**. That's not a choice, but a certainty. There is literally no other option.

[15] See PDF p.15.

24. In other words, this is a paradigm case where, as the Secretary of State said last year, we **cannot** wait for all green belt release to come through plan making.[16] On the contrary, in Tandridge, **if** the Council's needs are to be addressed at all in the short to medium term, it must be through the development management process. Through planning applications just like this one – on grey belt sites, close to a principal settlement, and with no landscape reason for refusal.

The housing shortfalls are severe

25. This breakdown in the plan-led system in Tandridge has had real consequences for real people. Most of all, and for many years, this Council has not come anywhere *remotely* close to meeting its real housing needs, including needs for retirement or sheltered housing.

26. Looking backwards, the Housing Delivery Test ("**HDT**") is the key metric to assess delivery. An HDT score under 75% means under-delivery is "*substantial*" (NPPF FN8). Tandridge has substantially failed every year that the HDT has been measured.[17] Its latest HDT score is just 42%, one of the worst performers in the country.[18] There has been a shortfall of 4,696 new homes in the last five years alone.[19] Mr Lee agreed that under-delivery here is "*persistent*" and "*chronic*", and the deficit is "*extremely serious*".

27. Looking forwards, it is also now common ground that:

[16] CD5.5, p.3.

[17] See SoCG (CD8.1, pdf pg 26) Table 1.

[18] See §4.3, and §§5.3-5.6 of Mr Pycroft's report.

[19] See SoCG (CD8.1, §7.5).

(a) The Council is chronically failing to meet the requirement at §78 NPPF to demonstrate a 5yhls.

(b) The 5yhls requirement reflects the importance Central Government puts on the objective of significantly boosting the supply of homes, which is at the very heart of the NPPF.

(c) The 5yhls requirement represents a minimum and is not a cap on delivery.

(d) This authority is failing to meet the requirement by quite some margin.

28. We disagree only as to the extent of the shortfall. The Council claims a **1.97 year** supply, whereas the Appellant's assessment finds just **0.87 years**.[20] Even on the Council's numbers, the shortfalls are staggering. We're not talking about missing the mark by tens or even by hundreds of homes. We're talking about **thousands**: a shortfall in excess of **3,000 homes** over the next five years on the Council's best case, and more than **4,000 homes** on the Appellant's assessment.

29. Mr Lee agreed that the situation is so bad that it does not make a material difference who is right on the actual number. Either way, he acknowledged the numbers are "*enormous*" and the shortfall is "*acute*".

30. The Council's attempt to find a solution through the 2022 Interim Policy Statement for the Housing Delivery ("**IPSHD**") has been a total failure, making no meaningful difference over the four years it has been in place. In any event, Mr Lee agreed that the

[20] SoCG 5YHLS (CD8.3, pg 3) Table SOCG2.

IPSHD can only attract limited weight given its status and the lack of consultation carried out on it.[21]

31. All of which explains the stark numbers in Mr Stacey's evidence, which show spiralling unaffordability in Tandridge – particularly for those on lower quartile incomes in greatest need. We'll return to those numbers below.

32. This position, which has endured for years here, should be unacceptable. It is antithetical to the proper functioning of a planning system intended to meet the needs of "*present and future generations*"[22]. And without any up-to-date local plan, it has gone on in Tandridge for far, far too long.

33. So, the real issue before this inquiry is whether the many people in need here **now** should have to wait another 5 years, another 10 years, or however long it takes, for Tandridge to actually *adopt* a plan, and then for sites to come forward in accordance with that plan. Or whether more urgent needs require more urgent solutions.

34. The problem is, of course, that no new local plan is in sight. With all the terrible social, economic and environmental consequences that failing to plan will bring: families unable to afford somewhere to live, more people languishing on the housing register, people being forced to find a home far away from where they work, shop and socialise.

35. Which means that, if any housing needs are to be met in this district in the short to medium term, it must be done through the development management process. Through planning applications like this one. Ideally, on sites just like this one: grey belt, outside of any landscape designation, and very close to one of Surrey's main towns.

[21] Which accords with the Warlingham appeal decision, CD10.40 at §§60-62.

[22] §8(b) NPPF.

The scheme's benefits are very substantial

(i) Market housing

36. Since 2012, Central Government's objective – now at §61 NPPF – has been to significantly boost the supply of homes. But as we've seen, this Council *cannot* demonstrate a 5yhls – even on its own case, the shortfall is thousands of homes. Mr Lee acknowledged the position is **lamentable.**

37. The need is substantial. And the imperative to bring forward the appeal scheme to alleviate the crisis is very substantial, too. Which is why Mr Henley is right to attribute **very substantial weight** to the appeal scheme's delivery of much-needed market homes. Mr Lee agreed the weight is significant/substantial (he told the inquiry he uses the two words synonymously, both being at the top of his scale). It's still not clear whether Mr Lee's scale goes further, to "very substantial". It matters little. And it would be wrong to temper the weight as Mr Lee suggested he may have done because of sustainability factors – if the site is not sustainable (which is of course not the Appellant's case) that should not be counted twice: as an adverse impact and again as a factor reducing the weight. But whether the weight is very substantial or substantial, what's really important is that everyone is agreed provision of market housing in the context of the dire local situation is a serious and hefty factor weighing in favour of the scheme.

(ii) Affordable housing

38. There is not only a need for market homes in Tandridge. There is also – especially – an agreed "*acute*" need for affordable homes.[23]

[23] See Affordable SOCG CD8.4 at §3.4.

39. The situation is dire. As Mr Stacey explained, even over the last few years, there has been a shortfall in delivery of thousands of affordable homes in Tandridge.[24] Almost 2,000 households are languishing on the housing register – a number rising year on year as delivery continues to flat-line and needs compound.[25] And those on the register are waiting on average not weeks or months but **years** for a home (almost 4 years on average for 3-bed homes).[26] The Council spends almost £2million a year on temporary accommodation, most of which is being spent to house families with children.[27] None of the statistics are disputed, and (as Mr Lee acknowledged) they are totally **unacceptable**.

