

**APPEAL BY TAYLOR WIMPEY
FORMER WISLEY AIRFIELD, OCKHAM**

**CLOSING SUBMISSIONS
On behalf of
GUILDFORD BOROUGH COUNCIL**

Introduction

1. The overarching issue in this case is whether the development proposed accords with the relevant policies in the Development Plan (principally A35), and whether there are any material considerations that indicate permission ought to be refused. The sub-issues addressed in these Closing Submissions feed into that framework.
2. In the Council's Opening Statement, it was identified that the three outstanding issues were: (a) the WACT arrangements; (b) skylark mitigation and a condition for Cycle Path 3 to Ripley; and (c) the securing of all other obligations required as per the Borough and County's CIL compliance schedules. Of those, dispute remains only in respect of (b).

3. These Submissions which should be read together with the Borough Council's Opening Statement are structured as follows:
 - a. Introduction, relevant context, and the site allocation
 - b. Criteria of A35
 - c. Other material considerations
 - d. Conclusions

Introduction, relevant context, and the site allocation

4. The relevant chapter of the Site's history commences with its allocation and simultaneous removal from the Green Belt. That followed public consultation on 2016 and 2017 versions of the Strategy and Sites Plan ('LPSS'). The LPSS was submitted to the Secretary of State in 2017, examination took place in 2018 with further days of hearings in early 2019 to consider updated household projections.
5. The Secretary of State's appointed Inspector published his report into the LPSS on 28 March 2019. In his report, having considered the issues in play in the 2017 Appeal and raised at the plan examination, the Inspector found that (with Main Modifications) the LPSS which included A35 was sound.¹ It was adopted by the Council on 25 April 2019.
6. A legal challenge to the LPSS was issued in the High Court in 2019, targeted at the lawfulness of the release of various sites from the Green Belt and their allocation for development. This included A35: a number of criticisms by

¹ CD/7.11 paras 180-193 at pp. 42-44. See also in relation to biodiversity and ecology: paras. 111-119 at pp.27-29.

claimants focused on the approach taken in respect of the Site, in particular regarding air quality impacts of development on A35 on the Thames Basin Heaths Special Protection Area ('TBH SPA').² All grounds of challenge failed.

7. Together with the Local Plan: Development Management Policies March 2023 ('LPDMP'), and the Lovelace Neighbourhood Plan 2021³, allocation policy A35 of the LPSS therefore stands as the most important part of the up to date Statutory Development Plan against which to assess this scheme – and these submissions therefore adopt this allocation policy as a framework.
8. The putative reasons for refusal, reflecting the recommendation contained in the report to committee (CD 4.1), identified there were breaches of criteria 3, 4, 5 and 6 of A35 in relation to transport strategy and 13, 14 and 23 in relation biodiversity and flood risk issues. Since the Council's resolution on its putative reasons for refusal the extent of remaining conflict with development plan as a whole is now much reduced, largely in consequence of the submission of the 18 July 2023 information and, subject to the imposition of the conditions which the Council believes to be necessary and subject to completion of the section 106 agreement, the Council is satisfied that it would not justify withholding consent for the appeal proposal.

Allocation description

9. The Council is content that the appeal proposal conforms with the A35 "Allocation" criteria. The lion's share of the allocation policy's residential elements

² CD/11.2, paras. 191-208 where the Court dismisses the air quality/ecology ground of challenge relating to A35.

³ As well as the Surrey Waste Local Plan 2019-2033 and South East Plan 2009.

– which comprises one of the Borough’s largest strategic sites – will be delivered through this appeal proposal, with some remaining residential elements to come forward through the two adjoining sites, representing the balance of the allocation site.⁴ The sheltered/extra care and Gypsy & Traveller elements of the allocation will be delivered on the appeal site in full. The non-residential elements – secured through the conditions⁵ and the S106⁶ as appropriate – will deliver a range of employment, commercial and community facilities including: a primary school, 280sqm for anchor convenience store (with PD rights restricted), other retail of 600-1100sqm, and commercial/offices 1800-2500sqm, in the local centre (to be designated as a local centre in local plan – policy E9(5) in LPSS). 2500sqm of B8 will be provided in the western side of the site together with an energy centre.⁷

10. In relation to allocation criterion (11) of A35, a secondary school will not be provided on site. This is not contrary to A35, since requirement (10) states that secondary educational need will be re-assessed at the time of the application. As set out at CD/3.61 paragraphs 4.20-4.24, and orally by Mr Singleton at the S106 session: SCC as Local Education Authority have expressed a preference for an off-site contribution towards secondary education provision rather than on-site provision. This is principally due to the number of pupils required to justify a new facility being insufficient in this case: if a secondary school were provided on-site, more pupils would need to be brought onto the site than would need to be transported off-site were off-site provision to be made. Whilst the Borough has sought on-site provision of facilities and services including education wherever

⁴ Harris and Hallam land.

