

**PLANNING AND REGULATORY COMMITTEE
NOTICE OF MEETING**

Date: Wednesday, 21 November 2018
Time 10.30 am
Place: Ashcombe Suite, County Hall, Kingston upon Thames, Surrey KT1 2DN

Contact: Huma Younis, Room 122, County Hall
Telephone: 020 8213 2725
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[For queries on the content of the agenda and requests for copies of related documents]

APPOINTED MEMBERS [11]

Tim Hall (Chairman)	Leatherhead and Fetcham East;
Matt Furniss (Vice-Chairman)	Shalford;
Mary Angell	Woodham and New Haw;
Natalie Bramhall	Redhill West & Meadvale;
Stephen Cooksey	Dorking South and the Holmwoods;
Edward Hawkins	Heatherside and Parkside;
Ernest Mallett MBE	West Molesey;
Andrew Povey	Cranleigh & Ewhurst;
Mrs Penny Rivers	Godalming North;
Keith Taylor	Shere;
Rose Thorn	Godstone;

EX OFFICIO MEMBERS (NON-VOTING) [3]

Helyn Clack	Vice-Chairman of the Council	Dorking Rural;
David Hodge CBE	Leader of the Council	Warlingham;
John Furey	Deputy Leader	Addlestone;
Tony Samuels	Chairman of the Council	Walton South & Oatlands;

APPOINTED SUBSTITUTES [11]

Mike Bennison	Hinchley Wood, Claygate and Oxshott;
Nick Darby	The Dittons;
Jonathan Essex	Redhill East;
Will Forster	Woking South;
David Goodwin	Guildford South-West;
Richard Hampson	Haslemere;
Nick Harrison	Nork & Tattenhams;
Julie Iles	Horsleys;
Yvonna Lay	Egham;
Chris Townsend	Ashtead;

Register of planning applications: <http://planning.surreycc.gov.uk/>

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AGENDA

1 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive any apologies for absence and notices of substitutions under Standing Order 41.

2 MINUTES OF THE LAST MEETING

(Pages 1 - 22)

To confirm the minutes of the meeting held on 17 October 2018.

3 PETITIONS

To receive any petitions from members of the public in accordance with Standing Order 84 (please see note 7 below).

4 PUBLIC QUESTION TIME

To answer any questions received from local government electors within Surrey in accordance with Standing Order 85 (please see note 8 below).

5 MEMBERS' QUESTION TIME

To answer any questions received from Members of the Council in accordance with Standing Order 68.

6 DECLARATIONS OF INTERESTS

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter

- (i) Any disclosable pecuniary interests and / or
- (ii) Other interests arising under the Code of Conduct in respect of any item(s) of business being considered at this meeting

NOTES:

- Members are reminded that they must not participate in any item where they have a disclosable pecuniary interest
- As well as an interest of the Member, this includes any interest, of which the Member is aware, that relates to the Member's spouse or civil partner (or any person with whom the Member is living as a spouse or civil partner)
- Members with a significant personal interest may participate in the discussion and vote on that matter unless that interest could be reasonably regarded as prejudicial.

7 SURREY COUNTY COUNCIL PROPOSAL WA/2018/1044- LINDEN FARM, ROSEMARY LANE, ALFOLD, CRANLEIGH, GU6 8EU

(Pages 23 - 72)

This is an application for the construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) without compliance with Condition 2 of Planning Permission WA/2016/1793 dated 20/01/2017 to allow modifications to the buildings and landscaping.

- 8 MINERALS AND WASTE APPLICATION SP18/00304/SCC - SHEPPERTON QUARRY, LITTLETON LANE, SHEPPERTON, SURREY TW17 0NF** (Pages 73 - 100)

This application is for the use and siting of two container units for employee welfare purposes, ancillary to the proposed aggregates recycling facility at the site for a temporary period until 30 September 2019 (retrospective).

- 9 ALLEGED PUBLIC BRIDLEWAYS BETWEEN LOW LANE (FARNHAM) AND THE MOORS (TONGHAM)** (Pages 101 - 130)

The County Council has a duty under Section 53 of the Wildlife and Countryside Act 1981 (WCA 1981) to modify the Definitive Map and Statement (DMS) if it discovers evidence which can be reasonably alleged to support a modification. An application was received for a Map Modification Order (MMO) to add public bridleways between Low Lane (C121), Farnham and Public Bridleway 348 (Tongham) known as The Moors, to the Surrey County Council Definitive Map and Statement (DMS).

10 DATE OF NEXT MEETING

The next meeting of the Planning & Regulatory Committee will be held on 19 December 2018.

Joanna Killian
Chief Executive
Thursday, 08 November 2018

MOBILE TECHNOLOGY AND FILMING – ACCEPTABLE USE

Those attending for the purpose of reporting on the meeting may use social media or mobile devices in silent mode to send electronic messages about the progress of the public parts of the meeting. To support this, County Hall has wifi available for visitors – please ask at reception for details.

Anyone is permitted to film, record or take photographs at council meetings. Please liaise with the council officer listed in the agenda prior to the start of the meeting so that those attending the meeting can be made aware of any filming taking place.

Use of mobile devices, including for the purpose of recording or filming a meeting, is subject to no interruptions, distractions or interference being caused to the PA or Induction Loop systems, or any general disturbance to proceedings. The Chairman may ask for mobile devices to be switched off in these circumstances.

It is requested that if you are not using your mobile device for any of the activities outlined above, it be switched off or placed in silent mode during the meeting to prevent interruptions and interference with PA and Induction Loop systems.

Thank you for your co-operation

Note: *This meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed. The images and sound recording may be used for training purposes within the Council.*

Generally the public seating areas are not filmed. However by entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

If you have any queries regarding this, please contact the representative of Legal and Democratic Services at the meeting

NOTES:

1. Members are requested to let the Democratic Services Officer have the wording of any motions and amendments not later than one hour before the start of the meeting.
2. Substitutions must be notified to the Democratic Services Officer by the absent Member or group representative at least half an hour in advance of the meeting.
3. Planning officers will introduce their report and be able to provide information or advice to Members during the meeting. They can also be contacted before the meeting if you require information or advice on any matter. Members are strongly encouraged to contact the relevant case officer in advance of the meeting if you are looking to amend or add conditions or are likely to be proposing a reason for refusal. It is helpful if officers are aware of these matters in advance so that they can better advise Members both before and during the meeting.
4. Members of the public can speak at the Committee meeting on any planning application that is being reported to the Committee for decision, provided they have made written representations on the application at least 14 days in advance of the meeting, and provided they have registered their wish to do so with the Democratic Services Officer no

later than midday on the working day before the meeting. The number of public speakers is restricted to five objectors and five supporters in respect of each application.

5. Petitions from members of the public may be presented to the Committee provided that they contain 100 or more signatures and relate to a matter within the Committee's terms of reference. The presentation of petitions on the following matters is not allowed: (a) matters which are "confidential" or "exempt" under the Local Government Access to Information Act 1985; and (b) planning applications. Notice must be given in writing at least 14 days before the meeting. Please contact the Democratic Services Officer for further advice.
6. Notice of public questions must be given in writing at least 7 days before the meeting. Members of the public may ask one question relating to a matter within the Committee's terms of reference. Questions on "confidential" or "exempt" matters and planning applications are not allowed. Questions should relate to general policy and not detail. Please contact the Democratic Services Officer for further advice.
7. On 10 December 2013, the Council agreed amendments to the Scheme of Delegation so that:
 - All details pursuant (applications relating to a previously granted permission) and non-material amendments (minor issues that do not change the principles of an existing permission) will be delegated to officers (irrespective of the number of objections).
 - Any full application with fewer than 5 objections, which is in accordance with the development plan and national policies will be delegated to officers.
 - Any full application with fewer than 5 objections that is not in accordance with the development plan (i.e. waste development in Green Belt) and national policies will be delegated to officers in liaison with either the Chairman or Vice Chairman of the Planning & Regulatory Committee.
 - Any application can come before committee if requested by the local member or a member of the Planning & Regulatory Committee.

The revised Scheme of Delegation came into effect as of the date of the Council decision.

TOWN AND COUNTRY PLANNING ACT 1990 – GUIDANCE ON THE DETERMINATION OF PLANNING APPLICATIONS

This guidance forms part of and should be read in conjunction with the Planning Considerations section in the following committee reports.

Surrey County Council as County Planning Authority (also known as Mineral or Waste Planning Authority in relation to matters relating to mineral or waste development) is required under Section 70(2) of the Town and Country Planning Act 1990 (as amended) (1990 Act) when determining planning applications to “*have regard to (a) the provisions of the development plan, so far as material to the application, (b) any local finance considerations, so far as material to the application, and (c) any other material considerations*”. This section of the 1990 Act must be read together with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (2004 Act), which provides that: “*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*”

Development plan

In Surrey the adopted development plan consists of the:

- Surrey Minerals Local Plan 2011 (comprised of the Core Strategy and Primary Aggregates Development Plan Documents (DPD))
- Surrey Waste Plan 2008 (comprised of the Core Strategy, Waste Development and Waste Development Control Policies DPDs)
- Aggregates Recycling Joint DPD for the Minerals and Waste Plans 2013 (Aggregates Recycling DPD 2013)
- Any saved local plan policies and the adopted Local Development Documents (development plan documents and supplementary planning documents) prepared by the eleven Surrey district/borough councils in Surrey
- South East Plan 2009 Policy NRM6 Thames Basin Heaths Special Protection Area (apart from a policy relating to the former Upper Heyford Air Base in Oxfordshire the rest of the plan was revoked on 25 March 2013)
- Any neighbourhood plans (where they have been approved by the local community at referendum)

Set out in each report are the development plan documents and policies which provide the development plan framework relevant to the application under consideration.

Material considerations

Material considerations will vary from planning application to planning application and can include: relevant European policy; the March 2012 National Planning Policy Framework (NPPF) and updates; the March 2014 national Planning Practice Guidance (PPG) and updates; National Planning Policy for Waste (NPPW) October 2014; Waste Management Plan for England 2013; extant planning policy statements; Government Circulars and letters to Chief Planning Officers; emerging local development documents (being produced by Surrey County Council, the district/borough council or neighbourhood forum in whose area the application site lies).

National Planning Policy Framework and Planning Practice Guidance

The [National Planning Policy Framework](#) (NPPF) was updated in July 2018. This replaces the first version published in March 2012. It continues to provide consolidated guidance for local planning authorities and decision takers in relation to decision-taking (determining planning applications) and in preparing plans (plan making).

The NPPF sets out the Government's planning policies for England and how these are expected to be applied and the associated March 2014 [Planning Practice Guidance](#) (PPG), as amended, provides related guidance. The NPPF should be read alongside other national planning policies on [Waste](#), [Travellers](#), [Planning for Schools Development](#), [Sustainable Drainage Systems](#), [Parking](#), and [Starter Homes](#).

At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 10). The NPPF makes clear that the planning system has three overarching objectives in order to achieve sustainable development, which are interdependent and need to be pursued in mutually supportive ways in order to take opportunities to secure net gains across each of the different objectives. These objectives are economic, social and environmental.

The presumption in favour of sustainable development in the NPPF does not change the statutory principle that determination of planning applications must be made in accordance with the adopted development plan unless material considerations indicate otherwise. The NPPF is one of those material considerations. In determining planning applications the NPPF (paragraph 11) states that development proposals that accord with the development plan should be approved without delay. Where there are no relevant development plan policies, or the policies which are most important in determining an application are out of date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

The NPPF aims to strengthen local decision making and reinforce the importance of up to date plans. Annex 1 paragraph 213 states that in determining planning applications, local planning authorities should give due weight to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies are to the policies in the Framework, the greater the weight they may be given).

HUMAN RIGHTS ACT 1998 – GUIDANCE FOR INTERPRETATION

This Guidance should be read in conjunction with the Human Rights section in the following Committee reports.

The Human Rights Act 1998 does not incorporate the European Convention on Human Rights in English law. It does, however, impose an obligation on public authorities not to act incompatibly with those Convention rights specified in Schedule 1 of that Act. As such, those persons directly affected by the adverse effects of decisions of public authorities may be able to claim a breach of their human rights. Decision makers are required to weigh the adverse impact of the development against the benefits to the public at large.

The most commonly relied upon articles of the European Convention are Articles 6, 8 and Article 1 of Protocol 1. These are specified in Schedule 1 of the Act.

Article 6 provides the right to a fair and public hearing. Officers must be satisfied that the application has been subject to proper public consultation and that the public have had an opportunity to make representations in the normal way and that any representations received have been properly covered in the report. Members of the public wishing to make oral representations may do so at Committee, having given the requisite advance notice, and this satisfies the requirements of Article 6.

Article 8 covers the right to respect for a private and family life. This has been interpreted as the right to live one's personal life without unjustified interference. Officers must judge whether the development proposed would constitute such an interference and thus engage Article 8.

Article 1 of Protocol 1 provides that a person is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest. Possessions will include material possessions, such as property, and also planning permissions and possibly other rights. Officers will wish to consider whether the impact of the proposed development will affect the peaceful enjoyment of such possessions.

These are qualified rights, which means that interference with them may be justified if deemed necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Any interference with a Convention right must be proportionate to the intended objective. This means that such an interference should be carefully designed to meet the objective in question and not be arbitrary, unfair or overly severe.

European case law suggests that interference with the human rights described above will only be considered to engage those Articles and thereby cause a breach of human rights where that interference is significant. Officers will therefore consider the impacts of all applications for planning permission and will express a view as to whether an Article of the Convention may be engaged.

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MINUTES of the meeting of the **PLANNING AND REGULATORY COMMITTEE** held at 10.30 am on 17 October 2018 at Ashcombe Suite, County Hall, Kingston upon Thames, Surrey KT1 2DN.

These minutes are subject to confirmation by the Committee at its next meeting.

Members Present:

(*present)

- * Mr Tim Hall (Chairman)
- * Mr Matt Furniss (Vice-Chairman)
- * Mrs Mary Angell
- * Mrs Natalie Bramhall
- * Mr Stephen Cooksey
- * Mr Edward Hawkins
Mr Ernest Mallett MBE
- * Dr Andrew Povey
- * Mrs Penny Rivers
- * Mr Keith Taylor
- * Mrs Rose Thorn

Substitutes:

- * Mr Nick Darby

30/18 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS [Item 1]

Apologies for absence were received from Ernest Mallett. Nick Darby substituted for Ernest Mallett.

31/18 MINUTES OF THE LAST MEETING [Item 2]

The Minutes were APPROVED as an accurate record of the previous meeting.

32/18 PETITIONS [Item 3]

There were none.

33/18 PUBLIC QUESTION TIME [Item 4]

There were none.

34/18 MEMBERS' QUESTION TIME [Item 5]

There were none.

35/18 DECLARATIONS OF INTERESTS [Item 6]

Councillor Andrew Povey declared a non-pecuniary interest as a trustee of the Surrey Hills Society.

**36/18 MINERALS AND WASTE APPLICATION TA12/902- OXTED QUARRY,
CHALKPIT LANE, OXTED, SURREY, RH8 0QW [Item 7]**

Officers:

Samantha Murphy, Principal Planning Officer
Caroline Smith, Planning Development Manager
Nancy El-Shatoury, Principal Lawyer
Andrew Stokes, Transport Development Planning Team Leader
Stephen Jenkins, Deputy Planning Development Manager

Speakers:

Martin Fisher, made representations in objection to the application. The following key points were made:

- Martin Fisher explained that he was the Leader of Tandridge District Council.
- He noted that there was a requirement to balance resident experience with economic viability.
- He explained that the road network surrounding the application was not suitable in some places for Heavy Goods Vehicles (HGVs). It was clarified that some roads were too narrow and not of sufficient quality, there is a lack of pavements and it is difficult for HGVs to pass each other in places.
- It was stressed that HGVs discouraged other road users in some cases and had an impact on safety of other road users. It was also noted that there had been cases of driver intimidation as a result of increased HGV usage.
- He suggested that traffic modelling supported a lower level of HGV movements. He stated that 154 movements created an impact on well-being and the environment and caused an adverse impact on road safety. It was suggested that there should be an average daily limit of 56 daily trips from the site Monday – Saturday over any 12 month rolling period, reducing the limit, specified in condition 25 of the report. A figure any greater than 112 increased the probability of HGVs meeting each other where they cannot pass on the road network. Had been disappointed that the previous figure of 56 trips had been set aside.

Jackie Wren, made representation in objection to the application. The following key points were made:

- Proposed levels of HGV movements included in the report is unacceptable and that it is only a matter of time before an accident occurs.
- Concerns regarding safety were raised, noting that there were increased chances of accidents occurring due to the high levels of HGV usage and the quality and suitability of the roads in the surrounding area. There was intimidation and fear from 32 tonne lorries.
- They have proved with expert opinion that the levels are too high and the methodology in the Officer report is inadequate.
- It was stressed that residents supported the idea of a reduced cap on HGV usage to reduce risks of fatality.

- Request the proposal is refused.

Amanda Griffiths, made representation in objection to the application. The following key points were made:

- Concerns were raised regarding noise from additional HGV traffic and safety, including mounting of pavements. It was suggested that the route plan is made explicit for HGV users.
- Concern there are blind bends on the road meaning lorries have to travel in the middle of the road. HGVs drive too fast. Width of the road insufficient.
- Safety concerns were raised for young children walking to St Mary's School.
- This is not addressed by the limit of 156 HGV movements per day. 114 HGV movements on a Saturday is inappropriate.
- The HGVs have contributed to road damage and damage to grass verges.
- Proposed that a 20mph speed limit is enforced for HGVs and site owners contribute to damage done to roads.
- It was suggested that the site could also close on Saturdays to reduce disruption.

Lisa Willoughby, made representation in objection to the application. The following key points were made:

- Has been a resident of Barrow Green Road for over 14 years.
- Concerns were raised regarding safety and potential for accidents. It was stressed that accidents would become common with increased numbers of HGVs. The roads are not built for HGVs.
- It was noted by the resident that the route proposed was not suitable and designed for HGVs.
- Death of Mitzi Steady was used as evidence of how dangerous HGVs are and the danger to local residents.

Councillor Cameron Mackintosh, the local Member, made representation to the committee as follows:

- The Member noted residents' concerns and expressed concern that the Environment Agency had not consulted with Surrey County Council regarding increased tonnage in the Environmental Permit variation.
- The Member noted support for the conditions restricting the number of vehicles stating that there should be no movement during school drop off and pick up hours.
- Recognised that operator had been operating with no conditions in place and thanked planning officers for all their hard work.
- Feel the HGV figure is high but understands the position Surrey are in and supports the figure proposed by Martin Fisher.
- The site has been working with nothing in place for too long.

Councillor David Hodge, as Leader of the Council made a written representation to the Committee, which was read by Cllr Cameron Mackintosh. The following key points were made:

- The Leader noted that the Environment Agency had failed to consult with Surrey County Council as the statutory Highways Authority on the increased volume of waste that can be disposed at the Chalkpit Quarry as part of the Environmental Permit variation.
- The Leader has written to the Environment Minister asking him to come to Oxted and view the site and impact it has had on residents and the area.
- The Leader suggested the following recommendation to the Committee, 'The SCC Planning Committee request that the Leader of SCC write in the strongest terms to Mr Michael Gove, the Environment Secretary to implore that he issues a mandate as early as possible that no further licenses to increase permits can be issued without first a full consultation with the respective Mineral Planning Authority and Highway Authority'.

Key points raised in the discussion:

1. Officers introduced the report, noting that this was a periodic review of conditions attached to the existing planning permission. Planning permission for the site already exists and members cannot refuse permission but can amend conditions.
2. Officers explained that the Council had presented clear evidence based arguments that justified HGVs movements which is currently specified in the conditions of the report. It was explained that any further reduction could result in a claim from the applicant on impact to economic viability of the site.
3. Officers noted that any deferral of the application would also postpone implementation of any new conditions, which would result in the use of conditions last set in 1997.
4. Officers noted that consultation feedback had resulted in several changes to the original 37 conditions that were set out in the report. It was noted that these changes had been accepted, but that four conditions were still in dispute, including school pickup times and HGVs being able to travel in convoy.
5. Members noted that they had undertaken a site visit as part of reviewing the application and that vehicles were able to pass one another on the majority of the route going along normal two way roads, but only some parts of the route (i.e. areas where there were pinch points) were less fit for purpose.
6. A Member queried that as there were currently no restrictions on lorry movements, how this compared to the previous figures.
7. Officers noted that HGV restrictions had been set at a comparable level to the number of vehicles which were utilising the route at present. It was noteworthy that the applicant had requested a significantly higher limit than that recommended by officers.
8. Officers explained that weighbridge data had been used to justify HGV movement numbers proposed within the report.
9. A Member stated that more should be done to support road safety measures for residents. Members noted that safety was a primary concern and supported limits on the number of HGVs during specified school term times.
10. Members queried the economic viability of the site, particularly noting that the applicant had not provided details of economic

viability of the site and therefore any impacts could not be measured.