40. Over the last 7 years, 85% of affordable needs have gone unmet.[28] The cumulative total affordable homes the Council has delivered over that period – 381 dwellings – is less than the identified 391 dpa need **for just one year**. And in fact, the position is actually worse than that, because the 391 dpa figure does not capture the full magnitude of the shortfall as it does not reflect the current definition of affordable housing (it doesn't include needs for low cost ownership products).

41. One of the consequences of this under-delivery is that house prices are rising fast in Tandridge (and well above national and South East averages).[29] Those on lower quartile incomes now need almost 15 times their annual income to buy a home.[30] Mr Stacey explained that is a **very high** figure and a 32% increase since the start of the Core Strategy

[24] Mr Stacey's Proof CD11.14 at pp.40-42.

[25] SOCG Affordable Housing CD8.4 at §3.7.

[26] Mr Stacey's Proof CD11.14 at p.50.

[27] See Mr Stacey's Proof CD11.14 at §§7.31-7.36.

[28] See SOCG Affordable Housing CD8.4 at figure 3.

[29] Affordable SOCG CD8.4 Figure 6.

[30] Affordable SOCG CD8.4 Figure 7.

in 2006.[31] Last year, Tandridge saw the largest increase in the lower quartile ratio **in the whole of England**.[32] In other words, Tandridge was top of the list of authorities where the affordability of housing (at the bottom end of the market) has worsened.

42. Sadly, the future is also bleak. Addressing the shortfall in the next five years would require 749 affordable homes to be delivered a year, but if the current rate continues, that will yield just 117 each year.[33] The step change required is not going to happen.

43. It's easy to get lost in the numbers – but it's also important to remember that the shortfalls have real consequences for real people, in real need, now. Mr Lee accepted this impacts the security, stability, health, mobility and development of some of the most vulnerable people in the area.[34] It means more people on the housing register, more people in temporary accommodation, and more people in unsuitable private rentals.

44. Unusually, in this case we had local residents making the incredible effort to take time out of their day to tell the inquiry the real impact of these shortfalls. Ms Hubbard explained that she grew up in Outwood, not far from Nutfield. As a single mother she was at one point forced to be homeless, put in emergency accommodation, and is now paying unaffordable rent in a badly maintained and low-quality private sector property. She explained that the prospect of a new development in the area where she grew up would allow her to move closer to her support network, that high quality new builds like this are needed, and that it would be "*amazing*" to have the opportunity to move into one of the site's affordable homes.

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[31] Mr Stacey's Proof CD11.14 at §6.57.

[32] Mr Stacey's Proof CD11.14 at §6.61.

[33] Mr Stacey's §§8.14-8.19.

[34] As other inspectors have found – see Mr Stacey's Proof CD11.14 at §8.8.

45. Ms Hubbard is not the only person looking for an affordable home in Nutfield. Only three affordable properties were advertised in Nutfield in 2024-2025, with each receiving hundreds of bids.[35] Mr Lee acknowledged that the demand for affordable homes in Nutfield is **overwhelming**, the situation is **desperate**, the supply is not remotely good enough to meet demand, and that it is imperative that there is a **step change** in delivery to bring about a solution quickly.

46. The position is clear. The shortfalls in delivery are *very substantial*. The needs are *very substantial*. The scale of the crisis in affordable housing and affordability is *very substantial*. And the consequences of the Council's failure to address the crisis are *very substantial*.

47. Against that backdrop, the appeal scheme proposes 50% affordable dwellings – some 103 units – far above the Core Strategy's 34% requirement at policy CSP4 (and a percentage higher even than is required to benefit from the NPPF golden rules). The tenure split is 75% affordable rent/social rent and 25% shared ownership. In a single permission, the appeal scheme would provide more affordable homes than have been delivered net in Tandridge *across the district as a whole* in all but 1 of the last 7 years.[36]

48. All of which means that Mr Stacey and Mr Henley are undoubtedly right to afford the appeal scheme's delivery of affordable housing **very substantial weight**. The Council is wrong to imply that the weight should be tempered because the scheme meets the policy requirement. First, a great deal more than the local plan requires is being provided. Secondly, the High Court has confirmed that it would be "objectionable" to downgrade

[35] See Mr Stacey's Figure 7.3.

[36] See Affordable SOCG CD8.4, Figure 3.

the weight given to affordable housing simply because policy requires it.[37] The relevant question is how great is the need. And here it is very great indeed.

(iii) Care provision

49. The appeal scheme would provide urgently needed market and affordable housing. But it does much more than that. Critically, a key part of the proposal is the provision of care accommodation comprising: (a) 41 units of extra care (also known as an Integrated Retirement Community ("**IRC**")); and (b) a 70+ bed care home.

50. Mr Warner explained that the extra care/IRC element would comprise self-contained accommodation only available to those in need of a minimum level of care. Over time the amount of care someone requires can increase. Such facilities typically come with a range of ancillary communal spaces, such as a restaurant, lounge, gym, and wellness centre.[38]

51. On the other hand, the care home would provide high quality, modern single ensuite rooms within a communal establishment. There is an important benefit to co-locating the care home close to the IRC, which is that if a person can no longer live independently, they can move to the care home without having to move to an entirely different area. Mr Warner explained that has the added benefit of avoiding splitting up aging couples.

52. There is very strong support in national policy for this provision. The NPPF tells us it is "*important*" that the needs of groups with specific housing requirements are addressed (§61) and explains the particular need to plan for older people (§63). The PPG[39] starts by stating that the need to provide housing for older people is **critical**. That's the only use of the

[37] *Vistry Homes Ltd v Secretary of State* [2024] EWHC 2088 (Admin) at §157. See also Norton Appeal CD10.34 at §72 and Coalpit Heath Appeal CD10.6 at §61.

[38] As explained in the diagram in Mr Warner's Proof CD11.17 at §2.4.

[39] CD5.18.

word "*critical*" to describe a particular need anywhere in national policy. It shows just how important the Government considers this to be.

53. In Tandridge specifically, there is an agreed significant quantitative and qualitative need for hundreds of extra care units and care home beds.[40] The qualitative need arises because many older-style care homes are no longer fit for purpose. Mr Warner explained that it is extremely unlikely that needs will be met in any meaningful way in the short to medium term. Without a step change, the disconnect between provision and need will grow considerably. Windfalls such as this are **essential** if any provision is to be secured.