⁵ Ref to condition 47.

⁶ Schd 10 of S106 (ID/5.63) re the community facilities.

⁷ See OR s.21 for CC and sustainability discussion, and s.32 re electricity and gas supply. CD/4.1.

possible, the means of secondary education provision is ultimately a matter for SCC as Education Authority. The Primary and nursery school, however, will be provided on site: this is secured through schedule 4 of the S106, and there is provision for expansion on reserve land to ensure that should the dwelling mix necessitate it, any additional primary education space can be provided on site.⁸ The S106 also allows for a separate, privately maintained nursery.⁹

Requirements – Transport strategy – Main issues 2 and 3

11. As to requirements (1) and (2) of A35, the primary vehicular access point will be provided via the A3 Ockham Interchange, with a spine road through the site¹⁰ giving access to/from Old Lane, where junction works will involve changed priorities such that the southern arm of Old Lane becomes the minor arm.¹¹

Modelling

12. Regarding off-site highway impacts and the proposed mitigation (requirement (3)), the Council is content that the modelling work undertaken to ascertain impacts is robust and in accordance with relevant (UKTAG) guidance, and the testing of it at the inquiry has only served to confirm this. Even Mr Russell for RHS/WAG accepted, having heard Mr Cooper's evidence, that he did not now take issue with much of the assessment work, including trip generation. Whilst

⁸ ID/5.63: S106 Part 1 of Schd 4.

⁹ S106 Part 2, Schd 4.

¹⁰ To be provided as a through route by occupation of 350 dwellings as per Condition 87.

¹¹ See McKay Main Proof of Evidence ('MPOE') at 8.6 and figure 6.

various modelling issues were raised, none raised any issues which seriously challenged the robustness of the assessment. This should be unsurprising. There cannot be many places where both the strategic and local highway network have been the subject of such extensive and exhaustive consideration of the effects of potential development over such a prolonged period as has been the case with Wisley Airfield.

13. The appeal proposal has been scrutinised extensively by National Highways and Surrey County Council, over a considerable period of time. Needless to say, both highway authorities have a clear interest in ensuring the modelling is robust. In respect of Surrey County Council, both Mr Cooper and the specialist modelling officer – Mr William Bryans¹² – have provided the necessary scrutiny and properly interrogated the highway modelling and scheme’s individual and cumulative impacts.¹³ Mr McKay characterised Surrey’s queries as thorough and diligent. National Highways, through consultants Jacobs Systra, have done the same with a focus on the strategic road network, and they are equally content.¹⁴ As can be seen from the correspondence, there has been liaison between the two highway authorities throughout with the County being copied into the correspondence between National Highways and the Appellant’s consultant (and vice versa) and so has been kept apprised of updates and further queries raised.¹⁵ As the inquiry heard and as appreciated by all three transport witnesses,

¹² A longstanding officer, very experienced in a number of modelling platforms, including SATURN and Omnitrans. He leads the team that looked at detailed junction modelling – outside of the Saturn model (McKay EIC).

¹³ Ref to Mr W Bryans approving the modelling – see CD/2.25 Part 5 of 5 (Transport Position Statement, Appendix I, at pdf p.5), and appendices to Transport Position Statement especially appendices H to K. Also see SoCG between TW and SCC at CD/5.11 at paras 3.1, and section 6.

¹⁴ Transport Position Statement – CD/2.25 and CD/2.26.

¹⁵ See for example in respect of the Ockham Park Roundabout issue discussed at the inquiry, emails exhibited in ID/5.42 at appendices B and C.

the use of Temprow 7.2 as opposed to 8 adds further robustness, 'baking-in' a higher level of assumed growth and therefore conservatism to the modelling.