11. Councillor Rose Thorn proposed an amendment to condition 25 in the report, that the maximum number of HGV movements in any one day not to exceed, 112 (56 in and 56 out) Monday to Friday (pro- rata for Saturdays). This was seconded by Councillor Natalie Bramhall and when put to the vote, unanimously agreed by the committee.
12. Concerns about older children walking to school and not hearing lorries was raised. It was queried why the average couldn't be a monthly figure instead. Officers responded to this point.
13. Another Member stated that he was encouraged to see a condition in the report about lorries using the weighbridge, he further queried if there was information on the profitability of the site.
14. Although there were concerns around safety and the lack of justification round economic viability from the applicant, it was agreed that the reasons for amending condition 25 would be agreed between officers and the Chairman.
15. The Committee unanimously agreed the recommendation suggested by the Leader.
16. A Member queried what the mechanism was with regards the condition requiring the applicant to conduct a survey of the public highway and if the applicant disagreed with the outcome of this. Officers said that the Highways Act 1980 could be used to recover money for maintenance arising from damage caused by the applicant if required.

RESOLVED:

- I. That application **TA12/902, Oxted Quarry, Chalkpit Lane, Oxted, Surrey RH8 0QW** be **PERMITTED** subject to conditions and informatives listed in the report and update sheet, including an amendment to Condition 25, to read-

'There shall be no more than an average of 76 daily Heavy Goods Vehicle (HGV) movements (38 in and 38 out) to/ from the site Monday – Saturday over any 12 month rolling period with the maximum number of HGV movements in any one day not to exceed:

- **112 (56 in and 56 out) Monday to Friday**
- **72 (36 in and 36 out) Saturday**

The site operator shall maintain records of the numbers of HGVs accessing and egressing the site daily. These records shall be submitted to the County Planning Authority in April, July, October and January each year and, if requested by the County Planning Authority, be provided within 7 days of that request'.

- II. The SCC Planning Committee request that the Leader of SCC write in the strongest terms to Mr Michael Gove, the Environment Secretary to implore that he issues a mandate as early as possible that no further licenses to increase permits can be issued without first a full consultation with the respective Mineral Planning Authority and Highway Authority.

- III. The Principal Lawyer pointed out that in accordance with the Code of Best Practice, as a motion was carried against the Officer's recommendation, reasons as to why Member's decision is different must be given. Members cited safety concerns and that no justification had been presented from the applicant on economic viability. It was agreed to bring the reasons back to the Chairman.

37/18 SURREY COUNTY COUNCIL PROPOSAL WA/2018/1044- LINDEN FARM, ROSEMARY LANE, ALFOLD, CRANLEIGH, GU6 8EU [Item 8]

Officers:

Alex Sanders, Planning Regulation 3 Team Leader
 Caroline Smith, Planning Development Manager
 Nancy El-Shatoury, Principal Lawyer

Speakers:

Sally Lawrence, made representation in objection to the application. The following key points were made:

- Explained that she was the mother of Simon Lawrence who was 26 years old.
- That there was no provision for care in Surrey which was why her son had to go out of county and that the facilities as were designed in the original plan were sufficient to provide adequate care.
- Noted that the proposed reduction in size of the activity centre and the quality of the roof material proposed in the current plan significantly reduced the efficiency of the project.
- To remove the horticultural area is to deprive the young of things that would enhance their lives.
- People with autism need space and she wants Linden Farm to be a success.
- Noted that the plan for the facility should revert to the original plan submitted in order to be considered fit for purpose.
- It was stressed that the objector was offering £360k funding from the Simon Trust in order to aid in filling the shortfalls in the plan, but that the county council was not accepting funding.

Peter Lawrence, made representation in objection to the application. The following key points were made:

- He suggested that facilities as they were designed would be limited and that this would have a significant impact on the wellbeing of those using the facilities.
- He noted that there had been no traffic management analysis undertaken to reflect the increased traffic from the requirement for residents to move offsite more, due to the reduction in activity facilities.
- The objector noted that building be delayed until the Simon Trust can aid with maximising the potential of the facility.

- Queried why no comments had been received from Historic England and that the building included within the proposals does not integrate with the local landscape.

Christopher Wilmshurst, the Agent for the application, raised the following key points:

- The original justification remained, the developer would provide much needed accommodation for young people in Surrey.
- He stressed that the changes to the development as proposed were minor and that the site was fit for purpose under current plans.
- The facilities included within the application are suitable for Linden Farm.
- He highlighted that materials proposed for construction of the roof were not out of character with the local aesthetic and that they would not reduce the viability of the site.
- Overall the charges were minor and would not compromise the development.

Liz Uliasz, Deputy Director of Adult Social Care (ASC) at Surrey County Council, raised the following key points:

- The Deputy Director reminded the Committee that social care was not relevant to the planning permission.
- The Deputy Director noted that there was a shortage of accommodation in Surrey for young people with autism and that too many young people were placed out of county at a high costs.
- It was noted by the Deputy Director that the current proposed provision was adequate and that it was necessary to begin work quickly so young people can move in by summer 2019.
- Adult social care is supportive and satisfied of the planning permission and believe it can provide the functional spaces needed to support young people.

Key points raised in the discussion:

1. Officers noted that changes in the proposed application were minor material amendments to the previous permission granted in January 2017 and the principle of the development remained as previously permitted. It was explained that there would be a change of material from brick to cladding, a reduction in the size of the activity centre and some landscaping amendments.
2. Officers noted that the project would not have a significant impact on the green belt but that there would be a change to design and visual amenity. However the proposal would be in keeping with the site and the surrounding area and would accord with policy. It is also not expected for traffic movements to and from the site to increase.
3. Members noted their general support for the facility but felt that the changes that were proposed to the application did not represent a minor change and questioned whether these changes would harm long term viability of the project. Officers stressed that the reduction to the size of the facilities represented a small reduction in the overall

size and quality of the project. Officers confirmed that there was no set definition in guidance on minor amendments.

4. It was queried if the horticultural elements removed from the current application could be added to the application at a later date. It was confirmed that this would be possible. Officers had been advised that transport movements would not change with the new application even if residents have to be taken off site.

The Chairman adjourned the meeting for officer advice at 12:09 and reconvened the meeting at 12:15.

5. Officers explained that the existing permission was already being implemented and as there was no increase to the size of the building, what was being constructed was within the bands of development. It was confirmed that this was not a retrospective application.
6. The Vice-Chairman reminded the Committee of the importance of focusing on planning grounds and reminded Members that the application had already been permitted. The Committee were reminded that the application accords with planning policy.
7. A Member of the Committee supported this view stating that the Committee was straying out of planning matters and that the adult social care elements was not an issue for the Committee.
8. Officers confirmed that the materials being used for the building would have to meet building regulation requirements.
9. A Member of the Committee stated the reason for reducing the size of the application was due to financial issues. There were also concerns around the change of material from brick to cladding and the possible safety issues with this. A Member questioned the suitability of building materials for the roof and suggested that the adverse effect from noise impact. For this reason the Member did not feel this was a minor amendment. Officers explained that the application could not be refused but would need to be referred back to the service. Fire matters were also not a matter for the Committee and fell within the remit of building regulations.
10. A Member of the Committee proposed to refer the application back to the service. The Principal Lawyer referring back to planning code, reminded members the application could only be referred back to the service on planning grounds.
11. Councillor Andrew Povey stated that he wanted to refer the application back on grounds that the changes being proposed are not minor and the changes make the development unsuitable for purpose. This was seconded by Councillor Bramhall. Officers stated that the reasons given were not planning grounds. The planning officer stated that the application could possibly be referred back to the service arguing that the application is contrary to Policy D1 in terms of the appearance of the buildings.
12. Officers confirmed that there would be a 40% reduction to the size of the activity centre only and not the whole application site.
13. There was a discussion around possible reasons for referral back to the service with the Principal Lawyer advising that she had not heard

any planning reasons for referral and that the applicant would require planning reasons from the Committee in order to make changes.

14. A Member queried if the application can be deferred for discussions between the applicant and the Simon Trust to take place. The Principal Lawyer stated that this was not a planning reason to defer the application.
15. Officers stated that the application could be referred back to the service in relation to Policy D1 and D4 of the Waverley Borough Local Plan 2002 and Policy TD1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 in terms of the appearance of the buildings.
16. Councillor Andrew Povey proposed to refer the application back to the service on grounds of Policy D1 and D4. A vote on this motion was taken with 8 votes in support of the motion. The motion was therefore carried and application referred back to the service.

RESOLVED:

That application **WA/2018/1044, Linden Farm, Rosemary Lane, Alfold, Cranleigh, GU6 8EU** be **REFERRED** back to the service on Policy grounds D1 and D4 of the Waverley Borough Local Plan 2002.

The Committee adjourned at 12.45pm

Edward Hawkins left the meeting at 12.45pm

Keith Taylor left the meeting at 12.45pm

38/18 MINERALS/WASTE SP18/00308/SCC- SHEPPERTON QUARRY, LITTLETON LANE, SHEPPERTON, SURREY, TW17 0NF [Item 9]

Officers:

David Maxwell, Senior Planning Policy Officer
 Caroline Smith, Planning Development Manager
 Nancy El-Shatoury, Principal Lawyer

Speakers:

Ken Snaith, made representation in objection to the application. The following key points were made:

- Welcomed recommendation to refuse the application and explained that new imports of waste continue to be imported without planning permission.
- It was suggested that the site was in the Green Belt and would not be appropriate to be used in the manner proposed by the applicant.
- There are no special circumstances for this application and would set a dangerous precedent for applications being made going forward.

David Furst, made representation in objection to the application. The following key points were made:

- He noted that the previous ban on importation of new materials had been ignored and that the site was not fit for the purpose of importing new materials.

- No enforcement action has been taken by Surrey which shows a disrespectfulness to council procedures.
- Requested that a stop notice is put in place immediately.

Cllr Richard Walsh, as local Member, made representation to the committee as follows:

- He supported the concerns of residents and that he also supported the proposed refusal of the application.
- He added that road traffic would increase significantly if this application was successful. Also supported calls for a stop notice to be issued.

Key points raised in the discussion:

1. Officers explained that this was a retrospective application for the use of the north eastern part of the wider Shepperton Quarry site as a temporary aggregates recycling (AR) facility until 21 May 2019 with restoration of the recycling area by 30 September 2019. The site is located in the green belt and has been operating for nearly 20 years. Spelthorne Borough Council have expressed opposition to the application.
2. Officers noted that the Environment Agency and lead local flood authority have both raised objections to the application due to concerns about the flood risk assessment. The reasons listed for a site office have not been justified by the applicant and the proposals are contrary to green belt policies.
3. It was explained that a stop notice could only be issued after an enforcement notice had been issued. Good reasons would be required to issue this notice and there is currently no justification. Officers noted that it would be appropriate for the Committee to ask officers to work with the applicant to reduce the current stockpiles, clear and restore the site.
4. The Committee unanimously supported refusal of the permission.

RESOLVED:

That application **Minerals/Waste SP18/00308/SCC, Shepperton Quarry, Littleton Lane, Shepperton, Surrey, TW17 0NF** be **REFUSED** for the following reasons:

- I. The proposed development is inappropriate and by definition harmful to the Green Belt and does not preserve openness and conflicts with the purposes of protecting Green Belt land including protecting the countryside from encroachment. The applicant has failed to demonstrate the very special circumstances to outweigh the harm by reason of inappropriateness, and any other harm. The proposal is therefore contrary to Policy CW6 of the Surrey Waste Plan 2008, 'saved' Policy GB1 of the Spelthorne Borough Local Plan 2001 and the National Planning Policy Framework 2018.

- II. The applicant has failed to provide the appropriate information to support the application to enable a full assessment of the effects of the proposal and, if necessary, identify appropriate mitigation measures so as to minimise or avoid any material adverse impact with regard to flood risk and enable the County Planning Authority to be satisfied that adequate safeguards can be secured for the protection of the environment as required by development plan policy and therefore the proposal is contrary to the requirements of Policy DC2 (xvi) and DC3 of the Surrey Waste Plan 2008 and Policy LO1 of the Spelthorne Core Strategy and Policies DPD 2009.

39/18 REFERRAL OF COUNTY COUNCIL MOTION [Item 9a]

Officers:

Caroline Smith, Planning Development Manager

Key points raised in the discussion:

1. Members noted that this was a motion which had been referred to the Committee by Full Council for consideration.
2. Councillor Cooksey, who seconded the motion, explained that the motion would not have been put forward to Council if he had been aware that the consultations listed in the motion had been responded too.
3. Councillor Cooksey presented an amended motion to the Committee which was seconded by Councillor Rivers. The amended motion was supported by the Committee. It was agreed that the new motion would be reported back to Full Council.

RESOLVED:

The following motion was agreed by the Planning and Regulatory Committee:

“This Council notes that the government is consulting on whether non-hydraulic fracturing shale gas exploration development should be allowed under Permitted Development (PD), therefore requiring no planning permission. They also propose to bring the production phase of hydraulic fracturing (fracking) under the Nationally Significant Infrastructure Projects (NSIP) regime, to be decided centrally by government and the planning inspectorate, thus taking decisions away from local councils. This Council believes that local plans, local planning and local democratic decision making should retain control of all local mineral and fossil fuel development. Therefore, this Council welcomes, endorses and supports the responses already submitted to Government in respect of these consultations”.

40/18 DATE OF NEXT MEETING [Item 10]

The next meeting of the Committee will be held on 21 November 2018.

Meeting closed at 1.13 pm

Chairman

UPDATE SHEET**MINERALS/WASTE TA12/902****DISTRICT(S)** TANDRIDGE DISTRICT COUNCIL**Oxted Quarry, Chalkpit Lane, Oxted, Surrey RH8 0QW****Periodic review of a mineral site planning permission for the winning and working of chalk for the determination of full modern conditions.****Consultee comments***Tandridge District Council (TDC)*

TDC have provided further comments stating the following:

- The Council maintains its position as set out in 2017.
- The proposed annual cap together with a maximum daily limit is inappropriate for this site. This retains the ability for the operator to compress movements into a shorter period. An average where the daily number of movements can fluctuate up to a cap is not an appropriate way of managing acknowledged impacts on amenity or road safety.
- Considers the balancing of risks around severance to be inadequately justified, particularly in the context of a fluctuating number of vehicle movements. The severance question has been evaluated without sufficient considerations of the many challenging locations on the road network where there will be a conflict between pedestrians, other road users and HGVs. The risks to pedestrians, cyclists, horse riders and other vehicle users have not been sufficiently explored.
- It is disappointing that the previous suggestion made by the County Council of 56 movements per day has been set aside. It is unclear why this is now considered to be unacceptable.
- In respect of conditions has serious concerns about monitoring compliance and the ability to take action against breaches.
- Recommended condition 24 sets hours during school term time but does not set out what term times are being referred to. It needs to be more precise. Consideration should be given to what happens at half term.
- Condition 25 has no teeth as the data is very retrospective it makes it impossible to track breaches effectively. It will be difficult to enforce against breaches of movement limits without evidence, failure to respond to warnings about the breach and evidence of harm caused by the breach. All of these are impossible to reconcile if data is only available every 3 months. The condition should be re-worded to ensure that the County Planning Authority has access to live data which can be interrogated when necessary. It is considered that ANPR will need to be put in place if there is any change of enforcing these conditions.
- Condition 26 is unworkable unless there is an understanding of how necessary repairs can be attributed to HGV movements associated with the quarry. The County Highway Authority should hold a bond so that it has funding in advance.
- Condition 27 is insufficiently precise as to what leaving the site together or in a convey means. The conditions should specify the time delay for HGVs leaving the site in close succession. This could be monitored using timings on the live data referred to in the comments for condition 25.
- The District Council remains opposed to the conditions proposed on vehicle movements it is considered imperative that if County members are to accept them they must amend the wording of the conditions so that they are functional and will give the greatest level of protection and certainty to residents of Tandridge.

Officer comment

Conditions 24 – 27 have all been amended in light of Tandridge District Council's comments. See below. These amendments have been sent to the applicant. With regards to the comments made that 56 movements per day has been set aside, this is covered in paragraphs 159 – 164 of the Officer report. The 56 movements was established from the 2012 Transport Statement which provided an analysis on an annual average daily traffic figure of 56 HGV movements. The applicant has then chosen to carry out further assessment work on a higher number of HGV movements.

The County Planning Authority originally considered 56 daily HGV movements based on the applicant's Transport Statement. There was no technical basis for this figure except it was the annual average daily traffic figure for the period 2007 – 2011. Following the applicant advancing higher figures, the County Planning Authority have had to carry out further objective assessment work to formulate HGV movement limitations in the proposed condition.

Severance is discussed at paragraphs 200 – 205 in the Officers report. Severance is defined in the IEMA and DMRB guidance as the perceived division that can occur within a community when it becomes separated by a major traffic artery. The measurement and prediction of severance is extremely difficult. The correlation between the extent of severance and the physical barrier of a road is not clear and there are no predictive formulae which give simple relationships between traffic factors and levels of severance. In general, marginal changes in traffic flow are, by themselves, unlikely to create or remove severance. An assessment of severance should aim to estimate the current severance caused by traffic and related factors, and the extent to which additional traffic will exacerbate this problem. The assessment in the Officers report details that the numbers of HGVs proposed in the condition would result in a change in severance which would be described as 'slight'. Officers do not think there would be any facilities that would be potentially impaired by lorries access/ egressing the application site. Whilst there are parts of the network that require pedestrians to cross the road, there are parts where there are crossings and/ or the section of the road where there are no formal crossings, are clear to allow safe passage. The proposal would not run lorries continually every day. Officers are seeking to impose conditions that ensure lorries do not run during the times when there are large numbers of school children on the network; and a condition that controls the lorries leaving the site so that they do not bunch together.

With regards to condition 27, the condition takes the plain English definition of the word 'convoy' to mean "A convoy is a group of vehicles or ships travelling together". The condition is to prevent more than one HGV leaving the site at the same time thereby travelling as a convoy.

The County Landscape Consultant

The County Landscape Consultant has commented on the application stating that the HGV movements to and from the quarry along Chalkpit Lane compromise the rural qualities and tranquillity in this part of the AONB. A cap on the lorry movements and controlling the timing and routing of these vehicles would give some control over the loss of tranquillity. Supports the sentiments made in the Committee report and recommended conditions. Recommend that Safeguarding the tranquillity qualities of the AONB protected landscape and key characteristics related to the character area's ruralness be cited in the 'Reasons' statements associated with conditions 23 and 25.

Support the need for an ecology and landscape management plan and support comments relating to the restoration profiles. Concur with the County AONB Officer comments in 2012, 2014 and 2018 and that a condition should be imposed requiring submission and approval of the landscape scheme within 2 years of permission. Agreement with the amendments to the Landscape and Planning conditions 51 – 53 (Landscaping and Planting) and 54 – 55 (Aftercare). Advise an Arboricultural Impact Assessment and Arboricultural Method Statement be included to safeguard the protection of the existing trees and woodland. Additionally the establishment and maintenance should be in the ecology and landscape management plan.

Officer comment – with regards to arboricultural assessments and method statements, Condition 52 includes the requirement for details to be submitted for the protection of existing trees and woodland.

OLRG

OLRG have made the following comments:

- The [Officer] report makes no attempt to demonstrate how OLRG's concerns will be alleviated. The [Officer] report maintains its recommendation of a daily cap of 156 HGV movements with inadequate justification.
- Concerns including the inadequacy of the width of Chalkpit Lane and Barrow Green Road and the inadequacy of these roads in general for such a proposed volume of HGV traffic, the inability of HGVs to pass under railway bridges without travelling in the centre of the road, the lack of pavements, and the intimidation of other road users, all of which are acknowledged within the [Officer] Report.
- Surrey County Council has a duty in planning to consider the traffic issues independent of the Permit issued by the Environment Agency in 2016 for 200,000tpa.
- In respect of road safety, note that SCC agrees with OLRG's concerns but nonetheless fails to bear these concerns in mind when proposing its cap.
- The [Officer] report acknowledges the IEMA guidance is not adequately dealt with in Southern Gravel Ltd's Transport Statement Addendum of August 2018.
- It is disingenuous to state that all cyclists accessing the nearby roads will be accustomed to facing vehicles such as HGVs. Moreover it is untrue that the roads lacking pavements are not utilised by pedestrians.
- Approve of condition to limit HGV departures to certain times, children will still be utilising the roads outside of term time. If SCC acknowledges that the danger is such a level that HGVs should not depart in pick up and drop off time, OLRG would submit that the same danger will be encountered at all times and by other road users. SCC fails to demonstrate how this danger will be managed.
- Disappointing that the [Officer] report does not tackle how resident's fears and sense of intimidation will be assuaged.
- The [Officer] report fails to acknowledge the problems identified by the transport report submitted alongside OLRG original letter.
- The applicant's report does not undertake any swept path analysis and the methodology used does not consider the realities of HGVs travelling along geometrically constrained roads. SCC has not provided evidence to counteract such claims.
- The [Officer] report concludes that it has used "*best practice and guidance*" to determine its caps whilst at the same time acknowledging that it is disregarding the informal guidance on its own website and the applicants Transport Statement does not adequately deal with IEMA guidance.
- The [Officer] report takes the stance that the economic viability of the site is paramount. There has been no hard evidence put forward to show how the proposed cap would preserve economic viability but that a lower cap would not.
- The [Officer] report fails to adequately address OLRG's concerns and fails to substantiate SCC's proposed daily cap of 156 HGV movements. The methodology relied upon for SCC's proposal is inadequate.