54. Mr Lee agreed that the benefits of the care provision here (both the IRC and care home) are multi-faceted. In summary:[41]

    (a) The appeal scheme would directly meet identified **qualitative** and **quantitative** needs for specialist care facilities.

    (b) The provision of accommodation would contribute towards addressing the housing land supply, both directly (for the extra care) and also indirectly by releasing under-occupied homes into the wider market.

    (c) The care provision would also alleviate pressure on the NHS, by keeping people healthier, reducing overnight hospital stays, and decreasing GP visits.

    (d) The proposal would give rise to economic benefits, including local employment and visitor spend. Mr Geoghegan, an operator of an existing nursing home and

[40] All matters agreed both in the Care SOCG CD8.5 and confirmed orally by Mr Lee. The extent of the need is set out in Mr Warner's Proof at CD11.17, section 5.

[41] See Mr Warner's Proof at CD11.17, §§9.8-9.9 and the decisions in his Appendices at CD11.18 IW2 and IW3.

short-stay respite facility in Surrey, told the inquiry that on average his facilities employ 80-90 staff per unit on flexible hours.

55. In all, it is now rightly agreed with the Council that the care provision here must attract **substantial weight**.

(iv) Self-build and custom housing

56. Since the 2012 NPPF, the Government has required local authorities to plan for a mix of housing which includes those who wish to build their own homes. The PPG[42] tells us that self or custom-build plots help to diversify the housing market and increase consumer choice. And authorities are specifically told to plan to meet the needs of self-builders at §63 of the 2024 NPPF.

57. Unlike most areas of housebuilding, there is also a statutory duty to meet these needs. Section 2A(2) of the Self-build and Custom Housebuilding Act 2015 **requires** local authorities to grant permission for enough serviced plots to meet the demand for self-build and custom housebuilding in the area.

58. The Council *accepts* (a) that it is in breach of its statutory duty, (b) that it has no adopted policies for securing self and custom-build houses, and (c) that it has not undertaken a *"robust assessment"* of demand for self-build and custom housebuilding (as §3 of the PPG on Housing Needs of Different Groups requires).

59. To work out the level of demand, the PPG encourages use of the Council's register supported by additional data from secondary sources.[43] As Mr Moger explained, the Council's register alone is unreliable: fees are charged to join and to stay on it, and there

[42] CD5.11.

[43] See Mr Moger's Proof CD11.20 at §3.30, §7.14.

are various local connection and financial solvency tests. All of which artificially represses the numbers.

60. Mr Moger has looked in detail at all the relevant data available. His uncontested evidence is that there is **substantial unmet need** for self-build and custom housing in Tandridge in the order of more than 1,000 plots.[44] There are more than 50 people who have registered with one online provider for a plot in Nutfield Parish alone.

61. As to supply, the Council's own evidence is that not a single permission has been granted for this type of housing in Tandridge since the start of the register in 2016.[45] Mr Moger records four plots over that period.[46] That would still mean 97% of the needs identified on the register have gone unmet. And it also means that the 8 plots that would be provided through the appeal scheme would amount to twice as many plots as have been consented *in the entire district* in the last 10 years combined.

62. There is no local plan policy that seeks to address this need, and no pipeline of sites. A new local plan is years away. Mr Lee agreed that the only way to address the major shortfalls identified will be through windfall sites such as this.

63. In that context, it is now agreed that the provision for self and custom-build homes should be afforded **substantial weight**.

(v) Other benefits

64. It is common ground that there are also other benefits to be weighed in the balance:

[44] See Mr Moger's Proof at CD11.20 §4.94.

[45] See Mr Moger's Supplemental Proof CD11.22 at §2.11.

[46] See Figure 5.1 in Mr Moger's Proof CD11.20.

(a) Economic benefits, including sustaining 110 net additional local jobs, and some £7million of spend in the local economy. Mr Henley considers **significant** weight should attach to this provision. Mr Lee accepts moderate weight should apply.

(b) The delivery of a 22% biodiversity net gain ("**BNG**"), far in excess of the 10% requirement under the Environment Act 2021 which does not even apply to this scheme. The proposal is for some 50ha of open space to be put towards biodiversity and wildlife enhancements, including wetland ponds, wildflower meadow, new scrub and woodland planting. This a real benefit to the community, fully funded for 30 years. Mr Henley rightly affords it **significant weight**. Mr Lee says moderate weight.

(c) The delivery of an enhanced public transport offer, securing extension of the demand responsive bus service at a cost of £4million. This is a vast sum and would be of benefit to existing and new residents alike. Again, Mr Henley was clear that it should attract **significant** weight. Mr Lee applied limited weight.

(d) Footway and cycleway improvements, resolving the problems on the national cycle route and providing safer crossings over the A25. These too attract **significant** weight. Mr Lee affords moderate weight.

(e) Compliance with the golden rules, a benefit to which NPPF §158 requires further **significant weight** to be given in all cases.

The scheme is not inappropriate development in the green belt

65. At the outset, we note that since Tandridge's Local Plan[47] was prepared before the introduction of the December 2024 NPPF, it does not refer to grey belt as one of the exceptions where development is not "inappropriate" in the green belt. That is not a criticism but, as Mr Lee agreed, it means that policy DP13 is now completely out of date. So, all the witnesses rightly focused their green belt policy assessment on the new approach set out in the NPPF, and that is also what we shall do here.

(i) The site is grey belt

66. Annex 2 of the NPPF defines "grey belt" as:

> *"…land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. "Grey Belt" excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development."*

67. The parties agree that the site does not make a strong contribution to purposes (a), (b) and (d). The parties also agree that the application of policies relating to FN7 (other than green belt) would not provide a strong reason for refusing or restricting the development proposed. So, there is agreement that the appeal site meets the grey belt definition.

(ii) The development is not inappropriate

68. So, we turn to NPPF §155. If a site is grey belt and the tests at §155(a)-(d) are met, then the development is no longer considered "inappropriate" in the green belt. The criteria are: (**a**) the development would not fundamentally undermine the purposes (taken

[47] CD4.2.

together) of the remaining green belt across the area of the plan; (**b**) there is a demonstrable unmet need for the type of development proposed; (**c**) the development would be in a sustainable location (with particular reference to §110 and §115 NPPF); and (**d**) it meets the "golden rules" in §§156-157 NPPF.