14. The overarching conclusions and outputs of the modelling are corroborated by the work undertaken on behalf of National Highways for its DCO scheme¹⁶, which considered impacts on both the strategic and local road network. This has taken into account relevant growth in traffic as a result of, amongst other things, the delivery of the A35 allocation. SCC were consulted on and scrutinised the DCO scheme (which assumed the construction of the Wisley Airfield development) and its traffic implications for the local road network.¹⁷ Like the modelling undertaken by the Appellant, this showed that the road network – strategic and local – could cope with the additional and changed traffic movement without any severe impacts, subject to delivery of mitigation measures.
15. The County, and Borough Council, have not simply relied on the DCO modelling when considering the appeal scheme, however, but have carefully scrutinised the latest information available. The County is therefore satisfied that subject to the very extensive package of mitigation it has required, the impact would not be severe and would not have an unacceptable impact on highway safety.
16. This conclusion is not disturbed by the “rabbit out of the hat” issue that RHS/WAG has sought to raise regarding the LinSig modelling for the Ockham Park Roundabout. As you would expect, having regard to the detailed scrutiny the access proposals have undergone, this issue was raised and considered months

¹⁶ M25/A3 Junction 10 upgrade Development Consent Order: CD/13.1. Examining Authority's Report: CD/13.2

¹⁷ DCO decision.

ago by the highway authorities and resolved to their satisfaction.¹⁸ The transport assessment as a whole is robust and there is no conflict with paragraph 111 of the NPPF. Neither did the purported discrepancies¹⁹ alighted upon by RHS/WAG between LinSig and SATURN outputs amount to anything that would lead to the conclusion of an unacceptable safety impact or any severe residual cumulative impact on the network.

Mitigation

17. Although requirements (3) and (4) of A35 identify specific mitigation target roads/junctions, the necessity for and design of mitigation must flow from the outputs of the actual modelling undertaken for the scheme, and careful consideration of the existing state of the local road network.²⁰
18. ID/5.1A is the overarching map which shows the various highways mitigation measures which SCC seeks in relation to the local roads. These include:
 - a. Shown in red: traffic management and speed reduction measures in Ripley – on Newark Lane, Rose Lane and B2215 between Ripley and Burnt Common; and on the A247 road from Burnt Common through West Clandon.
 - b. Shown in blue: highway drainage resilience improvements including Plough Lane, The Drift and Ockham Road North.

¹⁸ ID/5.42 and references and exhibits given therein by Mr McKay.

¹⁹ 'Purported' because as Mr McKay indicated in answer to cross examination, a simplistic comparison between output data in the way undertaken by WAG's advocate does not tell one very much given the nature of the two different datasets.

²⁰ See Committee Report explanation of flow increases attributable to the scheme: CD/4.1 at p.119-120.

- c. Shown purple: carriageway haunching to improve cycle safety, on Ockham Road North, Ripley Lane, Hungry Hill Lane/Ripley Road, and Potters Lane.
19. In addition, the Appellant has agreed to fund and cooperate with SCC to deliver the Old Lane Traffic Management Scheme,²¹ and the Effingham mini roundabout,²² which will significantly improve highway safety on these parts of the network.
20. At the S106 session, RHS/WAG suggested for the first time that the contributions secured in relation to these measures might not be justified in full or part, but this suggestion found no support in any evidence that was before the inquiry by any of the three expert transport witnesses (including for RHS/WAG). Indeed Mr Cooper provided a regulation 122 compliance statement for each of the contributions sought and there is no dispute with the Appellant as to the need for those mitigations or sums sought for them. Further, at no point in his evidence did Mr Russell argue that any of the mitigation proposed in the event that the scheme were to go ahead, was unnecessary or that the contributions sought were not regulation 122 compliant.
21. Requirement (4) of A35 related to the Burnt Common slips. These are not being provided in conjunction with the appeal proposals, but that is because they have ceased to be a necessary part of the mitigation for the appeal proposal given the Junction 10 improvements. None of the three transport witnesses considered these to be required on the basis of the evidence, and nor does National

²¹ S106 plan F and Schd 3 paras 1.1-1.5: CD/5.29 at pp.22-23.

²² S106 Plans B, C, and Schd 3 paras 1.6-1.9.