Officer comment

Assessment work - Paragraphs 134 – 234 of the Officer report covers how the cap HGV figure has been established. This should be understood in the context that this cap figure would not visit the site every day but that the applicant would only be able to operate to an average of 76 daily annual average HGV movements. The cap figure has been formulated using guidance from DMRB and IEMA. There is no guidance within the National Planning Policy Framework or the National Planning Practice Guidance on how to formulate traffic figures for applications such as this one. Officers have carried out an objective assessment using DMRB and IEMA to

formulate the figures proposed in conditions. This is the same guidance as OLRG's Vectos Transport Technical Note (TTN). The informal guidance on the Surrey County Council webpage is not a material planning consideration and carries no weight in planning.

Road widths – Officers acknowledge in the report that the road network has deficiencies and have previously measured the road themselves. Nevertheless Officers are also mindful that this is an existing site with an extant planning permission with no current limitation. The Vectos TTN does not provide any further information that Officers were unaware of.

Cyclists – the comment raised in OLRG's letter is incorrect. The Officer's report does not state that all cyclists accessing the nearby roads will be accustomed to facing vehicles such as HGVs.

School times – the condition is to capture when there is likely to be a high concentration of children walking along the road network the HGVs use. This is most likely to be during school drop off and pick up times in term time only. Outside of these times, the volume and frequency of children walking will be of a lesser extent. This is not to belittle children or other users walking in the locality but is to focus on times of the day when there is likely to be an increased concentration of pedestrians. Paragraph 63 of OLRG's own Vectos TTN acknowledges this.

Fear and intimidation – the IEMA guidance says "*whilst this danger has been recognised as an important environmental impact for many year, there is no commonly agreed threshold for estimating levels of danger, or fear and intimidation, from known traffic and physical conditions*". IEMA goes on to say that the degree of hazard to pedestrians by average traffic flow, 18 hour HGV flow and average speed over 18 hour day in mile/ hour be used. This is shown in paragraph 211 of the Officer report. These can be used as a first approximation of the likelihood of pedestrian fear and intimidation although other factors need to be included. IEMA say an element of judgement is needed and areas exposed to higher than average levels of school children, the elderly or other vulnerable groups be separately identified. OLRG's own Vectos TTN para 74 states "*there is limited guidance that can be used in seeking to assess and justify such an operation in this specific location. Whilst guidance does exist, it is too broad to deal with the specific circumstances in Oxted. However, it does not provide a clear view on what impacts need to be considered and indicates area where the type of operation that is being assessed may affect other road users, particularly the most vulnerable*".

Paragraph 75 of the Vectos TTN says "*as such it is not possible to specifically quantify an acceptable level of HGV movements associated with the operation of the quarry. There are many elements of the operation and impact on the local community and transport network that could be considered to be unacceptable, regardless of the volume of HGV traffic. At best, the current arrangements should be considered as being unsatisfactory for many reasons and the HGV levels being proposed should also be considered unacceptable*". Therefore Vectos acknowledge there is no available guidance to make an assessment to establish a traffic figure. Vectos also do not advance a figure that could be used. Officers are aware of fear and intimidation from letters of representation received and their own observations. However the Vectos TTN does not provide any information to which Officers are unaware of. Officers have conducted an objective assessment based on DMRB and IEMA as the Vectos report does itself.

Economic viability – as set out throughout the Officer's report, the County Planning Authority has to be mindful of Schedule 14 of the Environment Act and paragraphs 186 – 188 of the National Planning Policy Guidance alongside what conditions can be imposed on periodic reviews for ROMP applications.

The following consultees were consulted over were not included in the Officer's report

- Biggin Hill Airport – no response received.
- Surrey Countryside Access Forum – no response received
- British Horse Society – no response received

Further letters of representation

Two further letters of representation have been submitted both from Limpsfield Chart. They raise the following concerns:

- In part the lorries have to travel along residential roads. This puts at risk pedestrians, especially school children (the only convenient way to local schools from these roads is to walk along it) at serious risk. To allow the proposal would place their safety below the supposed needs of the company.
- It is against all reason to claim that even a limit on 156 lorry movements (78 in and 78 out) does not affect safety or the quality of life of people living on the route. (It is worth stating as it implies that little will satisfy Southern Gravel that they propose 100 lorry movements a day!)
- When not travelling on the residential roads, the lorries travel along a narrow country lane, which enhances the possibility of traffic and, at very least, inconveniences other road users.
- A consultants' report states that one trip along the route experienced six separate occasions when a HGV from or to the quarry could not pass a car. Only reversing, or mounting kerb or verge could deal with this. This is a common occurrence.
- The roads and lanes on the route were not made for, and, thus, are unsuitable for, HGVs.
- Air pollution is increased at a time when most authorities are wanting to decrease it.

Officer comment – the above comments are dealt with within the Officer's report and raise no new issues.

Conditions

Condition 11

Wording in Officers report	Proposed amended wording
A scheme of working and restoration for Phase 4 as shown on plans 00355/01 r.1 and 00355/02 r.1 "Quarry Development Plan" dated November 2011 shall be submitted to the County Planning Authority for approval in writing within six months of the date of this decision. The scheme shall include: [.....]. The approved scheme shall be implemented in full for the duration of working in Phase 4.	Within 6 months from date of these conditions taking effect, a scheme of working and restoration for Phase 4 as shown on plans 00355/01 r.1 and 00355/02 r.1 "Quarry Development Plan" dated November 2011 shall be submitted to the County Planning Authority for approval in writing. The scheme should include: [.....]. The approved scheme shall be implemented in full for the duration of working in Phase 4.

Condition 24

Wording in Officers report	Proposed amended wording
There shall be no HGV departures under the control of the Developer from the land between 0800 – 0900 and 1500 – 1600 hours Monday – Friday school term time only to avoid school run times.	There shall be no Heavy Goods Vehicle departures from Oxted Quarry between 0800 – 0900 and 1500 – 1600 hours Monday – Friday during school term time only for Downs Way School, St Mary's CofE Junior School and Oxted School to avoid school run times. The operator is required to obtain the dates for the current and forthcoming academic year from the schools and shall forward a copy of these dates to the County Planning Authority within 7 days of receipt.

Condition 25

Wording in Officers report	Proposed amended wording
<p>There shall be no more than an average of 74 daily Heavy Goods Vehicle (HGV) movements (37 in and 37 out) to/ from the site Monday – Saturday over any 12 month rolling period with the maximum number of HGV movements in any one day not to exceed:</p> <ul style="list-style-type: none"> • 156 (78 in and 78 out) Monday to Friday • 114 (57 in and 57 out) Saturday <p>The site operator shall maintain records of the numbers of HGVs accessing and egressing the site daily and shall submit these to the County Planning Authority in April, July, October and January each year.</p>	<p>There shall be no more than an average of 76 daily Heavy Goods Vehicle (HGV) movements (38 in and 38 out) to/ from the site Monday – Saturday over any 12 month rolling period with the maximum number of HGV movements in any one day not to exceed:</p> <ul style="list-style-type: none"> • 156 (78 in and 78 out) Monday to Friday • 114 (57 in and 57 out) Saturday <p>The site operator shall maintain records of the numbers of HGVs accessing and egressing the site daily. These records shall be submitted to the County Planning Authority in April, July, October and January each year and, if requested by the County Planning Authority, be provided within 7 days of that request.</p>

Condition 26

Wording in Officers report	Proposed amended wording
<p>Within one month of the date of these conditions taking effect, the applicant shall have a condition survey of Chalkpit Lane carried out by a suitability qualified person and submit it within 2 weeks of completion to the County Planning Authority for approval in writing. The survey shall include carriageway, footpath, verges and kerb edges and shall be from the site accesses to, and including, the junction with Barrow Green Road. The survey is to be repeated and submitted every 6 months during the operation of the sit and upon completion of the restoration of the site. The applicant is to fund any ongoing repairs and adjudged to have arisen from the passage of HGVs to and from the site.</p>	<p>Within one month of the date of these conditions taking effect, the applicant shall have a condition survey of Chalkpit Lane carried out by a suitability qualified person and submit it within 2 weeks of completion to the County Planning Authority for approval in writing. The survey shall include carriageway, footpath, verges and kerb edges and shall be from the site accesses to, and including, the junction with Barrow Green Road. The survey is to be repeated and submitted every 6 months during the operation of the site and upon completion of the restoration of the site. The applicant is to fund any ongoing repairs adjudged to have arisen from the passage of Heavy Goods Vehicles to and from the site following discussion and agreement between the operator and the County Highway Authority.</p>

Condition 38

Wording in Officers report	Proposed amended wording
<p>All vehicles, plant and machinery, including company owned Heavy Goods Vehicles shall be fitted with white noise reversing alarms at all times when in operation at the site.</p>	<p>All company owned vehicles, plant and machinery, shall be fitted with white noise / non-tonal reversing alarms at all times</p>

UPDATE SHEET**MINERALS/WASTE TA12/902****DISTRICT(S)** TANDRIDGE DISTRICT COUNCIL**Oxted Quarry, Chalkpit Lane, Oxted, Surrey RH8 0QW****Periodic review of a mineral site planning permission for the winning and working of chalk for the determination of full modern conditions.****Consultee comments**

The **British Horse Society (BHS)** did comment on the planning application on 19 July 2012. Comments raised by the BHS are:

- The roads used by the HGVs are unsuitable for the size/ weight of vehicles used today. When the quarry was operational in the late 19th and early 20th centuries the chalk was removed by train on a mineral line which connected with Oxted Station. The only traffic on the roads was horses and carts and local people. After the Second World War the lorries used were ten times smaller than they are today.
- The presence of HGVs on these narrow country roads is an accident waiting to happen. There are many riders using Barrow Green Road to access the bridleway network. Tandridge Priory stables are directly on the HGV route to the Quarry on Barrow Green Road. Other rides use the road. This road has no “escape” routes for riders to leave the highway should their mount be un-nerved by approaching lorries. It is a nightmare trying to judge when one lorry had passed how soon it would be before the next came.
- All horse respond differently to heavy traffic but many are seriously alarmed by large lorries. Riders should not have to contend with the high volume of HGVs which will occur should the quarry workings resume at their previous level.
- Tandridge Priory is home to a Riding for the Disabled Group who use the area adjacent to Barrow Green Road three mornings a week. This section of the road is not well drained and large quantities of surface water can collect here.
- It is not only riders who will be subject to potential danger should the quarry restart working. I have noticed pedestrians, use Chalkpit Lane to reach bridleway 97 to cross the fields to Oxted. They have to pass under the railway just south of Gordons Way.
- The North Downs Way crosses Chalkpit Lane just south of the Quarry but walkers have to walk up the land between the two sections of footpath 576 and 94.
- The previous conditions had no mention of size of lorries nor numbers of movements per day. The BHS recommends new conditions:
 - Recognise the fact that the route passes through a rural and semi-rural area where the roads are used by walkers, horse riders and cyclists for quiet enjoyment
 - Limit both inward and outwards HGV movements to a maximum of 20 per day
 - Limit the hours of operation to weekdays from 0700 – 1800 hours (excluding 0800 – 0930 and 1530 – 1630 during school term times)
 - State that no workings/ movements are permitted at the weekends or on bank holidays; weekend being the time when most recreational use is made of the local roads and adjoining rights of way network
 - State that there is at least a 15 minute gap between HGVs entering Barrow Green Road and a similar time lapse between HGVs leaving the site
 - State that lorries are limited in size to 32 tonnes
 - State that there is a speed limit of 25mph for the length of the route.

Officer comment: the comments raised above have been covered within the Officer report and some of the conditions recommended have been proposed. The applicant has no control with regards to HGVs travelling to the site. With regards to speed reduction, this is covered in the Officer report.

No comments were raised by the BHS following the 2016 consultation. The BHS raised an objection in 2017. No comments were raised by the BHS following the 2018 consultation.

The **AONB Office** did comment on the application on 21 June 2017. Comments raised by the AONB Office were:

- No assessment has been carried out against the tests in the NPPF 2012 para 116 with regards to it being 'major' development.
- National and local AONB planning policies would seem to support a reduction in the annual level of chalk extraction and if possible the duration of the original 1947 planning permission by more modern conditions taking into greater account AONB planning issues than reflected in this planning submission.
- Unless the County Planning Authority considers that this site will be needed as a landfill site because of the likely future shortage of other suitable sites, it is asked to consider a revised restoration plan based more upon no or minimal infilling and leaving nature to take its course with some additional native shrub and tree planting that would promote the biodiversity of the area. Query whether restoration by filling would be the most appropriate form of site restoration. It would continue harm to the AONB through the activity associated with many laden heavy goods vehicles. Former chalk pits can become attractive landscape features in themselves and also be of nature, ecological and/or geological importance. The restoration of a chalk pit to nearer its original contours is not necessarily justified on AONB grounds.
- If the County Planning Authority is unable to negotiate to its reasonable satisfaction an improved proposal along the lines set out above, it is recommended that refusal of the application on the grounds of it being contrary to AONB policies set out in the NPPF, Tandridge Core Strategy and Surrey Hills AONB Management Plan 2014-2019 would be justified.

Officer comment: this application is not for a new proposal therefore issues of principle (the matter of 'major' development raised by the AONB office) are not relevant. This is an application for new modern conditions. Similarly this application cannot be refused. The matter of restoration profile has been considered by Officers and factors such as stability of the chalk face and keying in the restoration contours with the surrounding contours has been taken into consideration.

Oxted Parish Council did comment on the application on 26 June 2017. Oxted Parish Council raised the following comments:

- To suggest a figure of 362 movements a day would mean, on average, one HGV would be navigating Chalkpit Lane every two minutes. As the route takes two minutes and 30 seconds each vehicle would have to pass an HGV coming in the opposite direction in this residential road, thus forcing them on to the grass verges and potentially having a serious detrimental impact on the amenities of local residents. In addition, south of the railway bridge in Chalkpit Lane there are no pavements, so endangering the safety of children walking or cycling to school. It was at this point an HGV overturned.
- In Barrow Green Road, assuming the operator keeps to the informal one way system, then one HGV every four minutes would be travelling east along residential roads close to two schools with 3,000 pupils coupled with narrow pavements and along rural roads to the West with young riders hacking out from the riding school. Plus, there is no bridle way.
- Oxted Parish Council believes that when HGV trips to the quarry exceed 75 loads or 150 movements a day it becomes wholly unsafe as, statistically, HGVs are more likely to pass in Chalkpit Lane.
- Oxted Parish Council request a full safety audit and risk assessment is carried out by Surrey Highways in consultation with the Emergency Services; and
- The Environment Agency (EA) are summoned to the Chalkpit Quarry so they can note for themselves the impact of any decision made on the Local Community from the resultant HGV traffic generated.

UPDATE SHEET**SURREY COUNTY COUNCIL PROPOSAL WA/2018/1044****DISTRICT(S)** WAVERLEY BOROUGH COUNCIL**Linden Farm, Rosemary Lane, Alfold, Cranleigh,
GU6 8EU**

Construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) without compliance with Condition 2 of Planning Permission WA/2016/1793 dated 20/01/2017 to allow modifications to the buildings and landscaping.

CONSULTATIONS AND PUBLICITY

Two further letters of representation have been received raising a series of comments. Those which are relevant to planning are as follows:

- Increase in traffic movements on Rosemary Lane, accident waiting to happen
- Does not promote or reinforce local distinctiveness
- Great weight should be given to the impact on the setting of the conservation and designated heritage assets
- Must preserve and enhance the character and appearance of the conservation area and its setting
- Waverley Borough Council and Alfold Parish Council are plainly not happy with the quality of the buildings
- Want activity centre returned to its original size
- Want buildings that Alfold can be proud of, not black wooden shacks with short life span and high maintenance costs

Non-planning related comments:

- Legal issues surrounding the consultation of families of future residents, the legality of the tender and whether the governing body have been misled
- Deed of gift clarification – want to gift charity money to the project and run the southern part of the site
- Adult Social Care will not respond to correspondence until the outcome of the planning committee
- Needs to be an agreed balance of on-site and off-site facilities and activities, current proposal, there are not enough meaningful activities on the site
- Cost cutting at its worst
- Concerns transporting the residents around in cars - distressing for residents and also expensive

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TO: PLANNING & REGULATORY COMMITTEE

DATE: 21 November 2018

BY: PLANNING DEVELOPMENT MANAGER

DISTRICT(S) WAVERLEY BOROUGH COUNCIL

ELECTORAL DIVISION(S):

Waverley Eastern Villages

Mrs Young

CASE OFFICER: Alex Sanders

CONTACT NO: 020 8541 9462

PURPOSE: FOR DECISION

GRID REF: 503778 134145

TITLE: SURREY COUNTY COUNCIL PROPOSAL WA/2018/1044

SUMMARY REPORT

Linden Farm, Rosemary Lane, Alfold, Cranleigh, GU6 8EU

Construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) without compliance with Condition 2 of Planning Permission WA/2016/1793 dated 20/01/2017 to allow modifications to the buildings and landscaping.

Planning permission was granted in January 2017 (WA/2016/1793) for the construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) comprising; a block of 5 self-contained units with overnight staff accommodation, a 3 unit shared accommodation block, a 2 unit shared accommodation block, activity centre including ancillary office and staff facilities, car parking, exercise areas and associated landscaping, following demolition of existing dwelling, piggeries and open sided barn. Construction work is underway on site with the existing buildings having already been demolished, the access having been installed and the buildings are under construction.

Since permission was granted, further detailed design work has been undertaken and it is now proposed to revise the scheme, focusing on building details and landscaping. It is therefore proposed to seek a minor material amendment to the permitted scheme by varying the condition detailing the plans to allow for the proposed amendments. The layout, positioning and number of buildings remains as permitted however they have been rationalised with a number of modifications as set out in detail in the previous committee report (appended).

At their meeting on 17th October 2018, the Committee considered a report on this application and resolved that the application be referred back to the applicant on the grounds that the proposal was contrary to policies D1 and D4 of the Waverley Borough Local Plan 2002 in terms of the appearance of the buildings.

This report provides additional information on how this might be addressed and should be read in conjunction with the original report. Officers consider that the applicant has provided further justification for the use of the black cladding and steel roof materials in this location and therefore consider that the proposal would still accord with development plan policy in this regard.

The recommendation is PERMIT subject to conditions.

CONSULTATIONS AND PUBLICITY

District Council

1. Waverley Borough Council No further comments received

Parish/Town Council and Amenity Groups

2. Alfold Parish Council No further comments received

Summary of publicity undertaken and key issues raised by public

3. No further comments received to date

PLANNING CONSIDERATIONS

DESIGN AND VISUAL AMENITY

Waverley Borough Local Plan 2002

Policy D1 – Environmental Implications of Development

Policy D4 – Design and Layout

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy TD1: Townscape and Design

4. Local Plan Policy D1 resists development which is materially detrimental to the environment by reference to criteria which include harm to visual character and distinctiveness of a locality in respect of design and scale of development and relationship to its surroundings. Local Plan Policy D4 aims to ensure development is of a high quality of design integrating well with the site and surroundings. The development also needs to be appropriate in terms of scale and appearance, be of a design and in materials which will make a positive contribution to the appearance of the area.
5. Policy TD1 states that the Council will ensure that the character and amenity of the Borough are protected by: Requiring new development to be of a high quality and inclusive design that responds to the distinctive local character of the area in which it is located.
6. Following referral of this application back to the applicant, additional information has been submitted further justifying the use of materials and the appearance of the buildings. This is the only matter which will be discussed in this report as this was the only reason the application was referred back to the applicant.
7. As further background, the original buildings on the site comprised of a detached brick and white clad two storey dwelling, two single storey brick piggeries and an open sided timber barn. The dwelling was occupied and the piggeries and barn were dilapidated. The permitted scheme had dark cladding on two out of the four buildings which were the activity centre and the five unit residential block. The roofs were also black on all of the buildings previously permitted. It is now proposed that three of the buildings would be clad in black and the activity centre a terracotta coloured cladding.
8. The applicant has provided further information which confirms that within the immediate vicinity of the application site there are at least three examples of where black cladding has been used on buildings with numerous other properties within the wider Waverley area where this material is commonly used. This demonstrates that the use of black timber is not unusual in this location and therefore reflects the character of the wider area. Dark cladding was also previously permitted on two of the buildings on the previous scheme. It is now

proposed that three buildings would be clad in black and one in terracotta. In terms of the roof material, zinc roof sheeting was approved under the original scheme which is now proposed to be changed to steel. In terms of the appearance of this material on the buildings, this would be similar to what has previously been permitted and therefore would not look considerably different from the previous permission as both materials would be dark in colour, with the exception of the activity centre which would have a terracotta coloured roof to match the elevations. It is proposed to only alter the top layer of the roofing material which would sit on top of a number of layers therefore providing both acoustic and thermal insulation.