69. As to §155(a), the green belt serves five purposes, set out at §143 NPPF. It is agreed the appeal scheme would cause **no harm** to four of these. There is disagreement only in relation to purpose (c), to assist in safeguarding the countryside from encroachment.

70. Of course, practically any development on a greenfield site will have impacts on purpose (c). But the test *is not* whether there would be an impact, but whether the development would **fundamentally undermine** the rest of Tandridge's green belt. Mr Lee agreed that represents a "*high bar*", and that "*fundamental*" means something "*essential or indispensable*" – something that "*goes to the very basis of the function*". He accepted that if a purpose is fundamentally undermined, it cannot continue to function anymore. So it's now common ground that to find a breach of §155(a), you, sir, would have to find that granting permission would mean Tandridge's green belt as a whole would no longer properly function in terms of preventing the countryside from encroachment.

71. We are a million miles from that here. The site comprises less than 0.03% of Tandridge's green belt, in an area of no strategic importance for that green belt whatsoever. The 7ha of developed site area would sit in a wider green belt of 23,299 ha. It is agreed that the visual impact of the scheme would be "*very limited*" and "*highly localised*". If this development is said to fail the test at §155(a), the same would apply to every proposed development in Tandridge – which make grey belt policy entirely pointless.

72. Mr Lee's case was, with respect, not credible at all. The reasons he gave for suggesting that Tandridge's green belt would be fundamentally undermined were totally irrelevant. He

referred to locational sustainability, planning history, sites in the National Landscape, and flood risk. None of those factors go to §155(a). He also referred to the wider parcel 28, assessed historically by Tandridge in a green belt review that preceded grey belt policy and the new green belt PPG by almost a decade. That review is entirely out of date and assesses an irrelevant geographical unit. The only units of geography that are relevant to the assessment under §155(a) are the development site and the remaining green belt across the area of the plan.

73. Mr Lee conceded in cross-examination that if the appeal scheme is considered "*individually*", it would not fundamentally undermine Tandridge's green belt. He also accepted that with the appeal scheme in place, Tandridge's wider green belt would continue to serve all of its functions in a meaningful way. That really is the end of the matter.

74. Mr Lee's final attempt to avoid the inevitable was a suggestion that allowing this appeal could set a precedent for future unknown hypothetical schemes in other unknown areas of the district to come forward. Again, that is entirely irrelevant to the assessment under §155(a), which requires consideration of the *specific development proposed* and that development *alone*. Considering the scheme alone is exactly the approach the Secretary of State took in the Greystoke Land grey belt appeal.[48]

75. Any hypothetical future unknown developments in Tandridge that come forwards would have to be assessed on their own merits against the §155 factors. Some might pass the tests, and some might also be permitted. But that is exactly the point of the policy: to bring forward new development on less sensitive parts of the green belt to tackle the housing

[48] CD10.1 at §27.

crisis. If grey belt policy did not give rise to development coming forward in the green belt in Tandridge, it would not be working.

76. As to the suggestion that the Appellant could try to develop other parts of the red line site later, again that is entirely irrelevant to the policy test under §155(a). But in any event, there is no evidence to suggest that is going to happen. Mr Holliday explained that the scheme's design has been carefully considered to avoid development on the more sensitive northern area. That area is secured for BNG enhancements and public open space in the section 106 agreement. Development of it would be inconsistent with the permission.[49]

77. So, allowing the appeal would simply amount to a decision confirming that where a site is grey belt and the §155 tests are met, the development is not inappropriate. That is not setting a precedent but carrying out a straightforward application of national policy. As we know, planning appeal decisions do not set precedents, in the sense that there is no rule that like cases must be decided alike. A generalised concern of a precedential effect unsupported by any evidence would not be a lawful reason for refusing permission.

78. In all, Mr Lee's suggestion that the appeal scheme would *fundamentally undermine* Tandridge's green belt *as a whole* is – with respect – totally misconceived.

79. As to §155(b), we all agree that the shortfalls are stark and the need for this development is very great. So there is no dispute that §155(b) is passed.

80. The test at §155(c) is whether the development would be in a sustainable location, with particular reference to §110 and §115 NPPF.

[49] Per *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30.

81. Sustainable transport modes are defined in the NPPF glossary as **any** efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, ultra-low and zero emission vehicles, car sharing and public transport. Mr Lee agreed that a site can be sustainable without being able to reach every kind of service or facility by every one of those modes.

82. The Council's case here is frankly very surprising, when County Highways, their expert statutory consultee and adviser, has rigorously assessed the proposal and concluded that the NPPF sustainability tests are met. Not just on the basis that there are no technical highways objections (e.g. on networks effects or safety) but also because Surrey County Council having considered the specific scheme and the proposed mitigation in detail now accepts that this scheme would:

    (a) Enable and encourage sustainable modes of transport;

    (b) Give priority to pedestrian and cycle movements; and

    (c) Facilitate access to high quality public transport.[50]

83. Mr Bird told the inquiry that transport authorities around the country deal with both sustainability and safety and are ready – as here – to give strong advice on both. Surrey's view is that an objection on highway sustainability grounds is unsupportable. They are right, and Tandridge is wrong to maintain this argument without Surrey's support.

84. The appeal site is a 5 minute bus, and 8 minute cycle ride, from Redhill, which Mr Lee agreed is "*very close*". Redhill is a sub-regional centre and one of Surrey's most significant

[50] See e.g. SCC's 14.3.25 response at Appendix 1 to CD8.8.

towns, whose services and amenities include a full service hospital, employment, a major supermarket, and a secondary school.

85. But when Tandridge developed its Core Strategy spatial hierarchy back in 2008, the influence of Redhill (being in neighbouring Reigate & Banstead district) was not taken into account. The same applies to the Council's 2015 Settlement Hierarchy study. In any event, that study is clear that it does not intend to make decisions as to which settlements should accommodate housing growth and does not consider "*capacity*" for growth.[51] It really doesn't help anyone considering the sustainability of the appeal scheme here. And it's important to keep in mind the Council's own evidence base, as discussed above, shows that only a small amount of its major housing needs can be met in Tier 1 or 2 settlements.