Highways. Members of the public and some Rule 6 parties have nevertheless continued to argue otherwise, but, as Mr Cooper explained, the strategic model outputs (scenario 3) demonstrate to the County's satisfaction that appeal site-generated traffic going through Ripley will not be not significant, and in fact decreases in some scenarios – thus the mitigation comprising two slip roads onto Burnt Common is not required. Likewise, the junction of Ripley High Street with Newark Lane and Rose Lane which the model shows does not need improvements to accommodate development generated traffic.²³

Public Transport Strategy

22. Requirements (5) and (6) of A35 relate to the necessary provision for buses and cycle routes.

23. In respect of the bus network, through the WACT the scheme will ensure provision of a significant network of buses to serve Effingham or Horsley Station, Guildford and Cobham – as required in A35 requirement (5). This will be through new frequent bus routes as well as the potential extension of existing routes, and these will also provide benefits to the residents of the surrounding area in terms of public transport choice and accessibility. The County has also required a S106 contribution towards “Access for All” accessibility improvements at Horsley and Effingham stations, comprising bridge improvement, platform alterations,

²³ Cooper, EIC.

Specialist Inclusion Support Service and lighting alterations, new access path and bus stop and internal WCs, car park alterations and cycle parking.²⁴

24. The Borough is content that with the WACT arrangements as now agreed in the S106, there can be confidence in the in-perpetuity funding of these services.
25. In respect of cycle routes (requirement (6)), 5 new routes are proposed that would be suitable for the average cyclist. When combined with the co-ordinated speed reduction measures, this would provide a step change in the ease with which new and existing residents will be able to cycle to key destinations in the local area compared to the existing situation.
26. The route to Horsley rather than Effingham Junction was chosen because highway land is not available on Old Lane to deliver a segregated cycle route which would be required because of volume of traffic there.²⁵ Nevertheless, traffic management measures on Old Lane will see an improvement in the conditions for cyclists there, such that some will choose to use this route and travel to Effingham Junction station.
27. There will also be routes to Byfleet and Cobham & Stoke D'Abernon. Mr Cooper inspected all of the routes independently, has scrutinised their indicative design and the Road Safety Audits and is content as to their suitability. The only live dispute in relation to the cycle routes is one between the Council and the

²⁴ Cooper MPOE, section 5. As per Mr Cooper's EIC, contributions are also being sought for these purposes from other nearby developments (see his CIL Compliance Table for a summary of this).

²⁵ Cooper, EIC, and MPOE 5.9 explanation that pursuant to LTN/120 given traffic volumes segregation would be required here.

Appellant and relates to a proposed condition in relation to the cycle routes and in particular cycle route 3 to Ripley.

Disputed condition on cycle routes and route 3 to Ripley

28. In summary, the Council's position is that proposed condition 88 meets the tests for imposition. There are multiple sensitivities along the route of this cycle route that would potentially be affected by these off site works, and save for the condition there are no planning controls to ensure that these sensitivities are appropriately addressed. There can be no certainty that they would be adequately protected through a future S278 agreement.
29. More generally in relation to the cycle routes as a whole, they involve significant public realm interventions,²⁶ not yet designed in detail, and it is appropriate for the Borough Council to retain some further control over their design. For each of the routes, there is a clear need because of the sensitivity and rural character of the roads and area on and through which they will pass.²⁷ Indeed, Mr Collins and Mr McKay both considered that retaining the rural feel to the area would require sensitive design. Mr McKay stated that pursuing a landscape led scheme was a central component of the approach of the appellant and that it would be "*very unfortunate*" if that landscape led sensitivity approach for the site itself was not applied to off-site works. And Mr Davies confirmed that he had not to date undertaken any landscape impact assessment of the cycle routes and that this would be required.²⁸

²⁶ XX of McKay.

²⁷ A point also pressed by Mr Smith for the Horsleys Parish Councils.

²⁸ XX of Davies by Mr Smith on behalf of the Horsleys.