9. Officers consider that the applicant has further justified the use of these materials in this location providing examples of where black cladding is used in Alfold. Officers are still of the view that the development would be in keeping with the character of the existing site and the surrounding area. The proposed development would regenerate the site creating a cohesive development making full use of this large plot. Officers therefore consider that the proposal would still accord with development plan policy in this regard.

HUMAN RIGHTS IMPLICATIONS

10. The Human Rights Act Guidance for Interpretation, contained in the Preamble to the Agenda is expressly incorporated into this report and must be read in conjunction with the following paragraph.
11. In this case, the Officer's view is that there are no impacts on amenity over and above those referred to in the previous application relating to the possibility of slight impacts on amenity caused by the change of use. The scale of such impacts is not considered sufficient to engage Article 8 or Article 1 of Protocol 1. Their impact can be mitigated by conditions. As such, this proposal is not considered to interfere with any Convention right.

CONCLUSION

12. Officers consider that the applicant has provided sufficient information to further justify the use of black cladding with steel roofs in this location. Officers are therefore of the view that the proposal would still accord with development plan policy in this regard.

RECOMMENDATION

That pursuant to Regulation 3 of the Town and County Planning General Regulations 1992, application no. WA/2018/1044 be **permitted** subject to the following conditions:

Conditions:

1. The development hereby approved shall be carried out in all respects in accordance with the following plans/drawings:
 - DWG No: 1091 1000 PL1, OS Location Plan dated 21/07/2016
 - DWG No: 1091 1002 PL1, Existing Site Plan dated 21/07/2016
 - DWG No: 1091 1003 PL1, Existing Building Plan dated 21/07/2016
 - DWG No: 1091 1004 PL1, Existing Context Site Plan dated 21/07/2016
 - DWG No: 1091 1005 PL8, Proposed Context Site Plan dated 21/06/2018
 - DWG No: 1091 1006 PL5, Proposed Site Plan - Ground Floor dated 03/05/2018
 - DWG No: 1091 1007 PL6, Proposed Site Plan - Roof dated 07/06/2018

DWG No: 1091 1008 PL3, GA Ground Floor Plan - New Barn (Block A) dated 03/05/2018
 DWG No: 1091 1009 PL5, GA Ground Floor Plans - Orchard Cottages (Block B) dated 03/05/2018
 DWG No: 1091 1010 PL5, GA Ground Floor Plans - Bluebell and Apple Tree Cottage (Block C & D) dated 03/05/2018
 DWG No: 1091 1011 PL4, GA Roof Plans - New Barn (Block A) dated 07/06/2018
 DWG No: 1091 1012 PL6, GA Roof Plans - Orchard Cottages (Block B) dated 07/06/2018
 DWG No: 1091 1013 PL4, GA Roof Plans - Bluebell and Apple Tree Cottage (Block C & D) dated 21/07/2016
 DWG No: 1091 2001 PL1, Existing Building Elevations & Sections dated 21/07/2016
 DWG No: 1091 2002 PL4, Proposed GA Elevations - New Barn dated 07/06/2018
 DWG No: 1091 2003 PL5, Proposed GA Elevations - Orchard Cottages (Block B) dated 07/06/2018
 DWG No: 1091 2004 PL4, Proposed GA Elevations - Bluebell and Apple Cottage (Block C & D) dated 07/06/2018
 DWG No: 1091 2005 PL2, Proposed GA Sections - New Barn (Block A) dated 03/05/2018
 DWG No: 1091 2006 PL3, Proposed GA Sections - Orchard Cottages dated 03/05/2018
 DWG No: 1091 2007 PL2, Proposed GA Sections - Block C and D (Shared Flats) dated 03/05/2018
 DWG No: 795_P_001, Existing Site Context Alford dated August 2016
 DWG No: 795_P_002, Existing Site dated August 2016
 DWG No: 795_P_005 Rev C, Stage 2 Site Clearance / Demolitions / Barn Works Planning dated August 2016
 DWG No: 795_P_006 Rev C, Stage 3 Earth Bund Relocation / Woodland Buffer Planning dated August 2016
 DWG No: 795_P_007, Open Barn Enabling Works Part Retention dated November 2016
 DWG No: 795_P_010 Rev B, Landscape Proposals and Site Context dated August 2016
 DWG No: 795_P_011 Rev B, Landscape Proposals dated August 2016
 DWG No: 795_P_012 Rev A, Landscape Proposals Planting dated August 2016
 DWG No: 795_P_013 Rev C, Landscape Area 1 Hard Landscape dated August 2016
 DWG No: 795_P_014 Rev B, Landscape Area 2 Hard Landscape dated August 2016
 DWG No: 795_P_015 Rev C, Landscape Area 1 Planting dated August 2016
 DWG No: 795_P_016 Rev B, Landscape Area 2 Planting dated August 2016
 DWG No: 795_P_030 Rev B, Sections A-A, B-B, C-C dated August 2016
 DWG No: 795_P_031 Rev B, Sections D-D, E-E, F-F dated August 2016
 DWG No: 795_P_032 Rev B, Sections G-G, H-H, J-J dated August 2016
 DWG No: 795_P_033 Rev B, Sections K-K, L-L, M-M dated August 2016
 DWG No: 795_P_035 Rev B, Boundary Section PRPW FP410 + FP411 dated August 2016
 DWG No: 795_P_056: Tree Planting Pits 1 dated December 2016
 DWG No: 795_P_057: Tree Planting Pits 2 dated December 2016
 DWG No: 795_P_058: Tree Planting Pits 3 dated December 2016
 DWG No: 795_4_067: 01 Apple Orchard dated December 2016
 DWG No: 795_4_068: 02 Pear Orchard dated December 2016
 DWG No: 795_4_069: 03 Apple and Plum Orchard dated December 2016
 DWG No: 795_P_090, T47 Activity Centre Section dated December 2016
 DWG No: 2016/3143/002 Rev A, Vehicle Swept Path Assessment dated July 2016
 DWG No: 1091 SK001-D, Drainage Strategy dated 11.08.2016
 DWG No: 13929/TM/1, Existing Site & Services Layout dated March 2016
 DWG No: 13929/TM/1 Preliminary / 2, Existing Site & Services Layout dated March 2016.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the development hereby permitted shall be used only

for uses falling within use class C3(b) of the Town and Country Planning (Use Classes Order) 1987(as amended), and for no other use including any other use falling within Use Class C3 of that Order.

Highways

3. The development hereby permitted shall be carried out in accordance with the Demolition/Construction Management Plan approved under application WA17/0597.
4. The visibility zones as shown on drawing 2016/3143/001 shall be kept permanently clear of any obstruction over 1.05m high.
5. Prior to the occupation of the development hereby permitted, space shall be laid out within the site in accordance with the approved plans for bicycles and vehicles to park and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes and for the duration of the development.
6. The Travel Statement shall be updated upon occupation of the development and shall thereafter be implemented and developed to the satisfaction of the County Planning Authority.
7. In carrying out the development hereby permitted, no construction activities shall take place except between the hours of 07.30 and 18.00 between Mondays and Fridays and between 8.00 and 13.30 on Saturdays. There shall be no working on Sundays or bank and public national holidays.

Rights of Way

8. Prior to the occupation of the development permitted, the proposed works to footpath numbers FP410 and FP411 shall be carried out in accordance with the following methodology:
 - Any muddy surface shall be scraped down to a firm base 1.5m wide
 - All low surface shall be filled with Type 1 material and compacted with a minimum of 4 passes of a twin drum vibrating roller to a finished depth of 150mm.
 - The surface shall be level and compact limestone grit to a compacted depth of 15mm, this material will be heavily compacted with a vibrating plate to leave finished surface with camber to shed water from path.
 - The level of finished surface must not fall below existing surrounding ground level.
9. There shall be no obstructions on the public right of way at any time, including any caused by vehicles, plant, scaffolding or the temporary storage of materials and/or chemicals.

Flooding and Drainage

10. The development hereby permitted shall be carried out in accordance with the drainage details approved under application WA17/0597.
11. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer shall be submitted to and approved in writing by the County Planning Authority to demonstrate that the Sustainable Drainage System has been constructed as per the agreed scheme.
12. The disposal of foul and surface water sewerage shall not be directed to the mains foul sewerage network unless first agreed in writing by the County Planning Authority in consultation with Southern Water.

Landscaping and Ecology

13. Prior to the occupation of the development hereby permitted, a Landscape and Ecology Management Plan (LEMP) shall be submitted to the County Planning Authority for approval in writing. The content of the LEMP shall include the following:
- a) Description and evaluation of all features to be managed including a compartment plan showing all landscape areas and cross sections
 - b) Ecological trends and constraints on site that might influence management
 - c) Aims and objectives of management and working method statement
 - d) Appropriate management options to achieve aims and objectives
 - e) Prescriptions for management actions
 - f) Preparation of work and/or maintenance schedule for all landscape areas both new and existing (including an annual work plan capable of being rolled forward on a five-year period)
 - g) Details of the body or organisation responsible for implementation of the plan
 - h) Ongoing monitoring and remedial measures

The LEMP shall also include details of the legal and funding mechanisms by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results of monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Only the approved details shall be implemented.

14. The proposed landscaping scheme shall be implemented no later than the first available planting season following occupation of the development hereby permitted. Within 5 years, should the planted tree be removed, uprooted, destroyed or die or become in the opinion of the County Planning Authority, seriously damaged, replacements shall be planted of the same species and size and in the same location as that originally planted.
15. The development hereby permitted shall be carried out in accordance with the Ecological Mitigation Plan approved under application WA17/0597.
16. The proposed development shall be carried out in accordance with the recommendations within section 4 of the Bat Activity Survey submitted with application WA/2016/1793.

Tree Protection

17. The development hereby permitted shall be carried out in accordance with the Arboricultural Method Statement approved under application WA17/0597.
18. The proposed development shall be carried out in accordance with sections 6, 7, 8 and 9 of the Arboricultural Impact Assessment Report approved under application WA2016/1793.
19. The tree protective fencing as shown on drawing Tree Protection Plan dated July 2016 shall remain in situ for the duration of the construction of the development hereby permitted. For the duration of works on the site no materials, plant or equipment shall be placed or stored within the protected area

Reasons:

1. For the avoidance of doubt and in the interests of proper planning.

2. To ensure that the development meets the need for supported living for adults with high support needs pursuant to Policy H7 of the Waverley Borough Local Plan 2002.
3. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002. These requirements relate to the way the development is to be constructed therefore the details must be submitted and approved before the development commences.
4. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
5. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1, M1 and M14 of the Waverley Borough Local Plan 2002.
6. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
7. In the interests of residential amenity in accordance with Policy D1 and D4 of the Waverley Borough Local Plan 2002.
8. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
9. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
10. To ensure the Sustainable Drainage System is designed to the technical standards in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
11. To ensure the Sustainable Drainage System is designed to the technical standards in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
12. To ensure that the development does not involve disposal to the public foul sewer in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
13. To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and biodiversity and contribute to the character of the local area in accordance with Policy D1, D5, D4 and C7 of the Waverley Borough Local Plan 2002.
14. To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and biodiversity and contribute to the character of the local area in accordance with Policy D1, D5, D4 and C7 of the Waverley Borough Local Plan 2002.
15. In the interest of biodiversity in accordance with Policy D1, D5, D4 and C7 of the Waverley Borough Local Plan 2002. These requirements relate to working methods which need to be established and details approved before the development commences.
16. In the interests of biodiversity in accordance with Policy D1 and D5 of the Waverley Borough Local Plan 2002.

17. To ensure protection of the trees in accordance with Policy D4 and C7 of the Waverley Borough Local Plan 2002. These requirements relate to the way the buildings are to be demolished therefore the details must be submitted and approved before the development commences.
18. To ensure protection of the trees in accordance with Policy D4 and C7 of the Waverley Borough Local Plan 2002.
19. To ensure protection of the trees in accordance with Policy D4 and C7 of the Waverley Borough Local Plan 2002.

Informatives:

1. Any adjacent hedges should be planted 1m back from the path to allow for growth without obstructing the path.
2. Any down pipes or soakaways associated with the development should either discharge into a drainage system or away from the surface of the right of way.
3. Any alteration to, or replacement of, the existing boundary with the public right of way, or erection of new fence lines, must be done in consultation with the Countryside Access Group. Please give at least 3 weeks' notice.
4. Access along a public right of way by contractors' vehicles, plant or deliveries can only be done if the applicant can prove that they have a vehicular right. Surrey County Councils' Countryside Access Group will look to the applicant to make good any damage caused to the surface of the right of way connected to the development.
5. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.
6. The applicant's attention is drawn to the requirement of Southern Water that there shall be no development or new tree planting within 3 metres either side of the centreline of the foul sewer crossing the site.
7. The applicant's attention is drawn to the requirement of Southern Water that no new soakaways be constructed within 5m of the foul sewer crossing the site and all existing infrastructure should be protected during the course of the construction works.
8. This development may require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated main rivers. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. An environmental permit is in addition to and a separate process from obtaining planning permission. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.
9. This approval relates only to the provisions of the Town and Country Planning Act 1990 and must not be taken to imply or be construed as an approval under the Building Regulations 2000 or for the purposes of any other statutory provision whatsoever.
10. In determining this application the County Planning Authority has worked positively and proactively with the applicant by: entering into pre-application discussions; assessing the proposals against relevant Development Plan policies and the National Planning Policy

Framework including its associated planning practice guidance and European Regulations, providing feedback to the applicant where appropriate. Further, the County Planning Authority has: identified all material considerations; considered representations from interested parties; liaised with the applicant to resolve identified issues and determined the application within the timeframe agreed with the applicant. This approach has been in accordance with the requirements of paragraph 38 of the National Planning Policy Framework 2018.

11. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or is being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Trees and scrub are likely to contain nesting birds between 1 March and 31 August inclusive. Trees and scrub are present on the application site and are assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity during this period and has shown it is absolutely certain that nesting birds are not present.

12. All trees works must be carried out by a qualified Arboriculturist
13. The applicant is reminded that the granting of planning permission does not authorise obstructing or interfering in any way with a public right of way. This can only be done with the prior permission of the Highway Authority (Surrey County Council, Countryside Access Group) and the applicant is advised to contact them prior the commencement of the development.

BACKGROUND PAPERS

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

Government Guidance

[National Planning Policy Framework](#) Revised July 2018
[Planning Practice Guidance](#)

The Development Plan

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018
 The Waverley Borough Local Plan 2002

APPENDIX 1

Examples of black cladding within Alfold



Examples of cladding within wider locality





Permitted Activity Centre under application WA16/1793 at Linden Farm



Permitted 5 unit residential block under application WA16/1793 at Linden Farm



APPENDIX 2

TO: PLANNING & REGULATORY COMMITTEE

DATE: 17th October 2018

BY: PLANNING DEVELOPMENT MANAGER

DISTRICT(S) WAVERLEY BOROUGH COUNCIL

ELECTORAL DIVISION(S):
Waverley Eastern Villages
Mrs Young

PURPOSE: FOR DECISION

GRID REF: 503778 134145

TITLE: SURREY COUNTY COUNCIL PROPOSAL WA/2018/1044

SUMMARY REPORT

Linden Farm, Rosemary Lane, Alfold, Cranleigh, GU6 8EU

Construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) without compliance with Condition 2 of Planning Permission WA/2016/1793 dated 20/01/2017 to allow modifications to the buildings and landscaping.

Planning permission was granted in January 2017 (WA/2016/1793) for the construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) comprising; a block of 5 self-contained units with overnight staff accommodation, a 3 unit shared accommodation block, a 2 unit shared accommodation block, activity centre including ancillary office and staff facilities, car parking, exercise areas and associated landscaping, following demolition of existing dwelling, piggeries and open sided barn. Construction work is underway on site with the existing buildings having already been demolished, the access having been installed and the frames of the new buildings being erected.

Since permission was granted, further detailed design work has been undertaken and it is now proposed to revise the scheme, focusing on building details and landscaping. It is therefore proposed to seek a minor material amendment to the permitted scheme by varying condition 2 (list of plans) to allow for the proposed amendments. The layout, positioning and number of buildings remains as permitted however they have been rationalised with a number of modifications as set out in detail in the report below.

In this case the main issues are the principle of the development, the impact upon the Countryside Beyond the Green Belt, design and visual amenity, impacts upon residential amenity, the ecological and landscaping impacts will also be given full consideration as well as the impact on the setting of the Conservation Area.

Officers consider that the proposed amendments would not alter the principle of the development as set out in the previous application. The design changes would not adversely impact upon the Countryside beyond the Green Belt and would be in keeping with the existing site and the surrounding area. The changes to the materials and rationalising of the design would still remain in keeping with the existing site and surrounding area. The proposal would not adversely impact upon residential amenity and would not result in harm to the Conservation Area. Ecology, drainage and landscaping would also not be compromised. All other matters previously discussed under application WA/2016/1793 remain un-impacted by the proposed amendments.

The recommendation is **PERMIT** subject to conditions.

APPLICATION DETAILS

Applicant

SCC Property

Date application valid

21 June 2018

Period for Determination

20 September 2018 (extension agreed until the 1st November 2018)

Amending Documents

- Email from Agent dated 10th August including Activity Centre Revised Design Statement
- Letter from Agent dated 27th September 2018
- Complex Minds and Chilmark Consulting Review of proposed amended application and response to consultee comments dated 25th September 2018
- Adult Social Care, Surrey County Council, Linden Farm – Revised Design dated 26th September 2018

SUMMARY OF PLANNING ISSUES

This section identifies and summarises the main planning issues in the report. The full text should be considered before the meeting.

	Is this aspect of the proposal in accordance with the development plan?	Paragraphs in the report where this has been discussed
Principle of the Development	Yes	18-21
Impact on the Countryside Beyond the Green Belt	Yes	22-23
Design and Visual Amenity	Yes	24-31
Impact on Residential Amenity	Yes	32-33
Setting of the Conservation Area	Yes	34-42
Drainage`	Yes	43-44
Ecology and Landscaping	Yes	45-51
Sustainable Construction	Yes	52-55

ILLUSTRATIVE MATERIAL

Site Plan

Plan

Aerial Photographs

Aerial

Site Photographs

- Figure 1: Entrance to Linden Farm facing north
 Figure 2: Entrance to Linden Farm facing north
 Figure 3: View of access road and Block D facing northeast
 Figure 4: View of Block D and Block B facing east
 Figure 5: View of part of Block D and Block C facing east
 Figure 6: View of part of Block B facing east
 Figure 7: View of Block C facing west
 Figure 8: View of open field facing south
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BACKGROUND

Site Description

13. Planning approval was granted in January 2017 (WA/2016/1793) for the construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) comprising; a block of 5 self-contained units with overnight staff accommodation, a 3 unit shared accommodation block, a 2 unit shared accommodation block, activity centre including ancillary office and staff facilities, car parking, exercise areas and associated landscaping, following demolition of existing dwelling, piggeries and open sided barn.
14. The application site is located to the immediate north of Alford village covering an area of 2.27 hectares. The site previously accommodated a two storey detached dwelling, two single storey disused piggeries and an open sided barn. The buildings were located within the northern part of the site but have since been demolished to accommodate the aforementioned development. Access is via Rosemary Lane at the south west corner of the site. Alford Village Conservation Area is located to the south and east of the application site. To the east is Sandy Cottage and an open field fronting Loxwood Road. To the west of the site is Clover Cottage. There is an area of ancient woodland on the northern boundary of the site and beyond is farmland.
15. The approved application would provide accommodation for 10 residents who will be provided with 24 hour care. The units would be spread over three separate blocks; a block of 5 self-contained units with overnight staff accommodation, a 3 unit shared accommodation block with overnight staff accommodation and a 2 unit shared accommodation block. There would be an activity centre with staff facilities. All the buildings would be located towards the north of the site as per the previous situation in similar locations to the previous buildings on the site. The buildings would measure a combined floor area of approximately 1080sqm with the floor area of the previous buildings measuring 838sqm. The accommodation blocks would measure a height of approximately 6m and the activity centre would measure approximately 7m. The proposed parking area would be located west of the site with the access remaining as it is, from Rosemary Lane. A total of 19 car and 2 disabled spaces are proposed. Staff numbers would vary between 9 and 15 to cover the shift patterns throughout the day and night.
16. Construction work is underway on site with the existing buildings having already been demolished, the access and car park have been constructed, and all the buildings (apart from the activity centre) are in the process of being erected.