86. Buses from the site go directly to Redhill.[52] But they go many other places too, with a regular service from early until late to a range of top tier destinations in Tandridge and beyond. Mr Lee accepted that the existing bus provision to the site is **excellent**. Local care home operator Mr Geoghegan said that one factor that attracts him to this site is its location on a bus route, which is important for staff.

87. Bus provision would get **even better** were the appeal scheme to be allowed, given the proposed £4million contribution to extending the demand responsive bus service in a 5-mile radius of the appeal site. Mr Lee agreed this is a substantial contribution for a scheme of this size and a really **impressive opportunity** to enhance the sustainability of the area – exactly what the NPPF is trying to achieve.

[51] CD6.55 at pp.5-6 and §6.4 on p.23.

[52] Details of the provision are set out in the Transport SOCG CD8.2.

88. As to trains, the station at Redhill is genuinely accessible by either bus or bike in under 20 minutes and has very regular services to some of the most important service centres in Europe – including London stations and the employment hub that is Gatwick airport.

89. For cyclists, the nationally designated cycle route 21 goes from the edge of the appeal site to Redhill station, as well as connecting locations further afield. There is also an on-road cycling route to Redhill on quiet streets well within normal cycling distances.[53] Provision of high quality e-bike parking and chargers would be secured by condition. A major benefit would be the proposed £1.3million upgrade to route 21 to resolve the current serious drainage issues by carrying out repair works, maintenance, and providing sensitive all weather surfacing[54]: see schedule 12 of the s.106 agreement. Sustrans refer to the appeal scheme as a **special opportunity** to restore and promote this section of the national cycle network.[55] Mr Lee accepted that the scheme would again do exactly what the NPPF asks – take an existing situation and make it more sustainable by prioritising sustainable modes – and that with those enhancements cycling would represent a genuine choice.

90. As to walking, various publicly accessible walking routes including a 30 minute circular route are proposed within the site, opening up space for recreation, exercise and dog-walking.[56] The scheme makes provision for new on-site facilities in addition to the proposed housing, including a small class F2(a) shop and a larger space that could be put to a variety of uses under class E(e). As we have explained, the IRC would also include communal amenities.[57] The section 106 requiring provision of a shell and core for the shop

[53] As per Mr Bird's Figure 4.10 in CD11.12 – he explained the on-road route is 3.5km rather than 3km.

[54] As explained in Mr Bird's Proof CD11.13 Appendix E.

[55] See Mr Bird's Proof CD11.13 Appendix F.

[56] See Mr Bird's Proof CD11.12 at Image 4.2 on PDF p.31.

[57] See Mr Warner's Proof CD11.17 at §2.7.

is an entirely usual way of securing such facilities, which of course cannot reasonably be guaranteed to operate in perpetuity. There is no evidence that a shop would be unviable in the proposed location, which is both close to the road, close to existing residents of (north) Nutfield and within a new development of more than 200 homes and a 70+ unit care home.

91. It's worth reminding ourselves that proposed benefits of a scheme can even lawfully be taken into account *where they are not secured at all* in the section 106 or by condition (which is of course not the case here) – the weight to give any proposed benefit is a matter of judgment in all the circumstances.[58] The Council has never suggested any better way of securing the shop, and Surrey County Council are entirely clear that the section 106 package in the round is sufficient to make the scheme sustainable.

92. Beyond the site, the scheme proposes improved crossings over the A25, an extension of the 30mph speed limit, and minor improvements to the Mid Street junction.[59] A local resident of Outwood, Mr Roberts, told the inquiry about the benefit these *"long overdue"* pedestrian crossings would bring to new and existing residents. There are several facilities within an easy walking distance of the site, including a nursery, pub, church, community hall, and sports pitches. More facilities are available were someone to want a longer walk of around 20 minutes, including in South Nutfield.

93. NB Mr Neil is **wrong** at §17 to suggest that all facilities bar the pub are outside a reasonable walking distance, see e.g. at circa 800m or less:

[58] R *(Substation Action Save East Suffolk Limited v Secretary of State)* [2022] EWHC 3177 at §161; *London Borough of Tower Hamlets v Secretary of State* [2019] EWHC 2219 (Admin) at §§62-67. See also *R (Tesco Stores Ltd) v Forest of Dean DC* [2015] EWCA Civ 800 at §§7-8.

[59] Per the plans at Appendix D of Mr Bird's Proof CD11.13.

(a) Church Hill Nursery – 850m

(b) Public House Queen's Head – 800m

(c) Public House Chilmead Lane – 850m

(d) Nutfield Cricket Club – 850m

(e) Nutfield Youth Football Club – 450m

(f) St Peter and St Paul Church – 800m

In addition, of course, the scheme will include a range of facilities on site.

94. Mr Lee agreed that from the appeal site a range of services can be accessed on foot. He also acknowledged that to pass the tests in the NPPF, there is no requirement for all facilities and services to be walkable. There is simply no "*pint of milk*" test. As Mr Bird explained, the correct approach is to look at sustainability **holistically**. A local convenience store is one factor amongst many – it is not, as Mr Bird explained, any more important than, for example, convenient public transport access to employment, quality cycle paths, and a nearby train station.

95. Note the odd logic in the Council's case. Mr Neil says at §13 that walkability is *relevant* to sustainability. Which, of course, it is. But the leap comes when at §22 when he says that the supposed failure to the "pint of milk" test is *determinative* to the question of locational sustainability. Notwithstanding all of the common ground on rail, bus, cycling and indeed walking within the site. This leap is not supported in logic or policy. Indeed, it directly conflicts with the more holistic approach to locational sustainability and genuine choice required by §110 in the NPPF.