30. The cycle route plans documents submitted in July 2023 show that the Ripley cycle route would require removal of around 26 trees and hedgerow within the highway verge and potential additional tree removal.²⁹ Some of these trees are in close proximity to ancient woodland and within Ripley Conservation Area³⁰, and the indicative design shows at present a raised zebra crossing directly outside the Grade II* listed Talbot Inn.³¹
31. The Borough Council therefore required further assessment (namely, topographical survey, tree survey and Arboricultural Impact Assessment, ecological surveys for bats, hazel dormouse and nesting birds, and a heritage impact and mitigation strategy). Mr McKay accepted the detailed design process recommended by the Borough Council's landscape consultant at CD/3.97 should be undertaken, acknowledged that no arboricultural or heritage impact assessments had been undertaken and that they too would be required.³² Dr Brookbank agreed that because of the condition proposed for cycle route 3, "*the Inspector can be confident the relevant assessments will be carried out and mitigation delivered*", such that "*she can conclude that harm to any bats can be suitably addressed.*"³³
32. Mr Collins agreed that additional assessments would be required, and agreed that in the absence of a condition there would be no power to require such

²⁹ See summary in the Statement of Common Ground between TW/GBC at para. 5.13 – CD/5.10.

³⁰ CD/2.31, Part 13 of 17.

³¹ Ibid, final page (sheet 9 of 9). Also see Cycle Strategy paras 4.50-74 which explains the route: CD/2.35 part 1 of 2 at pdf p.25-27.

³² As recommended by the Council's consultants at CD/3.98, CD/3.99.

³³ Brookbank XX by RHS/WAG.

assessment or control in the future S278 agreement.³⁴ He also agreed that the details of the cycle route works have not been subject to detailed scrutiny through this Inquiry, and that there was no requirement for the County to consult the Borough as planning authority, and the LPA was not usually so consulted.³⁵ Mr Collins was referred in re-examination to CD/2.102, the Environmental Assessment Appendix 18.1 – Offsite Mitigation Options – to suggest that these routes had been assessed. However, 1.4 makes clear that these off-site mitigation options (including cycle routes) have not been designed in detail so only a high-level environmental assessment has been undertaken. This document only serves to confirm that the detail, such as it is, has not yet been assessed and that all acknowledge it needs to be.

33. Some reference was made to provision for administrative cost by the County to be recouped from TW as part of the S278, but ultimately Mr Collins accepted that the County's s.278 guidance sees assessment as being separate from administrative cost, and that there was no reference in the "mini S278 agreement" document submitted by TW³⁶ to such further assessment work or to arboricultural or ecological considerations forming part of the S278 agreement process.
34. Crucially, Mr Collins accepted that what the Borough is seeking in this case is consistent with the requirement imposed on the DCO, and that there is no logical reason why the approach in relation to national infrastructure projects regarding off site mitigation should be any different to comparable works for the appeal

³⁴ Collins XX, day 25.

³⁵ The latter proposition, in response to XX by RHS/WAG.

³⁶ ID/5.40.

scheme. That is particularly the case here where the works in Ripley for this scheme are intended to build on and add to those delivered consequent to the DCO³⁷. The DCO works involve a traffic calming scheme in Ripley, which will be approved by the Secretary of State in consultation with the County and the Borough.³⁸ Mr Collins agreed that Requirement 19(2) of the DCO³⁹ refers to both the County as highway authority being responsible for the engineering works, and the Borough as planning authority being responsible for other broader planning aspects. That is materially identical to the present case and what the Borough seeks now. The fact that planning permission is not strictly required for those DCO off-site works was not seen as a reason to omit to require consultation on planning matters by the Secretary of State in the DCO, nor should it be here. The Appellant's acceptance of the DCO approach but opposition to condition 88 is simply inconsistent.

Other matters relevant to highways

35. Personal criticisms of Mr Cooper made at the inquiry by members of the public were misplaced and entirely unjustified. Whilst there may be differences of view as to the mitigated effects of the appeal proposals on the local highway network, they do not justify the personal attacks made. Mr Cooper has set out his qualifications, expertise and experience – all of which are considerable – and there is no serious doubt that he has delegated authority to correspond and negotiate with the Appellant, and to sign the Statement of Common Ground.⁴⁰

³⁷ As also agreed by Mr Collins.

³⁸ DCO ExAR: CD/13.2 at pdf p.466.

³⁹ DCO: CD/13.1, Requirement 19(2).

⁴⁰ CD/5.11 – SoCG between TW and SCC.