Planning History

17. WA/2017/1454 Details of Newt Survey pursuant to Condition 18 of planning permission ref: WA/2016/1793 dated 20/01/2017. Approved September 2017.

WA17/0597 Details of Demolition and Construction Traffic Management Plan, Drainage details, Ecological Mitigation Plan and Arboricultural Method Statement submitted pursuant to Conditions 4, 11, 17 and 20 of planning permission ref: WA/2016/1793 dated 20 January 2017. Approved April 2018.

WA/2016/1793 Construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) comprising; a block of 5 self-contained units with overnight staff accommodation, a 3 unit shared accommodation block with overnight staff accommodation, a 2 unit shared accommodation block, activity centre including ancillary office and staff facilities, car parking, exercise areas and associated landscaping, following demolition of existing dwelling, piggeries and open sided barn. Approved January 2017.

THE PROPOSAL

18. Since permission was granted, further detailed design work has been undertaken by the project team and it is now proposed to revise the approved scheme, focusing on building details and associated landscaping. It is therefore proposed to seek a minor material amendment to the scheme by varying condition 2 (list of plans) to allow for the proposed amendments. The proposed amendments to the scheme focuses predominantly on the buildings and associated landscape alterations. The layout, positioning and number of buildings remains as permitted however they have been rationalised with a number of modifications as follows:

Changes to materials and details

- Zinc roof with standing seam replaced by steel roof with standing seam (similar colour as permitted)
- Stone and brick replaced by timber cladding
- Stained larch cladding introduced to all 4 buildings whereas previously timber cladding was limited to block A

Alterations to chimneys

- Chimney removed from Block A
- Chimney added to Block B
- One chimney removed from Block C and location of remaining chimney altered

Alterations to windows

- Arrangement of windows altered
- Location of rooflights altered
- Alteration to Block B Roof
- Reduction in height to match other approved dwellings
- Removal of dormer windows

Block A – Activity Block

- Terracotta Brown
- Reduced in size from 272sqm to 150sqm

Alterations to landscaping

- Raised floor levels to all buildings
- Ancient woodland buffer earthwork increased by 400mm
- Earth bund for solitary bees relocated to southern field
- Southern open field – existing site subsoils spread over southern field to max depth of +250mm. Soils seeded with native local seed to be agreed with Surrey Wildlife Trust.
- Additional trees to eastern boundary
- Additional hedging and hedging specification amendment

- Deletion of horticultural elements
- Removal of ground source heat pump

CONSULTATIONS AND PUBLICITY

District Council

- | | | |
|-----|--------------------------|--|
| 19. | Waverley Borough Council | Object due to the less than substantial harm to the significance of the Conservation Area. |
|-----|--------------------------|--|

Consultees (Statutory and Non-Statutory)

- | | | |
|-----|---------------------------|--------------|
| 20. | Arboriculturalist | No objection |
| 21. | Ecologist | No objection |
| 22. | SuDS & Consenting Team | No objection |
| 23. | Historic/Listed Buildings | No objection |

Parish/Town Council and Amenity Groups

- | | | |
|-----|-----------------------|--|
| 24. | Alfold Parish Council | Object to the deletion of the horticultural elements and increase in traffic movements. Change in materials not now sympathetic and in keeping with other buildings or conservation area. Understand there is funding elsewhere to revert back to original scheme. Concerned regarding drainage and run off. |
|-----|-----------------------|--|

Summary of publicity undertaken and key issues raised by public

- | | |
|-----|---|
| 25. | <p>The application was publicised by the posting of 2 site notices and an advert was placed in the local newspaper. A total of 47 owner/occupiers of neighbouring properties were directly notified by letter. No letters have been received from local residents. To date 31 letters of representation have been received from other interested parties raising the following concerns:</p> <ul style="list-style-type: none"> • Object to the reduction in the size of the activity centre by 40% and the omission of the horticultural elements. • This will have a major negative impact on the quality of life of the residents • Without the onsite facilities Linden Farm is no longer be suitable to meet the needs of the residents and will significantly impede their potential • Revised size of the activity centre not fit for purpose • Urge to revert back to the original permission which will give more space in the activity centre and more outdoor activities for the residents • The trust can fund the larger activity centre • Clients won't have the freedom to move about safely • Not feasible for these young adults to go into the community to find activities |
|-----|---|

Officer note: the type and quality of the care is not a material planning consideration nor is the range of activities being provided.

- Increase in traffic movements due to taking residents off site for activities
- What provisions are in place to deal with run off to ensure no negative impact on surrounding residents
- Water running down Rosemary Lane has eroded the lane.
- Change in materials – wood has a much shorter life expectancy and the black is visually depressing
- The roof material would be noisy for the residents.

PLANNING CONSIDERATIONS

Introduction

26. The guidance on the determination of planning applications contained in the Preamble/Agenda frontsheet is expressly incorporated into this report and must be read in conjunction with the following paragraphs.
27. In this case the statutory development plan for consideration of the application consists of the Waverley Borough Local Plan 2002 and the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018. Since planning permission was granted for the original scheme the Local Plan Part 1 2018 has been adopted where as previously it was a draft document therefore some policies from the Local Plan 2002 have now been superseded by more up to date policies. In considering this application the acceptability of the proposed development will be assessed against relevant development plan policies and material considerations.
28. In assessing the application against development plan policy it will be necessary to determine whether the proposed measures for mitigating any environmental impact of the development are satisfactory. In this case the main planning considerations are: principle of the development, impact on the countryside beyond the Green Belt, design and visual amenity, impact on residential amenity, drainage, ecology, landscaping, setting of the consideration area and sustainable construction.
29. All other areas assessed under the previous application including the housing type, loss of agricultural land, highways considerations and archaeology remain unaffected by the proposed amendments and therefore have not been discussed in further detail.

PRINCIPLE OF THE DEVELOPMENT

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy SP1 – Presumption in Favour of Sustainable Development

Policy SP2 – Spatial Strategy

Policy ALH1 – The Amount and Location of Housing

Policy AHN3 – Housing Types and Size

30. The site is located within the Countryside beyond the Green Belt outside any defined settlement area. The NPPF states that the intrinsic character and beauty of the countryside shall be recognised.
31. Paragraph 5 of Policy SP2 of the Local Plan Part 1 states that the spatial strategy of the Borough Council will be to allow modest growth in villages such as Alfold to meet local needs. Policy ALH1 of the Local Plan Part 1 provides that Alfold is required to provide 100 residential units over the plan period.
32. Policy AHN3 of the Local Plan Part 1 states that the Council will support the provision of new housing and related accommodation to meet the needs of specific groups that have been identified in the Strategic Housing Market Assessment (SHMA). Currently, this indicates specific needs for *inter alia*, people with disabilities. Policy SP1 of the Local Plan Part 1 states that the Council will apply a presumption in favour of sustainable development.

33. The principle of the development was established under the previous application. The amendments do not introduce any further residential units and the changes to the materials, reduction in the size of the activity centre and landscaping alterations would not impact on the principle of the development. Subject to the assessment of other relevant development plan policies, the delivery of special needs housing in close of proximity to Alfold Village Centre is still considered to be acceptable.

COUNTRYSIDE BEYOND THE GREEN BELT

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy RE1 – Countryside Beyond the Green Belt

34. Paragraph 170 of the NPPF states that the local planning authority should recognise the intrinsic character and beauty of the countryside whilst supporting thriving rural communities within it. Accordingly, the level of protection afforded to Countryside Beyond the Green Belt has been qualified in the Local Plan Part 1, Policy RE1 and simply reflects the provisions of the NPPF.
35. Officers consider that the proposed amendments would not result in a different conclusion being drawn in terms of the impact on the Countryside Beyond the Green Belt. The changes would continue to recognise the intrinsic character and beauty of the countryside. Officers therefore consider that the proposal would not conflict with national and local policy in this regard.

DESIGN AND VISUAL AMENITY

Waverley Borough Local Plan 2002

Policy D1 – Environmental Implications of Development

Policy D4 – Design and Layout

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy TD1: Townscape and Design

36. Local Plan Policy D1 resists development which is materially detrimental to the environment by reference to criteria which include harm to visual character and distinctiveness of a locality in respect of design and scale of development and relationship to its surroundings. Local Plan Policy D4 aims to ensure development is of a high quality of design integrating well with the site and surroundings. The development also needs to be appropriate in terms of scale and appearance, be of a design and in materials which will make a positive contribution to the appearance of the area.
37. Policy TD1 states that the Council will ensure that the character and amenity of the Borough are protected by: Requiring new development to be of a high quality and inclusive design that responds to the distinctive local character of the area in which it is located. Ensuring that new development is designed so that it creates safe and attractive environments that meet the needs of users and incorporate the principles of sustainable development.
38. Planning permission was granted in 2017 for 10 units which would provide supported living accommodation for adults with autism and high support needs as well as an activity centre and staff facilities. The layout, positioning and number of buildings remains as permitted however they have been rationalised with a number of modifications relating to the simplification of the roof forms, including the removal of dormer windows, revised locations of the chimneys and some revisions to the windows and external doors. The zinc roofs have been omitted and replaced with black steel roofs, the approved stone & brick has been omitted (except on the chimneys) and is proposed to be replaced with black stained larch/timber cladding to the elevations of all 3 buildings. A mixture of vertical and horizontal timber boarding is proposed to help break up the elevations. The roof gutters and parapet details are proposed to be refined to

achieve hidden gutters. The activity centre (Block A) has been reduced in size from 272sqm to 150sqm and would be clad in timber stained terracotta brown.

39. Along with the proposed alterations and amendments to the buildings, the application includes revisions to the levels of the site. This has become necessary due to the more detailed calculations relating to the cut and fill exercise for foundations and to avoid the removal of soil from the site. It is proposed to spread the existing site sub-soils over the southern field to a depth of 250mm and then seed with native local seed. Other changes also include the removal of the horticultural elements located centrally within the site which included a glasshouse, fruit cages and raised bed allotments.
40. The proposed amendments to the scheme would be minor alterations to the already permitted scheme. Whilst the materials would look different from those previously approved, the changes would integrate within this rural setting and previous farmstead use. The proposal would remain to be in keeping with the scale and character of the existing site and surrounding area. The scale, footprint and location of the buildings remains the same except for the activity centre which will see a reduction to 150sqm. The finished floor levels have been raised slightly by a maximum of 150mm however this has been in conjunction with a reduction in the ridge heights therefore this change would be negligible.
41. A small number of objections have been received regarding the change in material however, officers consider that the development would be appropriate in terms of scale and appearance and would be of a design and in materials which would continue to make a positive contribution to the appearance of the area. The landscaping alterations would not result in an adverse impact upon the design or visual amenity of the existing site or surrounding area.
42. Objections have been received stating that the reduction in the size of the activity centre and removal of the horticultural elements would result in a development that would not meet the needs of the residents (set out in paragraph 13 above). These comments were passed on to the applicant and the views from Adult Social Care at Surrey County Council were sought as well as an independent review. They advise that they consider that the revised design for the activity centre will fully meet the needs of all future residents. It provides all the functional spaces needed on a person centred scale and will continue to offer an excellent quality of environment for the future residents. They advise that the therapy room will either be delivered within the individual living spaces or off site by the Community Health Team. The kitchen has been simplified and the reduction in the activity room is said to be a positive change which offers a person centred and flexible space. The complexity of needs means the young people are most likely to use the activity room on an individual basis or with a maximum of 2 or 3 others. Adult Social Care is content with the size and location of the sensory room and is comparable with other sensory rooms providing similar facilities. In terms of the removal of the horticultural elements, the space will remain and will be revisited once the accommodation is occupied and can be developed over time.
43. Officers are satisfied that the proposal would result in a development that meets the needs of the users and therefore consider that the proposed changes would accord with development plan policy in this regard.

IMPACT ON RESIDENTIAL AMENITY

Waverley Borough Local Plan 2002

Policy D1 – Environmental Implications of Development

Policy D4 – Design and Layout

Policy CF2 – Provision of New Community Facilities

44. The criteria applicable to all development in Local Plan Policies D1 and D4 include a presumption against loss of general residential amenity including loss of natural light,

privacy and disturbance through noise light or vibration. The specific criteria in Policies CF2 for development of Community Facilities require that there are no adverse effects on residential amenity resulting from noise, overlooking or traffic congestion.

45. The proposed changes would not result in any further residential units being created and would be located in the positions as previously permitted. The scale of the building would remain the same other than the reduction in the activity centre. As such officers are satisfied that there would be no further impact upon residential amenity than the permitted scheme in terms of loss of light, loss of privacy, overbearance or intensification of use. There would be no additional disturbance in terms of vehicle movements as the number of activities being provided on site has not changed and it was previously the intention that the residents would leave the site on a daily basis if required to do so. It is proposed to raise the rear field by 250mm in order to use the soil created by the development. This small increase in levels across the site would not result in an adverse impact upon residential amenity and would not be much different from the current situation. As such officers are satisfied that the proposal would not result in an adverse impact upon residential amenity and would accord with development plan policy in this regard.

SETTING OF THE CONSERVATION AREA

Waverley Borough Local Plan 2002

Policy HE8 – Conservation Areas

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy HA1: Protection of Heritage Assets

46. Policy HE8 states that the Council will seek to preserve or enhance the character of conservation areas by: (a) the retention of those buildings and other features, including trees, which make a significant contribution to the character of the conservation area; (b) requiring a high standard for any new development within or adjoining conservation areas, to ensure that the design is in harmony with the characteristic form of the area and surrounding buildings, in terms of scale, height, layout, design, building style and materials; (c) in exceptional circumstances, allowing the relaxation of planning policies and building regulations to secure the retention of a significant unlisted building; (d) protecting open spaces and views important to the character and setting of the area; (e) carrying out conservation area appraisals; (f) requiring a high standard and sympathetic design for advertisements. Internally illuminated signs will not be permitted; (h) encouraging the Highway Authority to have regard to environmental and conservation considerations in implementing works associated with its statutory duties, including the maintenance, repair and improvement of public highways and the provision of yellow lines, street direction signs and street lighting.
47. Policy HA1 states that the Council will ensure that the significance of the heritage assets within the Borough are conserved or enhanced to ensure the continued protection and enjoyment of the historic environment. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering applications within a Conservation Area, Local Planning Authorities must pay special attention to the desirability of preserving, or enhancing the character and appearance of the area.
48. The National Planning Policy Framework (NPPF) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting. The NPPF then goes on to say where a development proposal will lead to less than substantial harm to the

significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

49. The Historic Buildings Officer commented on the original scheme advising, in summary, that:
- The buildings to be demolished were of limited architectural or historic interest
 - The open field to the east of the site is important as it reinforces the hard boundary of the conservation area
 - The same hard boundary is also important to the south of the site
 - Provided these boundaries are retained the new buildings will be no more dominant than the previous farm buildings (now demolished) and will not result in any net harm to the special character of the conservation area
 - The choice of zinc on the roof was acceptable in this instance as it is comparatively dark
50. The Historic Buildings Officer has commented on the revised scheme and advised that the boundaries mentioned in their initial comments would not be altered and that the level changes to the field should not cause any harm. Furthermore, the height and massing of buildings has been reduced which should limit any impact on the conservation area. Although the material used for the roofing has been changed from zinc to steel, staining this black should not cause any harm to the special character of the conservation area.
51. The main alteration on the previous application relates to new materials proposed for Blocks A-D. Previously a variety of stone and brick was proposed for the site with timber cladding limited to the Block A (Activity Centre). This has now been amended so all of the buildings will be clad with timber in line with other vernacular agricultural buildings. Such designs are normally reserved for barns and other agricultural buildings. They advise that they consider that the proposed chimneys are not in keeping with the other vernacular buildings and may be a contrast to the timber clad appearance. However they do not object to this from a heritage perspective, because these buildings will not be clearly visible from the conservation area, however suggest that should further attempts to rationalise the design be needed, they would not object to these being removed.
52. The Historic Building Officer consider that the proposal would be in accordance with paragraphs 190 and 193 of the NPPF and find that there will be no material impact on the setting of the conservation area or any of the nearby listed buildings and consider that the heritage conservation policies of the NPPF are met.
53. Waverley Borough Council previously raised concerns about the proposal and stated that “The proposed development would have an impact on the setting of the Conservation Area. The significantly increased built form will be visible from Loxwood Road and together with the increased vehicular activity on the site will dilute the contrast between the historic village and the surrounding countryside. As a result it is considered that less than substantial harm to the significance of the designated heritage asset [would occur]. The strong contrast between the settlement and the surrounding countryside is a significant contributor to the character of the Conservation Area”. The proposed development would dilute that contrast and therefore fail to preserve the character of the conservation area. In view of this conclusion it would be for the County to consider, in accordance with paragraph 134 (now paragraphs 190-192 of the revised NPPF) of the NPPF whether this less than substantial harm is outweighed by the public benefits of the proposal.” They advise that the proposed amendments do not alter their view on the proposal.
54. Officers consider that the proposal would not result in any harm to the conservation area and this view is endorsed by the County Historic Buildings Officer. However, if the view was taken that there is harm, albeit less than substantial harm, officers consider that the need to provide supported living accommodation for adults with autism and high support

needs within the County of Surrey to serve a demonstrated need for a proportion of the residents of Surrey would outweigh the less than substantial harm in this instance.

DRAINAGE

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy CC4: Flood Risk Management

55. Policy CC4 states that sustainable drainage systems (SuDS) will be required on major developments (10 or more dwellings or equivalent) and encouraged for smaller schemes. A site-specific Flood Risk Assessment will be required for sites within or adjacent to areas at risk of surface water flooding as identified in the SFRA. There should be no increase in either the volume or rate of surface water runoff leaving the site. Proposed development on brownfield sites should aim to reduce run off rates to those on greenfield sites where feasible. There should be no property or highway flooding, off site, for up to the 1 in 100 year storm return period, including an allowance for climate change.
56. The drainage scheme for the development was approved under application WA17/0597 and has yet to be implemented as the development is under construction. The Lead Local Flood Authority (LLFA) approved the proposed drainage scheme and were notified on the amendments to the scheme and have raised no objection. In addition a road dilapidated survey was undertaken prior to the commencement of the development and damage caused as a result of the proposal will be rectified once construction has been completed. Officers are therefore satisfied that the proposed development would not cause an adverse impact to residential properties as a result of surface water run-off and would accord with development plan policy in this regard.

ECOLOGY AND LANDSCAPING

Waverley Borough Local Plan 2002

Policy D1 – Environmental Implications of Development

Policy D4 – Design and Layout

Policy C7 – Trees, Woodlands and Hedgerows

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy NE1: Biodiversity and Geological Conservation

57. Policy D1 of the Local Plan states that development that results in loss or damage to important environmental assets, such as buildings of historical or architectural interest, local watercourses, important archaeological sites and monuments and areas of conservation, ecological or landscape value will be resisted. Policy D4 of the Local Plan seeks to ensure that development is of a high quality design which integrates well and complements its surroundings. In particular it states that development should pay regard to existing features of the site such as landform, trees, hedges, ponds, water courses and buffer zones, walls or buildings.
58. Policy C7 states that the Council will seek to ensure that the extent of tree cover in the Borough is maintained and in particular will resist the loss or seek the replacement of trees woodlands and hedgerows in areas which:
- (a) contain features that are characteristic or make a significant contribution to the appearance of the landscape or of the streetscape;
 - (b) are of wildlife interest;
 - (c) are of historic significance; and
 - (d) are of significance for recreation.
- (e) Where there are hedgerows on a development site, opportunities for improving the hedgerows through landscape management will be sought.
59. Policy NE1 states that the Council will seek to conserve and enhance biodiversity within Waverley. Development will be permitted provided that it: Retains, protects and enhances features of biodiversity and geological interest and ensures appropriate

management of those features. Development must also ensure any adverse impacts are avoided, or if unavoidable, are appropriately mitigated.