96. In all, the sustainable transport offer is really **very good indeed**. The policy tests on sustainability are more than met. The NPPF at §110 asks for development to be focused on locations which are *or which can be made* sustainable, through limiting the need to travel

and offering a **genuine choice** of modes. The final sentence of §110 NPPF then recognises the importance of context in reaching conclusions on sustainability, stating that "*opportunities to maximise sustainable transport solutions will vary between urban and rural areas*". Mr Neil's suggested at §21 that the need for contributions e.g. to bus services etc. means that the site is not now sustainable is **wrong**. The policy requirements are for developments to make locations *more* sustainable. That is what the bus contributions do. It does not follow that the site is not sustainably located already, and Mr Bird explained why it is.

97. The appeal site – like the vast majority of Tandridge – is in a rural area. That context is important. And yet while it is in a rural area, the scheme effectively limits the need to travel far by way of its location very close to the amenities of Redhill and also in reasonable cycling or walking distance of a range of even more local facilities. It further limits the need to travel by providing not just housing but other on-site amenities. Crucially, is now *agreed* with Mr Lee that residents of the proposed development would have a **genuine choice** for accessing a wide range of services and facilities including by use of sustainable modes.

98. Mr Lee's final suggestion as to why the proposal is not sustainable was that Nutfield does not contain large scale employment or retail. However, that would be the case for practically any village or rural area – Mr Lee agreed that following his approach, any site on the edge of a village should be refused. And yet NPPF §110 is clear that rural areas can be sustainable. It would be inconsistent with that policy to conclude that the only way to make a development sustainable is to locate it in a town.

99. As to §115 NPPF, it is agreed that all of criteria (b)-(d) are met. Criterion (a) refers to sustainable transport modes being prioritised, taking into account the type of development and also its **location**. Again, policy recognises that context matters, and here the context is a rural edge of village location. In that context, there can be no doubt that the proposed development does prioritise sustainable transport modes. Serious improvements are

proposed to buses and cycle routes, the scheme includes sensible proposals for pedestrian accessibility and permeability through the site, and there would be full provision of electric bicycle and vehicle charging and storage. Nobody could seriously say that this is a scheme that has been *designed* to prioritise the private petrol car.

100. In short, §155(c) is undoubtedly met, for all the reasons given by Mr Bird and by Surrey County Council. Surrey has advised Tandridge that the NPPF sustainability tests are met and that a sustainability objection cannot be maintained. They are the expert statutory consultee, and their views must be given "*great*" or "*considerable*" weight by the decision-maker – which is now you, sir.[60] Tandridge has given no good reason for departing from them.

101. Finally, the appeal scheme clearly meets all of the "golden rules" in §156 NPPF. The 50% affordable housing provision and publicly accessible open space would satisfy §156(a) and §156(c). In fact, the provision of high-quality open space is vast (only 7ha of the appeal site's 58.8ha – around 12% – is to be developed) and would be a real benefit to existing and new residents.

102. As to §156(b), the scheme would also deliver all necessary improvements to local infrastructure, secured by the section 106 agreement. The obligations are all agreed with the Council and County Council. Those improvements which have been identified as necessary will all be provided. No public body has suggested that any further infrastructure improvements would be necessary to make the development acceptable. In those circumstances, Mr Lee's suggestion that §156(b) is not met is simply inexplicable. Mr Neil says that Surrey don't think the location is "*ideal*". But that isn't the test. The test is whether

[60] E.g. *Shadwell Estates Ltd v Breckland DC* [2013] EWHC 12 (Admin) at §72.

it's a location which meets the requirements of §110 NPPF – i.e. offering a genuine choice of modes which limits the need to travel.

103. On the final day of the inquiry, Mr Neill made a new suggestion never raised by the Council before. It was that the obligation in respect of the F2 shop somehow did not meet the golden rules. The point was not clear and went nowhere. In any event, physical provision for the shop forms part of an overall package of sustainability improvements under the section 106. The details of the whole package and the shop obligation specifically have been negotiated and agreed by the Council and the County. The County is clear that in the round all necessary sustainability improvements are being provided. No other wording for the obligation is suggested. Mr Neil confirms at §25 of his closings that:

"the Council is not suggesting any <u>further</u> local infrastructure and the Council accepts that there is nothing more than the Appellant could reasonably do via a planning obligation to ensure a retail facility remains in operation for the lifetime of the scheme"

Guaranteeing permanent occupation of facilities (rather than providing requisite infrastructure) is not what the golden rules require. It would not be reasonable to require a guarantee for occupation in perpetuity, and the Council has never sought that – and still does not (see §25(c) of its closings).

104. In his closings at §25, Mr Neil suggests that §156(b) does not only require contributions to be made toward infrastructure. It also requires certainty that this infrastructure will be delivered. This is flat wrong. §156 is very clear. It requires "contributions" toward different things, including infrastructure. No more. No less. Certainty of delivery is outside the scope of the policy, and it is not a material planning consideration.

105. In all, when all improvements to infrastructure requested are being provided, and it remains the case that no further necessary improvements have been identified by any body,

the Council's suggestion that §156(b) is not met is not a reasonable one. Mr Neil's approach at §25(c) – i.e. to suggest that necessary contributions could simply *never* be made – was conflates §155(c) and (d). The Council has misunderstood the policies.

106. Because the scheme complies with the golden rules, the case for permission is fortified by the requirement to give **significant weight** in favour of granting permission: §158 NPPF. That is so whether or not §155 NPPF is met. It is a benefit left out of Mr Lee's overall balance.

(iii) Overall conclusion on grey belt

107. In sum, the tests at §155 NPPF are met. That means the development would not be inappropriate and would **not be harmful to the green belt**, including its principal characteristic of openness.[61] There is no green belt impact to weigh in the balance.

108. Mr Lee acknowledged that if the tests at §155 are met, the appeal should be determined under the balance at §11(d)(ii) NPPF. So, permission should be granted unless any harms both significantly and demonstrably outweigh its benefits.

109. In that scenario, Mr Lee accepted that **permission should be granted**. In other words, the Council's case relies entirely on the tests at §155 not being met. If they are, it is common ground that there is no reason to refuse the appeal.

(iv) Any green belt impacts would be limited

110. If notwithstanding the Appellant's evidence, the tests at NPPF §155 are not considered to be passed, then the scheme would comprise "inappropriate" development in the green

[61] See FN55 of the NPPF and the green belt PPG CD5.9 at §014 which confirms that development on grey belt land is excluded from the requirement to give substantial weight to any harm to the green belt.

belt. In those circumstances, §153 NPPF requires you, sir, to determine whether the scheme's benefits clearly outweigh its harms.