Mr McKay expressed his surprise at the criticisms, describing Mr Cooper as a very diligent member of the development team at SCC, who “*hasn’t held back from asking pertinent questions*”, and who in this case has been co-ordinating the efforts of a number of officers at SCC, including public transport officers, cycling officers, road safety team, Public Rights of Way team and the modelling team. Further, Mr Cooper has been in regular contact throughout with Mr Knowles the relevant highways officer at the Borough Council.

36. For completeness, it should be noted that National Highways had a holding objection due to further information requested having not been supplied.⁴¹ That holding objection was withdrawn on 19 May 2023 with NH stating they were satisfied that subject to conditions, there were no unacceptable highway effects.⁴²

37. Overall, in respect of highways and transportation matters, following the submission of further information on 18 July 2023,⁴³ and agreement in the S106 to the highways contributions sought by SCC,⁴⁴ the Borough Council does not pursue its reasons for refusal relating to highway safety and mitigation. It is considered that requirements (1) to (6) of A35 have now been addressed satisfactorily.

⁴¹ CD/3.84 – 11 April consultation response containing holding objection for 56 days to allow assessment of further information.

⁴² CD/3.85, recommendation permission can be granted subject to suggested conditions.

⁴³ CD/2.18 for covering letter and document list.

⁴⁴ Schedule 3, S106, ID/5.29.

Requirements – Other infrastructure

38. Requirement (7) refers to the need for infrastructure to provision to have regard to the Infrastructure Schedule in the latest Infrastructure Delivery Plan or alternative interventions comprising comparable mitigation. The Council is content that this is complied with: the mitigation proposed is appropriate having regard to the impacts of the development, and aligns with the requirements of the Infrastructure Delivery Plan.
39. Requirement (8) relates to the aeronautical navigation beacon, which is to be decommissioned – see letter CD/3.76. To ensure this is controlled there are two conditions – 4 and 9 for the decommissioning of the beacon.
40. Requirement (9) relates to a number of other items of supporting infrastructure. A local retail centre is secured as set out above. In respect of healthcare facility, as Mr Wilmshurst-Smith for the Integrated Care Board ('ICB') of Surrey Heartlands NHS stated, a review is presently underway of service provision in the area and therefore flexibility has been sought as to the means of provision. Therefore, the S106 secures either an on site, off site or hybrid arrangement, to the satisfaction of the ICB in terms of quantum and timing. As with education, it is ultimately a matter for the ICB as to how it wishes to deliver these services and whether on-site provision is deemed feasible and appropriate. The other items under requirement (9) are a community building, open space, playgrounds and allotments – all of which are proposed to be provided.
41. Requirement (10) relates to secondary education need, and has already been addressed above.

42. The playing fields to be provided are secured, including those proposed for dual use, and the obligations also make provision for site transfer terms under which the land will be transferred to the WACT so they can make it available outside of school hours.⁴⁵

Ecology and SANG – (Main issue 1)

43. Requirement (11): harm to SNCI is to be reduced through appropriate avoidance and mitigation measures (the policy acknowledges there will be some harm but this is to be weighed in the balance against BNG and other enhancement measures). Requirements (12) and (13) relate to the need for green corridors and linkages to habitats outside site, and for bespoke SANG to avoid adverse effects on the SPA.

44. The Council's first putative reason for refusal related to information on air quality impact of the proposed development on ecology of the Thames Basin Heaths Special Protection Area and M25 Junction 10 DCO compensatory land. The Council's ecology consultant (Ms Sutch) and Natural England reviewed the July material⁴⁶ and their concerns have now been addressed⁴⁷, as well as stating they are content with the securing of SANG mitigation of recreational impacts.⁴⁸ The issue of skylarks is addressed below.

⁴⁵ See S106 Schedule.

⁴⁶ CD/2.18 – covering letter and document list, July 2023. CD/2.72 – further ecology survey information 2022-23.

⁴⁷ See SoCG at 4.53-54.

⁴⁸ Yates MPOE at 3.14.