60. A number of landscaping alterations are proposed, it is proposed to rationalise the cut and fill exercise to reduce the amount of soil that needs to be removed from site. As such, the levels of the site have been reviewed which results in the finished floor levels of the buildings changing from 100 to 150mm however the refinement of the parapet details has resulted in the reduction in ridge heights.
61. The Ancient woodland buffer earthwork originally proposed has been raised by 400mm which was agreed on site by the County Arboriculturist and this proposal seeks to formalise this. The bund for solitary bees has been relocated to the southern field, with direct south facing orientation. The bund comprises of a small grassed mound which was originally located close to the existing piggeries (which have now been demolished). The bund was moved due to recommendations from Surrey Wildlife Trust. It is also proposed to spread existing site subsoils over the southern field, to a maximum depth of 250mm. Soils to then be seeded with native local see (to be advised by Surrey Wildlife Trust). It is also proposed to remove the horticultural elements including omitting the Glasshouse, fruit cages and raised bed allotments from the central horticultural space. However the design retains the spatial composition to facilitate these elements being completed at a later date.
62. The County Ecologist was consulted on the amendments and advised that following previous discussions with Surrey Wildlife Trust and the Applicants Landscape Architects, he is satisfied that there are no additional impacts on biodiversity beyond those already identified and given that mitigation measures are already being undertaken. Therefore he has no further comments to make. The County Arboriculturist is of the same view.
63. Officers consider that the proposed amendments to the landscaping scheme would not adversely impact on the approved landscaping scheme for the site and are minor changes to the already permitted scheme. As such officers consider that the proposal would accord with development plan policy in this regard.

SUSTAINABLE CONSTRUCTION

Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018

Policy CC2: Sustainable Construction and Design

64. Policy CC2 states that the Council will seek to promote sustainable patterns of development and reduce the level of greenhouse gas emissions by: ensuring all new development include measures to minimise energy and water use through its design, layout, landscape and orientation; encouraging the use of natural lighting and ventilation; incorporating measures that protect and, where possible, enhance the biodiversity value of the development and minimising construction and demolition waste and promoting the reuse and recycling of building materials.
65. The application was accompanied by an updated sustainability report. Originally it was proposed to install a ground source heat pump and place a horizontal pipe system underneath the field to the south of the proposed buildings. However further assessments have been undertaken and due to the energy efficiency strategies of the proposed design, the energy demand for heating in the proposed spaces is low. As such the costs associated with installing a ground source heat pump would be disproportionate given the demand for heating and therefore considered to be unviable.
66. It is proposed to install photovoltaic panels on the southern roof slope of the activity centre and Block B as previously proposed. It is also proposed to re-use the existing materials on site where possible and also use sustainably sourced materials. In addition, the buildings are orientated along the east-west axis, with extensive south facades maximising daylight and sunlight ingress during winter, reducing the energy demand for

both heating and lighting. In summer, the combination of low g-value glazing and blinds limit undesired heat gains and reduce cooling requirements. Rooflights further increase daylight amenities while reducing the cooling demand by facilitating air flow and maximising the potential of cross-ventilation.

- 67. Officers are satisfied that even with the omission of the ground source heat pump, the proposal would support the provision of energy efficiency and promote sustainable development and would therefore accord with development plan policy in this regard

HUMAN RIGHTS IMPLICATIONS

- 68. The Human Rights Act Guidance for Interpretation, contained in the Preamble to the Agenda is expressly incorporated into this report and must be read in conjunction with the following paragraph.
- 69. In this case, the Officer’s view is that there are no impacts on amenity over and above those referred to in the previous application relating to the possibility of slight impacts on amenity caused by the change of use. The scale of such impacts is not considered sufficient to engage Article 8 or Article 1 of Protocol 1. Their impact can be mitigated by conditions. As such, this proposal is not considered to interfere with any Convention right.

CONCLUSION

- 70. Officers consider that the principle of the development remains acceptable and that the proposed amendments do not alter this. The impact on the Countryside Beyond the Green Belt would not be altered by the proposed amendments. Whilst the design and scale of the buildings are changing, officers consider that the proposal would still be in keeping with the scale and character of the existing site and surrounding area, would complement the site and surrounding area and would be fit for purpose. The impact upon residential amenity as a result of the changes would be negligible. Officers consider that the proposal would not in any harm to the conservation area. If the view is taken that there is less than substantial harm then the benefit of this specialised accommodation would outweigh the harm. Officers are satisfied that the alterations would not compromise the drainage, ecology or the landscaping scheme for the site. The removal of the ground source heat pump would not compromise the sustainability of the proposal.
- 71. Officers consider that the proposed alterations amount to minor material amendments to the previously permitted scheme under application and would accord with development plan policy.

RECOMMENDATION

- 72. That pursuant to Regulation 3 of the Town and County Planning General Regulations 1992, application no. WA/2018/1044 be permitted subject to the following conditions:

Conditions:

- 1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2. The development hereby approved shall be carried out in all respects in accordance with the following plans/drawings:

DWG No: 1091 1000 PL1, OS Location Plan dated 21/07/2016
 DWG No: 1091 1002 PL1, Existing Site Plan dated 21/07/2016
 DWG No: 1091 1003 PL1, Existing Building Plan dated 21/07/2016

DWG No: 1091 1004 PL1, Existing Context Site Plan dated 21/07/2016
 DWG No: 1091 1005 PL8, Proposed Context Site Plan dated 21/06/2018
 DWG No: 1091 1006 PL5, Proposed Site Plan - Ground Floor dated 03/05/2018
 DWG No: 1091 1007 PL6, Proposed Site Plan - Roof dated 07/06/2018
 DWG No: 1091 1008 PL3, GA Ground Floor Plan - New Barn (Block A) dated 03/05/2018
 DWG No: 1091 1009 PL5, GA Ground Floor Plans - Orchard Cottages (Block B) dated 03/05/2018
 DWG No: 1091 1010 PL5, GA Ground Floor Plans - Bluebell and Apple Tree Cottage (Block C & D) dated 03/05/2018
 DWG No: 1091 1011 PL4, GA Roof Plans - New Barn (Block A) dated 07/06/2018
 DWG No: 1091 1012 PL6, GA Roof Plans - Orchard Cottages (Block B) dated 07/06/2018
 DWG No: 1091 1013 PL4, GA Roof Plans - Bluebell and Apple Tree Cottage (Block C & D) dated 21/07/2016
 DWG No: 1091 2001 PL1, Existing Building Elevations & Sections dated 21/07/2016
 DWG No: 1091 2002 PL4, Proposed GA Elevations - New Barn dated 07/06/2018
 DWG No: 1091 2003 PL5, Proposed GA Elevations - Orchard Cottages (Block B) dated 07/06/2018
 DWG No: 1091 2004 PL4, Proposed GA Elevations - Bluebell and Apple Cottage (Block C & D) dated 07/06/2018
 DWG No: 1091 2005 PL2, Proposed GA Sections - New Barn (Block A) dated 03/05/2018
 DWG No: 1091 2006 PL3, Proposed GA Sections - Orchard Cottages dated 03/05/2018
 DWG No: 1091 2007 PL2, Proposed GA Sections - Block C and D (Shared Flats) dated 03/05/2018
 DWG No: 795_P_001, Existing Site Context Alfold dated August 2016
 DWG No: 795_P_002, Existing Site dated August 2016
 DWG No: 795_P_005 Rev C, Stage 2 Site Clearance / Demolitions / Barn Works Planning dated August 2016
 DWG No: 795_P_006 Rev C, Stage 3 Earth Bund Relocation / Woodland Buffer Planning dated August 2016
 DWG No: 795_P_007, Open Barn Enabling Works Part Retention dated November 2016
 DWG No: 795_P_010 Rev B, Landscape Proposals and Site Context dated August 2016
 DWG No: 795_P_011 Rev B, Landscape Proposals dated August 2016
 DWG No: 795_P_012 Rev A, Landscape Proposals Planting dated August 2016
 DWG No: 795_P_013 Rev C, Landscape Area 1 Hard Landscape dated August 2016
 DWG No: 795_P_014 Rev B, Landscape Area 2 Hard Landscape dated August 2016
 DWG No: 795_P_015 Rev C, Landscape Area 1 Planting dated August 2016
 DWG No: 795_P_016 Rev B, Landscape Area 2 Planting dated August 2016
 DWG No: 795_P_030 Rev B, Sections A-A, B-B, C-C dated August 2016
 DWG No: 795_P_031 Rev B, Sections D-D, E-E, F-F dated August 2016
 DWG No: 795_P_032 Rev B, Sections G-G, H-H, J-J dated August 2016
 DWG No: 795_P_033 Rev B, Sections K-K, L-L, M-M dated August 2016
 DWG No: 795_P_035 Rev B, Boundary Section PRPW FP410 + FP411 dated August 2016
 DWG No: 795_P_056: Tree Planting Pits 1 dated December 2016
 DWG No: 795_P_057: Tree Planting Pits 2 dated December 2016
 DWG No: 795_P_058: Tree Planting Pits 3 dated December 2016
 DWG No: 795_4_067: 01 Apple Orchard dated December 2016
 DWG No: 795_4_068: 02 Pear Orchard dated December 2016
 DWG No: 795_4_069: 03 Apple and Plum Orchard dated December 2016
 DWG No: 795_P_090, T47 Activity Centre Section dated December 2016
 DWG No: 2016/3143/002 Rev A, Vehicle Swept Path Assessment dated July 2016
 DWG No: 1091 SK001-D, Drainage Strategy dated 11.08.2016
 DWG No: 13929/TM/1, Existing Site & Services Layout dated March 2016
 DWG No: 13929/TM/1 Preliminary / 2, Existing Site & Services Layout dated March 2016.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the development hereby permitted shall be used only for uses falling within use class C3(b) of the Town and Country Planning (Use Classes Order) 1987(as amended), and for no other use including any other use falling within Use Class C3 of that Order.

Highways

4. The development hereby permitted shall be carried out in accordance with the Demolition/Construction Management Plan approved under application WA17/0597.
5. The visibility zones as shown on drawing 2016/3143/001 shall be kept permanently clear of any obstruction over 1.05m high.
6. Prior to the occupation of the development hereby permitted, space shall be laid out within the site in accordance with the approved plans for bicycles and vehicles to park and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes and for the duration of the development.
7. The Travel Statement shall be updated upon occupation of the development and shall thereafter be implemented and developed to the satisfaction of the County Planning Authority.
8. In carrying out the development hereby permitted, no construction activities shall take place except between the hours of 07.30 and 18.00 between Mondays and Fridays and between 8.00 and 13.30 on Saturdays. There shall be no working on Sundays or bank and public national holidays.

Rights of Way

9. Prior to the occupation of the development permitted, the proposed works to footpath numbers FP410 and FP411 shall be carried out in accordance with the following methodology:
 - Any muddy surface shall be scraped down to a firm base 1.5m wide
 - All low surface shall be filled with Type 1 material and compacted with a minimum of 4 passes of a twin drum vibrating roller to a finished depth of 150mm.
 - The surface shall be level and compact limestone grit to a compacted depth of 15mm, this material will be heavily compacted with a vibrating plate to leave finished surface with camber to shed water from path.
 - The level of finished surface must not fall below existing surrounding ground level.
10. There shall be no obstructions on the public right of way at any time, including any caused by vehicles, plant, scaffolding or the temporary storage of materials and/or chemicals.

Flooding and Drainage

11. The development hereby permitted shall be carried out in accordance with the drainage details approved under application WA17/0597.
12. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer shall be submitted to and approved in writing by the County Planning Authority to demonstrate that the Sustainable Drainage System has been constructed as per the agreed scheme.

13. The disposal of foul and surface water sewerage shall not be directed to the mains foul sewerage network unless first agreed in writing by the County Planning Authority in consultation with Southern Water.

Landscaping and Ecology

14. Prior to the occupation of the development hereby permitted, a Landscape and Ecology Management Plan (LEMP) shall be submitted to the County Planning Authority for approval in writing. The content of the LEMP shall include the following:

- a) Description and evaluation of all features to be managed including a compartment plan showing all landscape areas and cross sections
- b) Ecological trends and constraints on site that might influence management
- c) Aims and objectives of management and working method statement
- d) Appropriate management options to achieve aims and objectives
- e) Prescriptions for management actions
- f) Preparation of work and/or maintenance schedule for all landscape areas both new and existing (including an annual work plan capable of being rolled forward on a five-year period)
- g) Details of the body or organisation responsible for implementation of the plan
- h) Ongoing monitoring and remedial measures

The LEMP shall also include details of the legal and funding mechanisms by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results of monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. Only the approved details shall be implemented.

15. The proposed landscaping scheme shall be implemented no later than the first available planting season following occupation of the development hereby permitted. Within 5 years, should the planted tree be removed, uprooted, destroyed or die or become in the opinion of the County Planning Authority, seriously damaged, replacements shall be planted of the same species and size and in the same location as that originally planted.
16. The development hereby permitted shall be carried out in accordance with the Ecological Mitigation Plan approved under application WA17/0597.
17. The proposed development shall be carried out in accordance with the recommendations within section 4 of the Bat Activity Survey submitted with application WA/2016/1793.

Tree Protection

18. The development hereby permitted shall be carried out in accordance with the Arboricultural Method Statement approved under application WA17/0597.
19. The proposed development shall be carried out in accordance with sections 6, 7, 8 and 9 of the Arboricultural Impact Assessment Report approved under application WA2016/1793.
20. The tree protective fencing as shown on drawing Tree Protection Plan dated July 2016 shall remain in situ for the duration of the construction of the development hereby permitted. For the duration of works on the site no materials, plant or equipment shall be placed or stored within the protected area.

Reasons:

1. To comply with Section 91 (1)(a) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that the development meets the need for supported living for adults with high support needs pursuant to Policy H7 of the Waverley Borough Local Plan 2002.
4. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002. These requirements relate to the way the development is to be constructed therefore the details must be submitted and approved before the development commences.
5. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
6. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1, M1 and M14 of the Waverley Borough Local Plan 2002.
7. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
8. In the interests of residential amenity in accordance with Policy D1 and D4 of the Waverley Borough Local Plan 2002.
9. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
10. To ensure that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policies D1 and M1 of the Waverley Borough Local Plan 2002.
11. To ensure the Sustainable Drainage System is designed to the technical standards in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
12. To ensure the Sustainable Drainage System is designed to the technical standards in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
13. To ensure that the development does not involve disposal to the public foul sewer in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
14. To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and biodiversity and contribute to the character of the local area in accordance with Policy D1, D5, D4 and C7 of the Waverley Borough Local Plan 2002.
15. To improve the appearance of the site and enhance the character of the development in the interest of visual amenity and biodiversity and contribute to the character of the local area in accordance with Policy D1, D5, D4 and C7 of the Waverley Borough Local Plan 2002.

16. In the interest of biodiversity in accordance with Policy D1, D5, D4 and C7 of the Waverley Borough Local Plan 2002. These requirements relate to working methods which need to be established and details approved before the development commences.
17. In the interests of biodiversity in accordance with Policy D1 and D5 of the Waverley Borough Local Plan 2002.
18. To ensure protection of the trees in accordance with Policy D4 and C7 of the Waverley Borough Local Plan 2002. These requirements relate to the way the buildings are to be demolished therefore the details must be submitted and approved before the development commences.
19. To ensure protection of the trees in accordance with Policy D4 and C7 of the Waverley Borough Local Plan 2002.
20. To ensure protection of the trees in accordance with Policy D4 and C7 of the Waverley Borough Local Plan 2002.

Informatives:

1. Any adjacent hedges should be planted 1m back from the path to allow for growth without obstructing the path.
2. Any down pipes or soakaways associated with the development should either discharge into a drainage system or away from the surface of the right of way.
3. Any alteration to, or replacement of, the existing boundary with the public right of way, or erection of new fence lines, must be done in consultation with the Countryside Access Group. Please give at least 3 weeks' notice.
4. Access along a public right of way by contractors' vehicles, plant or deliveries can only be done if the applicant can prove that they have a vehicular right. Surrey County Councils' Countryside Access Group will look to the applicant to make good any damage caused to the surface of the right of way connected to the development.
5. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk in order to progress the required infrastructure.
6. The applicant's attention is drawn to the requirement of Southern Water that there shall be no development or new tree planting within 3 metres either side of the centreline of the foul sewer crossing the site.
7. The applicant's attention is drawn to the requirement of Southern Water that no new soakaways be constructed within 5m of the foul sewer crossing the site and all existing infrastructure should be protected during the course of the construction works.
8. This development may require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated main rivers. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. An environmental permit is in addition to and a separate process from obtaining planning permission. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

- 9. This approval relates only to the provisions of the Town and Country Planning Act 1990 and must not be taken to imply or be construed as an approval under the Building Regulations 2000 or for the purposes of any other statutory provision whatsoever.
- 10. In determining this application the County Planning Authority has worked positively and proactively with the applicant by: entering into pre-application discussions; assessing the proposals against relevant Development Plan policies and the National Planning Policy Framework including its associated planning practice guidance and European Regulations, providing feedback to the applicant where appropriate. Further, the County Planning Authority has: identified all material considerations; considered representations from interested parties; liaised with the applicant to resolve identified issues and determined the application within the timeframe agreed with the applicant. This approach has been in accordance with the requirements of paragraph 38 of the National Planning Policy Framework 2018.
- 11. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or is being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Trees and scrub are likely to contain nesting birds between 1 March and 31 August inclusive. Trees and scrub are present on the application site and are assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity during this period and has shown it is absolutely certain that nesting birds are not present.

- 12. All trees works must be carried out by a qualified Arboriculturist
- 13. The applicant is reminded that the granting of planning permission does not authorise obstructing or interfering in any way with a public right of way. This can only be done with the prior permission of the Highway Authority (Surrey County Council, Countryside Access Group) and the applicant is advised to contact them prior the commencement of the development.

CONTACT
 Alex Sanders
TEL. NO.
 020 8541 9462

BACKGROUND PAPERS

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

Government Guidance
[National Planning Policy Framework](#) Revised July 2018
[Planning Practice Guidance](#)

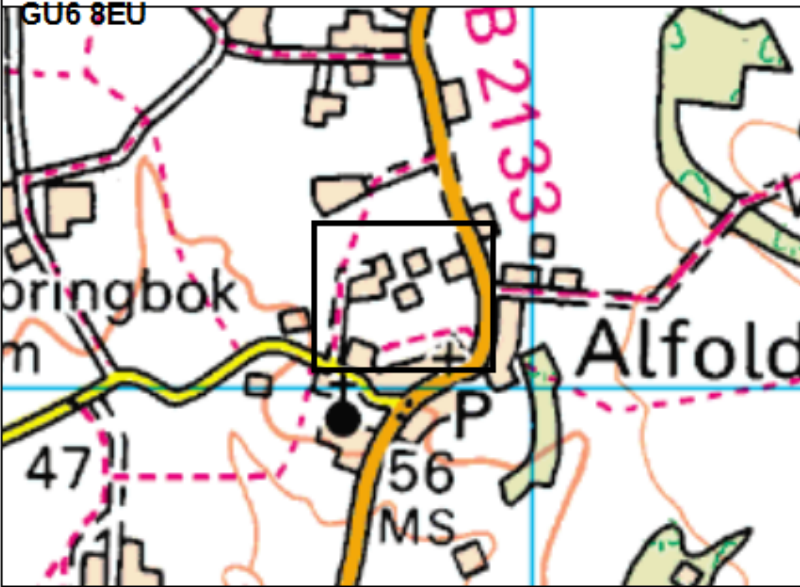
The Development Plan
 Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018
 The Waverley Borough Local Plan 2002

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Site Location:

Linden Farm, Rosemary Lane, Alfold, Cranleigh,

GU6 8EU



Construction of supported living accommodation for adults with autism and high support needs within Use Class C3(b) without compliance with Condition 2 of Planning Permission WA/2016/1793 dated 20/01/2017 to allow modifications to the buildings and landscaping.