111. While not the Appellant's case, we consider this decision-making route briefly for completeness.

112. In the planning balance, §153 NPPF requires substantial weight to be given to any harm to the green belt. However, that is not to say that all green belt impacts are equal. A lower degree of harm must be more easily outweighed: that is why assessments considered impacts on purposes and openness in the first place.

113. The harm here is clearly at the lower end. It is agreed that four of five green belt purposes would be unaffected, and that impacts on encroachment would be "*localised*".

114. While there would be a significant impact on spatial openness at the site level, that is an inevitable consequence of putting houses on undeveloped land. The site will be less open because there will be built form where currently there is none. That is not a harm which is unique to the appeal scheme.

115. Openness also has a visual component. But, as Mr Lee accepted, the visual effects of the appeal scheme would be **highly localised** – limited to the appeal site and its immediate surroundings. Mr Holliday described the site as "*unusually contained*". Impacts would also be mitigated by the design – which responds to the constraints of the site, developing the least sensitive parcels and retaining extensive woodland buffers and open space.

116. Where does that leave us? Put simply, were the balance under §153 NPPF to be applied rather than that at §11(d)(ii), that would not change the outcome of this appeal. There would then be green belt harm to go in the balance. But Mr Henley was clear: the green belt harm and the limited further harms which have been identified (which we will explore

further below) would still be clearly outweighed by the profound benefits of the scheme. Which means that the "very special circumstances" identified by national policy would be deemed to exist. Clearly there are cases in which the green belt must yield in the face of unmet housing needs. This is one such case.

The heritage balance falls in favour

117. The appeal scheme would, we agree, cause a degree of less than substantial harm to two assets – the Grade II* Church of St Peter and St Paul and the Grade II Folly Tower. While part of the wider setting of these historic assets, it is important to keep in mind that the current character of the appeal site is not itself historic. Until late in the 20th century, the appeal site was being worked for minerals. So, while the current woodland and grassland have some attractive qualities, the landscape is young and restored.

118. In reality, there is little between the parties on the heritage impacts. Mr Josephs concludes the level of harm would be low level less than substantial. That accords with the expert advice from Surrey's Historic Buildings Officer. Ms Gardner is the outlier, concluding the harm to be low to moderate less than substantial.

119. But the important point is that whichever view on the impacts is preferred, it is now common ground following cross-examination that the public benefits outweigh the harms when the §215 NPPF balance is struck. That was squarely and repeatedly accepted by Mr Lee in cross-examination, who retracted the part of his Proof suggesting otherwise. Mr Neill's closings on this issue (as with several other issues) fly in the face of the evidence of his own witness.

(i) Folly Tower

120. The parties agree that the physical form and fabric of the Folly make the predominant contribution to its significance. Those main reasons why the Folly was designated in the first place would be unaffected by the appeal scheme.

121. Setting is not the key component of the Folly's significance but makes some contribution. The Folly was originally built in the gardens of a property called Well House, owned and constructed by the Crawleys – the family that operated the earthworks. The intervening land has since been subdivided and developed, with the Folly now within the modern setting of the gardens of Redwood, pretty much adjoined to a recent extension. Between the Folly and the appeal site is a large swimming pool and mature woodland.

122. Whilst the appeal site contributes to the significance of the Folly as an element of its wider setting, Mr Josephs explained that the experience and views of the Folly's setting have already been eroded by modern development, and the ability to appreciate meaningfully the building's heritage significance (rather than simply glimpse a view of its upper parts) is now very restricted in the wider landscape (including from the High Street). The architectural significance is only appreciable in close-up views that would be unaffected.

123. Ms Gardner referred to the woodland context of the appeal site as the last associative context to the historic backdrop this building once had. However, as Mr Josephs' Rebuttal identifies, that was a misinterpretation of the historic mapping.[62] At the time the Folly was constructed, the surrounding land was being worked for minerals – it was built deliberately not in a secluded and untouched rural landscape but in a mining one. In any event, strong tree buffers would be retained between the IRC and the Folly to the south.

[62] CD11.24.

124. In all, while the construction of the IRC would give rise to a change in some views in the setting of the Folly, that change would have a very limited bearing on our actual understanding or appreciation of the *heritage significance* of the asset, and the conclusion of Mr Josephs and Surrey's Historic Buildings Officer that the level of harm would be low level is clearly to be preferred.

(ii) Church of St Peter and St Paul

125. Both Ms Gardner and Mr Josephs agree again that the heritage significance of the Church is primarily derived from its physical fabric, in particular its attractive medieval interior and Burne-Jones windows. The physical fabric, rather than the setting, is the most important reason for its designation.

126. Whilst the appeal site contributes to significance as an element of its wider countryside setting:

(a) As above, setting is not the main component of that significance; the physical form and fabric of the church make the predominant contribution to that significance. Those are the reasons why the church was designated in the first place. They would be unaffected.

(b) The key place where the heritage significance of the church can be appreciated is coming down Church Lane. That view would be unaffected.

(c) The curtilage of the church is well-defined by mature trees, with a clear sense of enclosure within the churchyard. All of that would remain.

(d) While there would be filtered views of the IRC in the background from some locations within the curtilage of the church, the existing cottages at Beechcroft would be the focus of that view.

(e) Again, the more mature and better-quality trees around the perimeter of the site for the IRC would be retained and would form a visual buffer with the church.

127. Mr Josephs and Surrey's Historic Buildings Officer agree that the level of harm would be low less than substantial. Again, Ms Gardner's conclusion that the harm is low-moderate relied on an incorrect assessment of the historic mapping. First, the woodland on the site is not historic but reflects post-war and post-industrial regeneration. Second, the "historic" footpath 571 that Ms Gardner relies on is not a historic route after all but one created in the last 25 years. Third, the appeal site is not the "last piece" of the historic rural setting: the appeal site is not a "historic" landscape, and the more open rural setting to the north and down to the east by the old parsonage would be unaffected. Fourth, Ms Gardner's analysis appeared to be predicated on a misunderstanding of what could be seen of the appeal site from the churchyard.