45. The Council's third putative reason for refusal related to insufficient bat and invertebrate surveys, which as set out in Openings has been addressed to the satisfaction of GBC's ecology consultant⁴⁹ and Natural England, following submission of the July further surveys⁵⁰, with confirmation upon review that the missing information had been supplied⁵¹, the conclusions of the ES remain valid and that the mitigation measures proposed to be secured by condition are acceptable.
46. Having carefully considered all of the ecology evidence before the Inquiry, the Council remains content that the harm to the SNCI would be minimised, substantial BNG would be achievable, there would be sufficient green corridors and linkages to habitats off-site, and the SANG would ensure that adverse impacts on the SPA will be avoided. The Council is also satisfied that air quality impacts arising from the development would not lead to an adverse effect on the integrity of the TBH SPA.⁵²
47. The Council is content that the WACT arrangements, as now secured through the S106 (which gives the Council control over details of how it will operate, including how funding will be prioritised and step-in rights), give assurance that the SANG can be secured in perpetuity. As such the Council's concerns on this topic have now also been addressed.

Skylark mitigation

⁴⁹ Response of Ecology consultant contracted by GBC: CD/3.96.

⁵⁰ CD/2.18 – covering letter and document list, July 2023. CD2.72 – further ecology survey information 2022-23.

⁵¹ CD/2.72 – Update Ecology Surveys 2022-23.

⁵² The Council set out its detailed consideration of habitats issues in the OR (CD/4.1) at section 26.

48. The only dispute on ecological matters now is whether skylark mitigation as described in condition 57 will be required for the lifetime of the development (the Council's case), or whether it should expressly provide for the requirement to cease if it is demonstrated that Skylarks are no longer a Bird Conservation Concern red list protected species (TW's case). Dr Brookbank agreed in principle that mitigation should be long term, and confirmed that the Appellant's proposal that the skylark mitigation only be guaranteed to be retained for a period of 10 years was not on the basis of her advice.⁵³
49. As the Council's ecological consultant Ms Sutch stated at ID/5.60, even if skylarks cease to be a red list species, then they will still be s.41 Natural Environment and Rural Communities Act 2006 protected. The Appellant accepts the condition is necessary at present and if there is a change in the future meaning it is no longer necessary because of the bird's status then an application can be made accordingly at the time. The circumstances as they then stand will need to be assessed (e.g. if not red list but still s.41). It is not necessary or appropriate to pre-judge that by including a condition that provides for such contingency.
50. The Appellant has sought at various points to seek to bolster its position, and downgrade the importance of skylark mitigation, by stating that as landowner it could at any time without planning permission change the land management of the site and that would make it unsuitable for skylarks. Insofar as TW suggest this is relevant to the disputed part of the condition, it is inconsistent with their

⁵³ Brookbank XX.

acceptance of the necessity of condition 57 in principle. It is in any event the wrong approach. What is clear is that the appeal scheme envisages the loss of skylark habitat, and that is therefore an impact which falls to be considered and mitigated.

Flood risk and wastewater

51. Requirements (14) and (23) relate to Flood risk. The Council had a putative reason for refusal relating to the southern SANG following an Environment Agency objection. Further amended design information provided in July 2023⁵⁴ led to withdrawal of this objection by the EA⁵⁵ and therefore the Council no longer pursues this reason.⁵⁶ The Council considers that Opportunity (1) – reduce risk of flooding elsewhere as far as practicable – has been complied with, and flood risk on site and elsewhere is addressed in a satisfactory way subject to conditions.⁵⁷

52. Requirement (15) relates to ensuring there is sufficient sewerage capacity within Ripley wastewater treatment works for wastewater from the development. Thames Water in consultation has confirmed it is content with a proposed condition which would control occupation of the development beyond 600 dwellings subject to infrastructure upgrades.⁵⁸ The Council notes the concern expressed by members of the public on this subject but considers the matter has

⁵⁴ CD/2.18 – covering letter and documents list, July 2023. And see SoCG at 4.80-4.82.

⁵⁵ CD/3.89.

⁵⁶ CD/3.82 contains SCC as LLFA setting out their lack of objection.

⁵⁷ Flooding and drainage are addressed in the OR at section 25 – CD/4.1.

⁵⁸ CD/3.88 final Thames Water consultation response where a condition is recommended regarding wastewater. Currently condition 104.

been adequately addressed through consultation with Thames Water and the condition.

Traveller pitches

53. Requirements (16) to (21) relate to Gypsy and traveller pitches. The site provides a meaningful contribution to the Borough's need for such pitches, and the Council considers the proposed pitches are appropriately located within the site and that the detail of tenure and management is secured as required in the S106.⁵⁹ These are not matters to which any party to this Inquiry has raised dispute.