Application numbers:

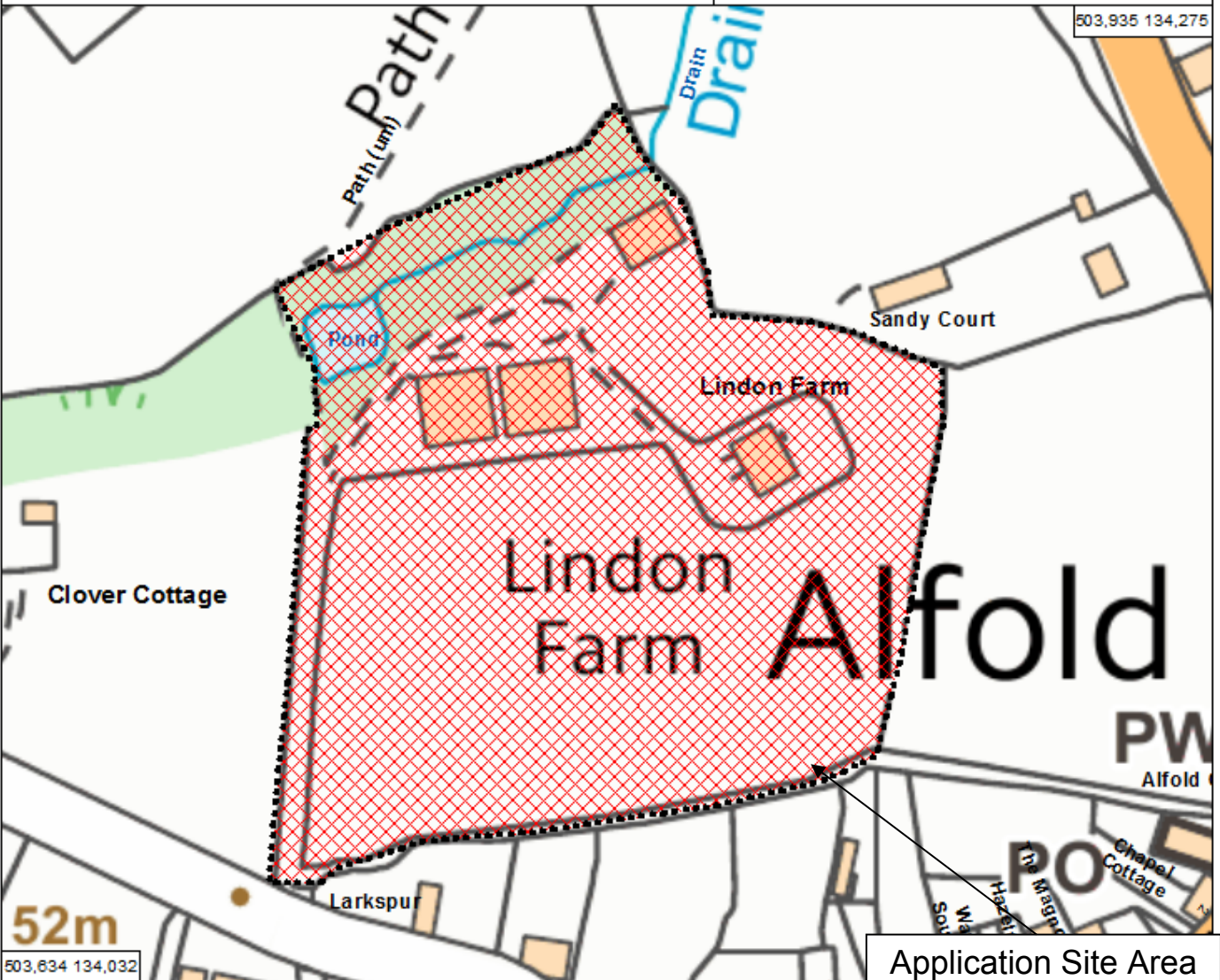
WA/2018/1044,

Electoral divisions:

14090,

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Note: This plan is for indicative purposes only



Ref No:

SCC REF 2018/0069

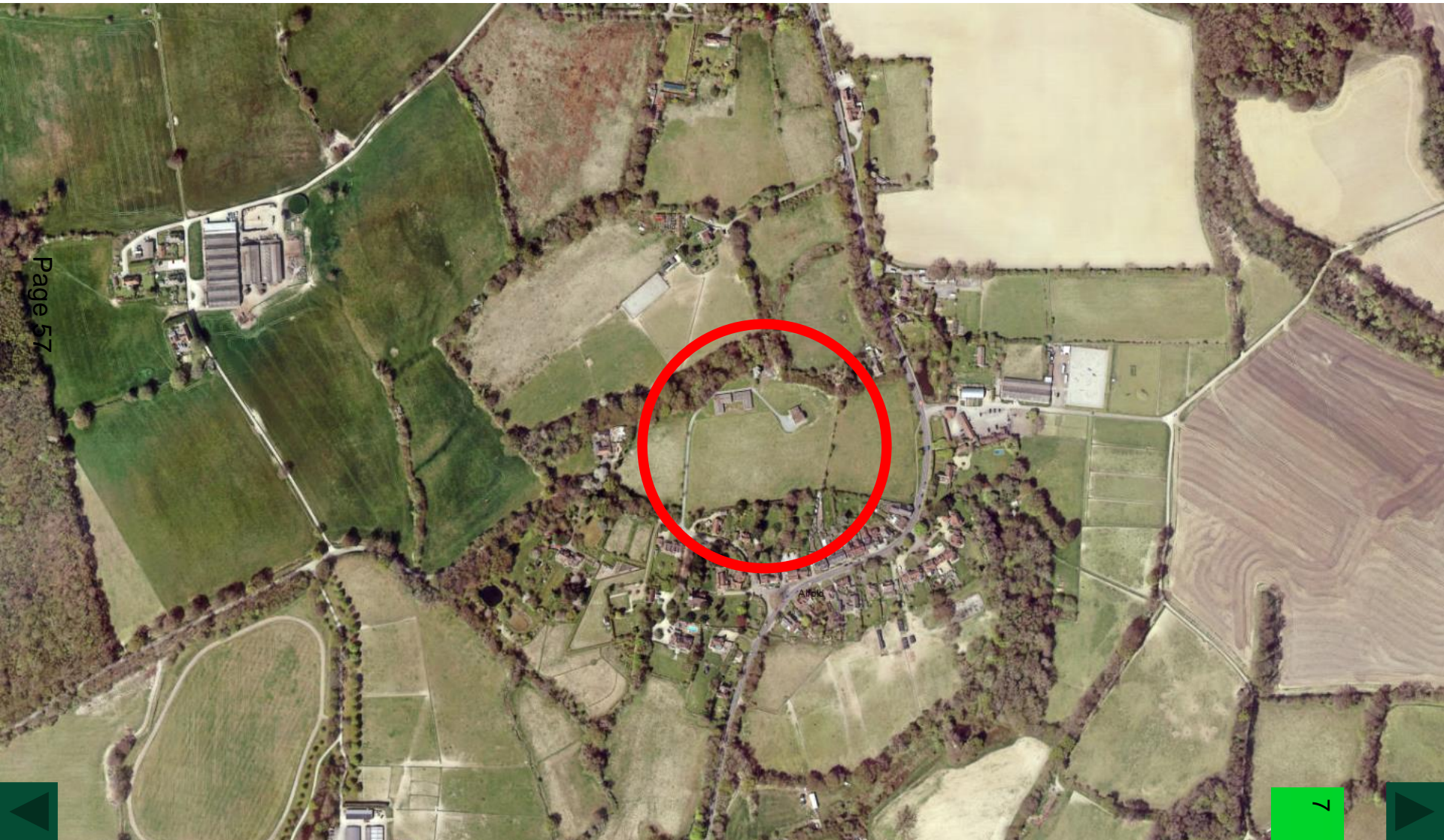
0 0.055 0.11 Km

Scale: **1:1570**

Printed on: 14/08/2018

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Aerial 1 : Linden Farm, Alfold



2012-13 Aerial Photos



Aerial 2 : Linden Farm, Alfold



Photo 1 : Entrance to Linden Farm facing North



Photo 2 : Entrance to Linden Farm facing North





Photo 3 : View of access road and Block D facing North east SURREY



Photo 4 :View of Block D and Block B facing East



Photo 5 : View of part of Block D and Block C facing east



Photo 6 : View of part of Block B facing east



Photo 7 : View of Block C facing west



Photo 8 : View of open field facing south



Photo 9 : Examples of black cladding within Alfold

Page 67



Photo 10 : Examples of black cladding within Alfold



Photo 11 : Examples of cladding within wider locality



Photo 12 : Examples of cladding within wider locality



Photo 13 : Examples of cladding within wider locality



Photo 14 : Activity Centre and 5 unit residential block permitted under previous application

Page 72



TO: PLANNING & REGULATORY COMMITTEE **DATE:** 21 November 2018
BY: PLANNING DEVELOPMENT MANAGER
DISTRICT(S) SPELTHORNE BOROUGH COUNCIL **ELECTORAL DIVISION(S):**
Laleham & Shepperton
Mr Walsh
CASE OFFICER: David Maxwell
CONTACT NO: 01483 518899
PURPOSE: FOR DECISION **GRID REF:** 505844 167689

TITLE: MINERALS AND WASTE APPLICATION SP18/00304/SCC

SUMMARY REPORT

Shepperton Quarry, Littleton Lane, Shepperton, Surrey TW17 0NF

The use and siting of two container units for employee welfare purposes, ancillary to the proposed aggregates recycling facility at the site for a temporary period until 30 September 2019 (retrospective).

This retrospective application is for the use and siting of two container units for employee welfare purposes for a temporary period until 30 September 2019. The container units are situated next to the existing two-storey weighbridge office and mess hut in the south-west corner of the aggregates recycling facility (ARF). The ARF occupies the north-east part of the wider Shepperton Quarry site and the container units are ancillary to the operation of the ARF.

This application was submitted in conjunction with joint retrospective planning application ref: SP18/00308/SCC for the temporary use of land at Shepperton Quarry as an ARF until 21 May 2019 with restoration of the aggregates recycling area by 30 September 2019. The period of time sought for the container units was commensurate with the deadline for the completion of the restoration of the ARF. The wider Shepperton Quarry site is located within the Metropolitan Green Belt and is required to be restored by 21 February 2020.

The container units measure approximately 4.1 metres in length by 2.75 metres in width by 2 metres in height. They have a steel frame, are steel clad and are coloured blue. They are used as a ladies WC and a clothes drying room to cater for employees working at the ARF. They were originally granted temporary planning permission retrospectively in May 2012. This was after they had been identified as not benefiting from planning permission by Planning Enforcement Officers during a site visit in November 2011.

The container units have subsequently received two further temporary planning permissions, in conjunction with the ARF, to extend their presence on the site. The most recent planning permissions for the two container units and the ARF expired on 21 May 2017. Condition 2 of the most recent planning permission required the container units to be removed and the land to be landscaped and restored by 21 May 2017. However, since May 2017, the two container units have remained in use in association with the ARF which has continued to operate.

The retrospective application for the ARF was considered by the Planning and Regulatory Committee at their meeting on 17 October 2018 where it was resolved that planning permission be refused. A decision notice was subsequently issued on 1 November 2018. The planning application for the ARF was considered in advance of this application to address local concerns that the ARF application be considered at the earliest possible date.

The key issues in determining this application are compliance with the development plan and the impact on environmental interests. The proposed development comprise two buildings which constitute inappropriate development in the Green Belt. In considering this application for temporary planning permission, it will also be necessary to consider whether very special circumstances exist to overcome the harm to the Green Belt by reason of inappropriateness and any other harm.

Spelthorne Borough Council and the Borough Council Environmental Health Officer (EHO) have not raised any objections to the application. Charlton Village Residents Association (RA) object to the application claiming that the operator flagrantly ignores the law regarding planning applications and has failed to restore the site on time. Shepperton Residents RA have expressed their concern although the reasons provided primarily relate to planning application ref: SP18/00308/SCC for the use of land as an ARF. No views have been received from Laleham RA. Representations have been received objecting to the application primarily due to the applicant's failure to restore the site by 21 May 2017, the continued operation of the site following the expiry of planning permission and the applicant's failure to comply with planning conditions.

The two container units are located within Flood Zone 3 which is defined as having a high probability of flooding. The Environment Agency (EA) have objected to the application and the Lead Local Flood Authority (LLFA) have recommended that planning permission is refused as they both consider the submitted Flood Risk Assessment (FRA) to be inadequate. The applicant has confirmed that they do not intend to amend the FRA to address these concerns claiming that given the context of the site which has been operating as an ARF for almost 20 years (with the two container units having been on site for around 7 years), the concerns expressed by the EA and the LLFA are not justified and are disproportionate. The applicant has therefore failed to demonstrate that the proposal would not have a significant adverse effect in terms of surface water drainage and risk of flooding.

The proposed development is within the Green Belt, which is inappropriate and by definition harmful to the Green Belt and does not preserve openness and conflicts with the purposes of protecting Green Belt land including protecting the countryside from encroachment. There is no longer any need for the development following the refusal of retrospective planning application ref: SP18/00308/SCC for the ARF in November 2018. Further, the applicant has not provided appropriate technical information to assess the impacts on surface water drainage and flood risk. The applicant has failed to demonstrate the very special circumstances to outweigh the harm by reason of inappropriateness, and any other harm. The proposal is therefore contrary to the development plan policies in respect of Green Belt, surface water drainage and flood risk. Accordingly, Officers consider that the planning application should be refused.

The recommendation is that planning permission be refused.

APPLICATION DETAILS

Applicant

Killoughery Waste Management Ltd

Date application valid

26 February 2018

Period for Determination

28 May 2018 (Extension of time agreed by the applicant until 28 November 2018).

None

SUMMARY OF PLANNING ISSUES

This section identifies and summarises the main planning issues in the report. The full text should be considered before the meeting.

	Is this aspect of the proposal in accordance with the development plan?	Paragraphs in the report where this has been discussed
Drainage and Risk of Flooding	No	57 - 69
Landscape and Visual Impact	Yes	70 - 75
Ecology	Yes	76 - 81
Lighting	Yes	82 - 84
Restoration	Yes	85 - 92
Green Belt	No	93 - 101

ILLUSTRATIVE MATERIAL

Site Plan

Plan 1 - Site Location and Application Site Area

Aerial Photographs

Aerial 1 - Shepperton Quarry

Aerial 2 - Two Container Units Outlined in Red

Site Photographs

Figure 1 - Container Unit 1: Clothes Drying Room

Figure 2 - Container Unit 2: Ladies WC

BACKGROUND

Site Description

1. The two container units are located next to the existing two-storey weighbridge office and mess hut in the south-west corner of the aggregates recycling facility (ARF) at Shepperton Quarry. They provide welfare facilities for staff working at the ARF in the form of a ladies WC and a clothes drying room. The ARF extends to approximately 3.56 hectares and is situated within the Metropolitan Green Belt. It is situated in the north eastern part of the wider Shepperton Quarry site beyond the existing industrial estate.
2. Shepperton Quarry lies on the west side of Littleton Lane just north of the M3 Motorway, to the south-east of Laleham and to the west of Shepperton. The closest housing to the ARF is situated on the opposite side of Littleton Lane, some 350 metres to the north-east. Access to the ARF is via the main entrance into Shepperton Quarry from Littleton Lane.
3. The ARF facility is used to recycle construction, demolition and excavation (C,D&E) waste materials in order to produce recycled soils and recycled aggregates for sale and export

off site. The ARF includes a two storey weighbridge office, two container units for employee welfare purposes which are the subject of this application, stockpiles of processed and unprocessed materials and a range of mobile plant and equipment comprising two mobile screeners, a wheeled loading shovel, a 360 degree hydraulic excavator and a mobile crusher.

4. The eastern boundary of the ARF comprises a 4 metre high bund formed from soils stripped from the site. The northern boundary is made up of a 6 metre high bund formed from imported materials. The working area is surfaced with hardcore. The ARF is owned by Brett Aggregates Ltd (BAL) and leased to the site operator, Killoughery Waste Management (KWML), to undertake aggregates recycling operations.
5. The application site lies in an area with a long history of mineral working. As well as the ARF, the wider Shepperton Quarry site comprises: a lake previously used for the disposal of silt arising from mineral processing within the former plant site; areas of hardstanding; the former Breedon concrete batching plant; and the Littleton Lane industrial estate. Laleham Farm to the north of the ARF has been worked and restored back to agriculture. Land at Home Farm, Laleham Nurseries and Shepperton Studios, situated some 600 metres further to the north, have more recently been backfilled and restored.
6. An estimated 500,000 tonnes of unworked reserves of mineral exist under both the former plant site and the adjacent industrial estate. The working of the remaining mineral and restoration of Shepperton Quarry is controlled through the working and restoration conditions approved on 28 February 2012 (ref. SP98/0643), under the Review of Old Mineral Permissions (ROMP) provisions of the Environment Act 1995. This requires the entire Shepperton Quarry site to be restored to nature conservation use by 21 February 2020, with the ARF to be restored to meadow grassland divided by retained and new hedgerows. A Section 106 legal agreement entered into in connection with the SP98/0643 ROMP decision provides for a long term Landscape and Biodiversity Management Plan for the restored Shepperton Quarry site.
7. The approved restoration scheme includes the formation of 3 new water bodies and is based on the remaining mineral reserves being worked. However, BAL has informed the County Planning Authority (CPA) that they no longer intend to work the remaining minerals. As a consequence, the approved restoration scheme is no longer deliverable and Officers are in discussion with BAL over the development of a revised scheme which will need to be submitted for approval.
8. The whole of Spelthorne has been designated as an Air Quality Management Area (AQMA) for annual mean Nitrogen Dioxide NO₂ since the year 2000. The eastern and northern parts of the ARF including the proposed two container units lie within the Shepperton Quarry Site of Nature Conservation Importance (SNCI). The lake to the east of Littleton Lane is designated as the Littleton Lake SNCI. The vast majority of the ARF lies within Environment Agency Flood Zone 2. However, small areas of land within the south-west, which includes the two container units, and extreme south-east corners of the site lie within Flood Zone 3. Most of the land surrounding the ARF is also within Flood Zone 3.
9. An underground Intermediate Pressure (above 2 bar) Gas Pipeline passes beneath part of the bell mouth of the entrance to Shepperton Quarry. An overhead Electricity Transmission Line aligned in a north to south direction is situated a short distance to the east of the eastern boundary of the ARF.
10. The ARF was originally granted temporary planning permission on Appeal in May 1999 (Appeal ref: T/APP/8360/A/98/1013164). The facility has been operational for almost 20 years and subject to a number of further temporary planning permissions, the most recent of which (ref: SP16/00662/SCC) expired on 21 May 2017.

11. The ARF was permitted to import up to 100,000 cubic metres per annum of C,D&E waste for recycling up until 21 May 2016. However, the most recent temporary planning permission (ref: SP16/00662/SCC) prohibited the ability to import C,D&E waste material onto the site. This was after the applicant, BAL, found out that the operator, KWML, already had sufficient volumes of C,D&E waste material stockpiled on site. Consequently, BAL invited the CPA to impose a planning condition preventing the importation of waste material to the ARF.
12. Condition 8 of the most recent planning permission (ref: SP16/00662/SCC) required the ARF to be removed and the land landscaped and restored by 21 May 2017 in accordance with the approved restoration scheme (ref: SP98/0643). However, the ARF has continued to operate since this time.
13. The two container units were originally granted retrospective planning permission in May 2012 for a temporary period of 2 years (ref: SP/12/00386). This was after they had been identified as not benefiting from planning permission by Planning Enforcement Officers during a site visit in November 2011. The container units have subsequently received two further temporary planning permissions, the most recent of which (ref: SP16/00663/SCC) expired on 21 May 2017. Condition 2 required the container units to be removed and the land to be landscaped and restored by 21 May 2017. However, since May 2017, the two container units have remained in use in association with the ARF.
14. In March 2017, BAL submitted two Section 73 applications concurrently to extend the time period for both aggregates recycling and the use of the two container units respectively. The application for the container units sought to vary Condition 2 of planning permission ref: SP16/00663/SCC dated 8 August 2016 in order to allow for their continued use until 30 September 2019. BAL subsequently withdrew both applications on 11 May 2017. This was after BAL were made aware that KWML required the ability to import C,D&E waste material again for recycling due to a lack of C,D&E waste material on-site. BAL then informed KWML that if they wished to import C,D&E waste material again for recycling, then they would need to submit the two planning applications themselves.
15. In May 2017, KWML submitted two Section 73 applications to extend the time period for the ARF, including the ability to import up to 100,000 cubic metres per annum of C,D&E waste for recycling, and the use of the two container units with restoration by 30 September 2019. However, although the applications were submitted through the planning portal before the expiration date of the planning permissions, the cheque, in respect of the planning fee, was sent by post and was not received until the day after both planning permissions had expired. This was due to there being no post at the Council's Offices at weekends. As a consequence, the submissions could not be accepted as valid 'Section 73' applications. As the planning permissions had expired, KWML were informed that two full planning applications would need to be submitted.
16. During the remainder of 2017, KWML made two attempts to submit full planning applications in July and October which the CPA were unable to validate. The applications were amended and re-submitted in February 2018. Following a number of further revisions, the CPA was finally able to validate the applications on 26 February 2018. Since that time, the CPA have formally consulted on the applications. Following more detailed assessment of the applications by Officers and in response to feedback from technical consultees, the CPA has been in a process of negotiation with the applicant which has involved the need for the provision of further information / clarification. This approach reflects the CPA's duty to work positively and proactively with the applicant in order to facilitate sustainable development.
17. During 2018, KWML has been reducing stockpiles, clearing the northern part of the ARF and reducing the levels on this part of the site. KWML has also been involved in site clearance work within the wider Shepperton Quarry site. Information derived in September

2018 from a monitoring visit to the site revealed that the operational area of the ARF had significantly decreased in size.