(iii) Conclusions on built heritage

128. When the heritage harm is weighed against the public benefits of the scheme under §215 NPPF, the answer is entirely clear. The heritage balance falls very strongly in favour of approval, whether or not the conclusions of Mr Josephs or Ms Gardner are preferred. Mr Lee agreed to this in cross-examination. It now represents common ground between all of the witnesses (albeit Mr Neil suggests the opposite in his closings at §38 – that is assertion without evidence).

129. What we are left with is a low, or low to moderate, less than substantial harm to two listed buildings. On the other side of the scales, we weigh the very substantial public benefits that we have described above. And to those benefits we must add §158 of the NPPF which requires significant weight to be given to the scheme's compliance with the golden rules.

130. As to how this ultimately feeds into the planning balance, Mr Lee agreed that the NPPF §215 balance falls in favour of approval, and that local plan policy DP20[63] in requiring benefits to "significantly" outweigh heritage harm and in suggesting consents will be "exceptional" is completely inconsistent with §215 NPPF, materially reducing its weight.

Landscape impacts would be limited and localised

131. As Mr Lee agreed in cross-examination, housing needs cannot be met in Tandridge by brownfield development alone. Housing will need to come forward on greenfield land. So, to state the obvious, impacts one way or another on landscape character in this part of Tandridge are **inevitable**. The question is not *if* but *where*.

132. Tandridge as a district is covered by landscapes of the highest value and importance, including two National Landscapes and many Areas of Great Landscape Value.[64] The appeal site is not located in any kind of landscape designation (national, regional, local), nor does it affect the setting of any of those. Nor is Nutfield's townscape designated in any way, such as through a conservation area designation.

133. The appeal site is likewise not part of a "*valued*" landscape, which means the "*protection*" at §187(a) NPPF does not apply. In fact, while a greenfield site, Mr Holliday explained that it still has the slight character of regenerated mineral workings.

134. There was – quite rightly – no landscape reason for refusal. The Council has provided no specialist landscape evidence. A great deal is agreed between the parties. Importantly:

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[63] CD4.2, p.55.

[64] The designations are shown in the Core Strategy CD4.1 at PDF p.53. The importance of AGLVs is described at CSP20.

(a) Mr Lee confirmed that the Council does not dispute any of the judgments on landscape character or visual amenity set out within the LVIA and Mr Holliday's evidence.

(b) The visual envelope is agreed to be **very limited**[65] and the visual impacts to be **highly localised**. Upon leaving the site and immediately abutting roads, there would be no material perception of the scheme.

135. The Council's main point on landscape was that the appeal scheme would impact the linearity of Nutfield. However, as Mr Lee acknowledged, there is no policy requirement to protect and conserve that relatively linear settlement form – it is simply an expression of the fact that the settlement has grown up alongside a road. Mr Holliday explained that a linear form is often seen as a negative feature, akin to ribbon or arterial development.

136. The reality is that because landscape and ecological considerations have driven the design of the scheme, it would be sensitive to and would fit with the existing village's character. The more open northern part of the site to which there are some distant views in the wider landscape would not be developed. The extension to the village's form would barely be perceived.

137. A comprehensive landscape management plan would be secured by condition. That brings a valuable opportunity to formalise and secure access to a network of public routes across the site, which Mr Holliday described as a benefit to existing and new residents.

138. In all, this is exactly the sort of landscape context where new development in Tandridge will need to be directed if any of the district's needs are going to be met.

[65] See Figure 6 of Mr Holliday's Proof CD11.9.

The benefits clearly outweigh the harms

139. In terms of the development management framework, there are two routes to a decision, and Mr Lee agreed they are the same under both local and national policy.

140. The Appellant's case is that the development is not "inappropriate" in the grey belt, applying the tests at §155. If that is correct, it is agreed the decision is to be taken under the "tilted balance" at §11(d)(ii) NPPF. If §155 is passed and §11(d)(ii) applies, **then the parties are in agreement that permission should be granted**. In other words, if the Council is wrong about §155, it accepts the appeal should be allowed.

141. If it were to be concluded that the development was "inappropriate" in the green belt, then the test is that at §153 NPPF, namely whether the benefits "clearly" outweigh the harms.

142. In the end, the planning balance is clear, whichever route is taken.

143. On the one side of the scales, you have before you, sir, extensive evidence of the appeal scheme's **very substantial** benefits. Most importantly, it will deliver desperately needed market and affordable homes and homes for older people, in an area that is relatively unimportant to Tandridge's green belt.

144. On the other side of the scales, there is no credible evidence of harms of anything like that order. There would be harm to the landscape and to heritage, but those harms would be **limited** and **localised**. The same adjectives would apply to any impact on the green belt, were you, sir, to conclude that the tests at §155 are not met. Yes, the appeal site is currently undeveloped, which means, in the language of green belt policy, that part of the site would be less *"open"* if new homes were built. And yes, because part of the site is *next to* but *outside* the settlement boundary, the development would, in the language of the NPPF, *"encroach"* into that countryside, albeit in a very limited way.

145. But, with respect, that's the kind of narrow approach to development management which has prevented this Council from getting out of the mess they're in. If Tandridge is to come anywhere close to meeting its spiralling needs for housing, then schemes like this will need to be approved.

146. We must remember that even on the Council's case, you are asked to give the benefits substantial weight. The NPPF at §158 NPPF now also requires significant weight to be given to compliance with the golden rules, adding an additional policy boost toward granting permission.

147. Of course, on Mr Henley's evidence, the weight to be attributed to the scheme's benefits is very substantial. Which leaves us with a straightforward case: given the disastrous scale of shortfalls in delivery of housing of all kinds in Tandridge, and the failures to plan to address them, this scheme's benefits are profound, the imperative to bring them forward is compelling, and they clearly outweigh what would only be localised impacts to this appeal site and its immediate surroundings.

148. Ultimately, whether you apply the §11(d)(ii) or §153 test, the answer is the same. The balance in either case weighs decisively in favour of granting planning permission, and we ask you to allow the appeal.

ZACK SIMONS K.C.

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20th MARCH 2026