Design, heritage, and trees

54. Requirements (24), (25), (26) relate to sensitive design at site boundaries, creation of unique places with high standards of good urban design, incorporate high quality architecture responding to context of site. The Council set out in the Officer Report to Committee at sections 22-23⁶⁰ its assessment here, and overall conclusion that it was satisfied the scheme would (in the case of the full aspect) or would be capable (regarding outline) of achieving the aspirations of these requirements of A35.⁶¹ In particular the Council would note it is now satisfied with

⁵⁹ Part 2 of Schedule 6

⁶⁰ CD4/.1.

⁶¹ See GBC Landscape consultant final response on the whole application at CD/3.57 – conclusion at para. 3.4. See also GBC urban design officer consultation response at CD/3.93: para. 8.1 for main conclusion, and para. 8.2 where certain matters of detail were sought, which have now been secured through the conditions and obligations.

the treatment of the sensitive South Eastern corner of the site fronting Ockham Lane, which was a significant point of concern with the previous appeal scheme.

55. Heritage matters are addressed in the Officer Report to Committee at section 27⁶² – informed by input from the Conservation Officer⁶³ and Historic England⁶⁴ – which sets out the Council’s conclusion that there would be less than substantial harm at the low end of the scale to Ockham Conservation Area, RHS Wisley registered garden and 5 listed buildings.⁶⁵ For the reasons set out by Mrs Yates⁶⁶ the impacts, given great weight and considerable importance, are considered to be clearly outweighed by the identified and very considerable public benefits of the appeal proposals.⁶⁷
56. In respect of on-site trees, for the reasons set out at section 24 of the Officer Report to Committee, the Council is content that tree loss has been minimised, protected trees respected, and the SANG would allow for management of existing woodland so it could be improved and restored. The proposed planting would deliver a significant net-gain in native trees.

Other matters

⁶² CD/4.1.

⁶³ CD/3.59.

⁶⁴ CD/3.7.

⁶⁵ Yarne – GII, Upton Farmhouse – GII, Appstree Farmhouse – GII, Bridge End House – GII, Chatley Semaphore Tower – Grade II*.

⁶⁶ EIC and at MPOE paras. 4.9-4.17.

⁶⁷ There is consequently compliance with the relevant heritage policies: LPSS D3, LPDMP D18, D19, D20, D22, and relevant NPPF paragraphs.

57. Picking up other matters, the S106 secures that the in-vessel composting scheme which has been part implemented will not be carried out further.⁶⁸
58. There are a limited number of minor policy conflicts which as set out in Mrs Yates' proof do not render the scheme non-compliant with the development plan as a whole:
- a. LPSS H1 Homes for All: the number of self and custom build homes would be less than the target 5%, but given the scale of the scheme this is appropriate having regard to the need for such provision and would be a significant contribution will be made, in excess of currently recorded need.
 - b. LPDMP P10 requires Stratford Brook to have a 10m undeveloped buffer, which the SANG and its works including boardwalks would be within. The approach taken has been agreed by the EA and NE in relation to flood risk and ecology and the policy conflict is therefore justified.
 - c. Lovelace Neighbourhood Plan LNPH2 Housing for All: this requires fewer 1 bed units than the SHMA. Given the appeal site is the largest site within the borough, a SHMA compliant mix is considered appropriate – bearing in mind borough wide (rather than neighbourhood level) needs.

S.38(6) and Conclusions

59. The Council was not in a position to grant permission at the time the appeal was made, given in particular the objections at that point in time of the Environment Agency, Natural England, and National Highways as well as Surrey County

⁶⁸ S106, schedule 15.

Council as highway authority.⁶⁹ The Council would also note the substance and volume of material which came forward in July, demonstrates that information necessary to determine the application was lacking at that point.

60. Nevertheless, as matters now stand, the Council is of the view that subject to conditions and obligations (including regarding cycle paths, and skylarks), the appeal scheme complies with the development plan and that there are no material considerations indicating otherwise than that permission may be granted.

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⁶⁹ See response in Yates MPOE appendices A and B which address the points raised by Mr Collins in his MPOE at 6.41-43. It is unrealistic for Mr Collins to say that he could expect GBC to have determined the application at the time of appeal.