18. The retrospective planning application (ref: SP18/00308/SCC) for the ARF was considered by the Planning and Regulatory Committee at their meeting on 17 October 2018 where it was resolved that planning permission be refused on the grounds of Green Belt, surface water drainage and the risk of flooding. A decision notice was subsequently issued on 1 November 2018.

Planning History

19. Planning permission (Appeal ref: T/APP/8360/A/98/1013164) was originally granted on appeal on 21 May 1999 for an aggregates recycling facility (ARF) at Shepperton Quarry for a temporary period of 5 years until 21 May 2004 involving the processing of up to 100,000 cubic metres per annum of imported C,D&E waste from north-west Surrey.
20. The planning permission for the ARF was subsequently extended for: 5 years until 21 May 2009 under Appeal ref: APP/B3600/A/05/1175072 dated 16 February 2006; 5 years until 21 May 2014 under planning permission ref: SP09/0371 dated January 2011; 2 years until 21 May 2016 under planning permission ref: SP14/00835/SCC dated 24 September 2014; and 1 year until 21 May 2017 under planning permission ref: SP16/00662/SCC dated 8 August 2016. Condition 8 required the site to be restored by 21 May 2017. Condition 9 prevented the further importation of C,D&E waste.
21. Planning permission (ref: SP98/0643) was granted in February 2012, under the Review of Old Mineral Permissions (ROMP) for the working of the remaining mineral reserves and restoration of Shepperton Quarry to nature conservation use by 21 February 2020, including a revised set of planning conditions. The permission was subject to a Section 106 Agreement dated 27 February 2012 to regulate the passage of heavy goods vehicles (HGVs) and to secure a 25 year Landscape and Biodiversity Management Plan.
22. Planning permission (ref: SP/12/00386) was granted retrospectively in May 2012 for the siting and use of two container units for employee welfare purposes at the site comprising a ladies WC and a clothes drying room, ancillary to the mineral processing and aggregates recycling activities, for a temporary period until 21 May 2014.
23. The planning permission for the two container units was subsequently extended for: 2 years until 21 May 2016 under planning permission ref: SP14/00633/SCC dated 24 September 2014; and 1 year until 21 May 2017 under planning permission ref: SP/16/00663/SCC dated 8 August 2016. Condition 2 required the development to be removed and the land to be landscaped and restored by 21 May 2017.
24. Planning applications ref: SP17/00501/SCC and SP17/00491/SCC for the continued use of land as an ARF and for the siting of two container units for employee welfare purposes respectively until 30 September 2019 were withdrawn by BAL in May 2017.
25. Planning application ref: SP18/00308/SCC was refused in November 2018 for an ARF including the importation of up to 100,000 cubic metres per annum of C,D&E waste for recycling until 21 May 2019 with restoration by 30 September 2019.

THE PROPOSAL

26. KWML are seeking retrospective planning permission for the use and siting of two container units for employee welfare facilities, ancillary to the aggregates recycling facility (ARF) at the site. This application has been submitted in conjunction with retrospective planning application (ref: SP18/00308/SCC) for the ARF which was refused planning permission in November 2018. This was for a recycling facility for construction and

demolition (C&D) waste using crushing and screening plant to produce recycled aggregates and soils, the stockpiling of waste and recycled products, the importation of waste material for recycling and the retention of screen bunding, two-storey site office and two-storey weighbridge office for a temporary period until 30 September 2019. The application for the ARF proposed to continue recycling operations for a two year period up until 21 May 2019 with restoration to be completed by 30 September 2019.

27. This application seeks to retain the two container units on site for a temporary period until 30 September 2019. This time period was commensurate with the restoration completion date proposed in the application for the ARF. This proposed that the application site would be restored to meadow grassland divided by new and existing hedgerows by 30 September 2019, in accordance with the approved restoration plan (Drawing No. NL08074/PA6 dated May 2009).
28. The two proposed container units measure approximately 2.75 metres in width, 4.1 metres in length and 2 metres in height. They have a steel frame, are steel clad and are coloured blue. The units are used for welfare purposes to cater for employees working at the site and are located just south of the existing two-storey weighbridge office and mess hut. The northernmost of the two container units currently houses a WC for the use of female employees on site. There are facilities on site for male use, but it is not acceptable for these to be shared by female employees. The southernmost container unit is used as a drying room for items of clothing belonging to employees at the ARF which have become wet during the working day.
29. The application does not involve any intensification of use, changes in working practices or changes to operational hours. HGV movements associated with the use of the container units are only those required for the collection of foul water from the ladies' WC that is collected in the same sealed ground container as for the mens' WC and which is emptied at the same time by HGV tanker 3 to 4 times per year. The proposal will result in no additional HGV movements beyond those previously permitted at the site. The removal of these two container units would coincide with the restoration of the site. Therefore, they are not proposed as a permanent feature.

CONSULTATIONS AND PUBLICITY

Borough Council

30. **Spelthorne Borough Council**
No objection.
31. **Environmental Health**
No objection.

Consultees (Statutory and Non-Statutory)

32. **Environment Agency (EA)**
Object to the application as the submitted Flood Risk Assessment (FRA) does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development.
33. **Lead Local Flood Authority (LLFA) / SuDS & Consenting Team**
Recommend that planning permission be refused because insufficient information has been provided regarding the proposed surface water strategy to comply with the required technical standards. In the event that planning permission is granted, then this should be subject to two pre-commencement conditions which are referred to under paragraph 66 of this report.

34. **Environmental Assessment Team**
Recommends that the proposal does not constitute 'EIA development'.
35. **Thames Water**
No views received.

Parish/Town Council and Amenity Groups

36. **Shepperton Residents Association**
Has stated that the comments made to joint planning application ref: SP18/00308/SCC for the use of land as an aggregates recycling facility also apply to this associated application. The comments / concerns expressed on application ref: SP18/00308/SCC were as follows:
- The application site was only originally permitted on appeal;
 - The planning application should be considered on the basis of a 'stand-alone' activity no longer associated with gravel raising following the restoration of Home Farm and should therefore be refused;
 - There is no longer a need to import waste material for recycling as this would be contrary to the position of Brett Aggregates Ltd who confirmed in writing to the CPA that they had put a ban on new C&D waste imports to the site in around 2015;
 - The operator has continued to import material after May 2017 without planning permission and has taken a considerable amount of time to submit the new application;
 - Local residents have suffered many years of heavy goods vehicle (HGV) traffic from the wider Shepperton Quarry site including the continued importation of 100,000 cubic metres of C&D waste per annum which is unacceptable;
 - The applicant's reference to Government policy which includes a strong presumption in favour of sustainable development was never intended to apply to Green Belt locations;
 - Very special circumstances advanced by the applicant are not accepted because: there is a lack of evidence of what alternative sites have been investigated; this was never intended to become a Surrey-wide recycling site; the movement of waste up the waste hierarchy has never been applied to C&D waste recycling; the site's Green Belt location means that it is unsuitable for recycling unrelated to gravel raising; and the acceptance of the very special circumstances advanced by the applicant would set a significant precedent for future applications; and
 - Refusal of the application would be a step towards reducing the estimated 400 plus vehicle movements per day from the combined activities undertaken on the wider site.
37. **Laleham Residents Association**
No views received.
38. **Charlton Village Residents Association**
Express its opposition to the application for the following reasons:
- The operator flagrantly ignores the law regarding planning applications and only seeks to conform when their abuse of the site has been proven beyond doubt;
 - The site was supposed to have been returned to residents' use (i.e. incorporating public access) years ago; and
 - The site should be restored back to residents' land and not for water use (i.e. nature conservation use incorporating three additional bodies with no public access) as is currently suggested.

Officer Comment

39. As the comments / concerns provided by Shepperton Residents Association all relate to joint planning application ref: SP18/00308/SCC for the use of land as an ARF, they are not considered strictly relevant in relation to this application.

Summary of publicity undertaken and key issues raised by public

40. The application was publicised by the posting of 1 combined site notice with planning application ref: SP18/00308/SCC and a combined advert was placed in the local newspaper. A total of 65 owner/occupiers of neighbouring properties were directly notified by letter.
41. A total of 5 written representations have been received, all of which object to the application. The main reasons provided relate to planning application ref: SP18/00308/SCC for the use of land as an ARF. The reasons provided that could relate to this application are as follows:
 - The applicant's failure to restore the site by 21 May 2017;
 - The applicant's continued operation of the site following the expiry of planning permission;
 - The applicant's failure to comply with planning conditions;
 - The applicant should not be awarded for its misdeeds with a new planning permission.

PLANNING CONSIDERATIONS

Introduction

42. The guidance on the determination of planning applications contained in the Preamble / Agenda front sheet is expressly incorporated into this report and must be read in conjunction with the following paragraphs.
43. In considering this application, the acceptability of the proposed development will be assessed against relevant development plan policies and material considerations. In this case, the statutory development plan for consideration of the application consists of the Surrey Waste Plan 2008 (SWP), the Surrey Minerals Plan Core Strategy Development Plan Document 2011 (SMP CS DPD), the Aggregates Recycling Joint Development Plan Document for the Minerals and Waste Plans 2013 (ARJDPD), the Spelthorne Borough Core Strategy and Policies DPD 2009 (Spelthorne CS&P DPD) and the Spelthorne Borough Local Plan 2001 (SBLP) 'saved' policies.
44. The County Council is in the process of reviewing the SWP and published the Draft Surrey Waste Local Plan (SWLP) for consultation in December 2017. As the plan remains at an early stage of preparation and has not been subject to examination, little weight can be given to the policies contained within it. The Borough Council adopted a Flooding Supplementary Planning Document (SPD) in 2012 and is in the early stages of preparing a new local plan having published an Issues and Options consultation in May 2018.
45. In assessing the application against development plan policy, it will be necessary to determine whether the proposed measures for mitigating any environmental impact of the development are satisfactory. In this case, the main planning considerations are: the need for the two container units; surface water drainage and risk of flooding; landscape and visual impact; ecology; lighting; restoration and green belt.

Environmental Impact Assessment

46. The proposed development, together with planning application ref: SP18/00308/SCC, were evaluated by the CPA in line with the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and the advice set out in the national Planning Practice Guidance (nPPG) on EIA. On 15 March 2018, the CPA adopted a screening opinion under Regulation 8 of the above EIA Regulations. Having considered the proposed developments in the context of Schedule 2, it was recommended that the developments to which the applications relate were not likely to give rise to any significant

environmental effects and do not constitute EIA development, either alone or in combination.

Principles of the Development

Aggregates Recycling Joint Development Plan Document 2013 (ARJDPD)

Policy AR1: Presumption in Favour of Sustainable Development

Policy Context

47. Policy AR1 of the ARJDPD explains that when considering development proposals, the CPA will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). The CPA will always work proactively with applicants jointly to find solutions which mean that proposals can be permitted wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. This policy also reflects paragraph 11 of the NPPF in advocating that planning applications that accord with the development plan policies will be approved without delay.

Assessment

48. The principles of the development for the use and siting of the two container units for employee welfare facilities at the site have already been established when the development was originally permitted temporarily under retrospective planning permission ref. SP/12/00386 in May 2012. The two container units have subsequently received planning permission for an extension of time on two subsequent occasions.
49. The two proposed container units are ancillary to the use of the site as an aggregates recycling facility (ARF). The need for the application has been overtaken by events following the refusal of planning application ref: SP18/00308/SCC in November 2018 for the use of land as an ARF. As a consequence, the need for the two container units can no longer be justified.

Conclusion

50. As the ARF has recently been refused planning permission, Officers consider that there is no longer a need for the two container units for employee welfare facilities.

Environment and Amenity Issues

Surrey Waste Plan 2008 (SWP)

Policy DC2: Planning Designations

Policy DC3: General Considerations

Surrey Minerals Plan Core Strategy DPD 2011 (SMP CS DPD)

Policy MC17: Restoring Mineral Workings

Policy MC18: Restoration and Enhancement

Spelthorne Borough Core Strategy and Policies DPD 2009 (Spelthorne CS&P DPD)

Policy LO1: Flooding

Policy SP6: Maintaining and Improving the Environment (sites of nature conservation value)

Policy EN8: Protecting and Improving the Landscape and Biodiversity

Policy EN13: Light Pollution

Spelthorne Borough Local Plan 2001 (SBLP)

'Saved' Policy RU11: Sites of Nature Conservation Importance

'Saved' Policy RU14: Sites of Nature Conservation Importance

51. Government planning policy set out in paragraph 17 of the NPPF requires planning decisions to promote an effective use of land in meeting the need for development, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 155 expects inappropriate development in areas at risk from flooding to be avoided or, where development is necessary in such areas, to be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 163 (and footnote 50) requires all applications within Flood Zones 2 and 3 to be supported by a flood risk assessment (FRA). Paragraph 170 expects planning decisions to contribute to and enhance the natural environment.
52. SWP Policy DC2 states that planning permission will not be granted for waste-related development where this would endanger, or have a significant adverse impact on, relevant to this application, the character, quality, interest or setting of sites of nature conservation importance (SNCI) or land, as defined by the Environment Agency (EA), as liable to flood. SWP Policy DC3 seeks to permit waste-related development where it can be demonstrated that any impacts can be controlled to achieve levels that will not significantly adversely affect people, land, infrastructure and resources. Where necessary appropriate mitigation should be identified so as to minimise or avoid any material adverse impact and compensate for any loss. The impacts to be considered include those relating to: surface water; visual and landscape impact; biodiversity; and glare.
53. SMP CS DPD Policy MC17 states that restoration of mineral workings should be completed at the earliest opportunity and that restored sites should be sympathetic to the character and setting of the wider area and be capable of sustaining an appropriate after-use. Policy MC18 of the SMP CS DPD seeks to deliver benefits from restoration in the form of enhancement of biodiversity interests, improved public access and provision of climate change mitigation. Where appropriate, the policy advocates the provision of a wider area enhancement approach, linking restoration proposals or other green infrastructure initiatives.
54. Spelthorne CS&P DPD Policy LO1 sets out a series of measures designed to reduce flood risk and its adverse effects on people. These include requiring any development in Zones 2, 3a and 3b to be designed to be flood resilient/resistant and for all development on sites of 0.5 hectares or more within these flood zones to be supported by an appropriate FRA. Strategic Policy SP6 of the Spelthorne CS&P DPD seeks to maintain and improve the quality of the environment of the Borough by: ensuring that new development respects the environment of the area; protects and enhances areas of existing environmental character including sites of nature conservation value and areas of landscape value; and improving poor quality environments. The Borough Council adopted a Supplementary Planning Document (SPD) on Flooding in 2012 to explain in more detail the Council's policy on development in areas of flood risk.
55. Spelthorne CS&P DPD Policy EN8 seeks to protect and improve the landscape and biodiversity by: working with partners to develop and implement projects to enhance the landscape and create or improve habitats of nature conservation value and refusing permission where development would have a significant harmful impact on the landscape or features of nature conservation value. Policy EN13 of the Spelthorne CS&P DPD aims to reduce light pollution by only permitting lighting proposals which would not adversely affect amenity or public safety. Spelthorne CS&P DPD Strategic Policy SP7 sets out a number of measures by which the Borough Council will seek to reduce the impact of development in contributing to climate change including by promoting measures to reduce flooding and the risks from flooding.
56. SBLP Policy RU11 only permits development within safeguarded Sites of Nature Conservation Importance (SNCI) where there will be no adverse effect on their ecological interest or where the requirements of Policy RU14 are met. Where development would

destroy or damage the SNCI, SBLP Policy RU14 requires applicants to demonstrate that the benefits outweigh the harm, any harm is minimised, mitigation / compensation has been made within the area, and that measures are established to monitor the effectiveness of the mitigation.

Drainage and Risk of Flooding

Assessment

57. The River Thames runs to the west and the south of the Shepperton Quarry site. The submitted Planning Statement sets out that although the wider site falls within Flood Zone 2, the two container units for employee welfare facilities fall within Flood Zone 3. It explains that a Flood Risk Assessment (FRA) has been prepared in connection with both this development, and the ARF which was the subject of a separate and planning application, and that this confirms that operations at the site will not, overall, give rise to flood risk.
58. The submitted Planning Statement states that no changes are proposed to the positioning of the container units, which continue to be located on a gravel surfaced area, surrounded by stockpiles and machinery. The container units are temporary, moveable and take up 23 square metres of land. The Planning Statement argues that this poses no additional risk to flooding, in the context of the overall much larger recycling area, and that the units are linked to the ARF and will be removed when the site is restored. For these reasons, the applicant considers that the development is 'de minimis' in the context of flood risk.
59. The Planning Statement adds that flood risk, in the context of the welfare units, has not previously been considered to be an issue and that there was no mention of flood risk in the Officer Reports addressing previous planning applications. It also sets out that as nothing has changed, there is no reason why flood risk cannot be dealt with in the context of the entire site, as has been done since 2012. However, previous applications have been submitted under Section 73 of the Town and Country Planning Act 1990 to amend a condition whereas this is a full application seeking express planning permission and therefore requires a much more rigorous assessment of the proposal including the submission of a Flood Risk Assessment. Further, Officers are aware that planning application ref: SP2018/00308/SCC for the use of land as an ARF was recently refused planning permission in November 2018 on grounds which included surface water drainage and the risk of flooding. This followed an objection from the EA and a recommendation from the Lead Local Flood Authority (LLFA) that planning permission be refused due to deficiencies with the submitted FRA.
60. The FRA explains that the site is located in the River Thames catchment area. The EA has produced 'The Thames Catchment Flood Management Plan' which is a voluntary, high level strategic plan that aims to develop policies to manage flood risk over the next 50-100 years. Spelthorne Borough Council has published a 'Strategic Flood Risk Assessment' (SFRA) that indicates that the aggregates recycling area is located in Flood Zone 2 and 3.
61. Flood Zone 2 indicates that there is a medium risk of flooding from fluvial or tidal sources and includes land having between a 1 in 100 and 1 in 1,000 annual probability of river flooding. Flood Zone 3 is an area of high flood risk and includes land having a 1 in 100 or greater annual probability of river flooding. The FRA acknowledges that the two proposed container units comprising a WC and a clothes drying room are situated within Flood Zone 3. The SFRA indicates that there is no sewer flooding at the site.
62. CIRIA publication 'C624 Development and Flood Risk - Guidance for the Construction Industry' defines three levels of flood risk that can be undertaken. The submitted FRA considers that a Level 2 Scoping Study is appropriate at this stage. However, to negate any pre-commencement conditions, it explains that the FRA has been based on the requirements of a Level 3 Detailed Study. The FRA concludes that:

- There is no history of flooding from the surrounding rivers according to the SFRA;
 - The site is at low risk of surface water flooding according to the EA surface water maps;
 - It is proposed to discharge the surface water to a swale that discharges to a watercourse to the north of the site;
 - The attenuation required in a 1 in 100 year event plus climate change is 23.5 cubic metres;
 - The finished floor level will be set 600 mm above the ground levels to mitigate flooding to the two containers;
 - The application is de minimis as the buildings take up less than 23 square metres;
 - The water level is approximately 0.1 metres and therefore 2.3 square metres of storage will be required;
 - The compensation storage area will be found outside the 1 in 100 year event plus climate change;
 - No mitigation measures are considered necessary to mitigate the risk from infrastructure failure; and
 - Redevelopment of the site would be considered sustainable in terms of flood risk as per the existing site.
63. The EA have objected to the application because the submitted FRA does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development. In particular, they have commented that the submitted FRA fails to: (1) assess the impact of climate change using the latest guidance and appropriate climate change allowances; and, (2) demonstrate if there is any loss of flood plain storage within the 1% annual probability (1 in 100) flood extent with an appropriate allowance for climate change caused by the proposed development and if so that this can be mitigated.
64. The EA have advised that the applicant can overcome this objection by undertaking a FRA which demonstrates that the development is safe without increasing risk elsewhere and where possible reduce flood risk overall. They have recommended that a topographical survey is undertaken by the applicant, utilising the modelled floodplain levels for the site provided by the EA, in order to demonstrate whether the temporary container units will be outside the 1 in 100 plus 15% allowance for climate change.
65. The Lead Local Flood Authority (LLFA) has assessed the application including the submitted FRA and surface water drainage strategy for the proposal against the requirements under the NPPF, the nPPG and national Non-Statutory Technical Standards for Sustainable Drainage Systems (SuDS). They have recommended that planning permission be refused because insufficient information has been provided regarding the proposed surface water strategy to comply with the requirements laid out under the technical standards for SuDS. To overcome this, they have said that the following information is required:
- Ground Investigations confirming suitability (or lack of) soakaway drainage;
 - A drainage design that takes into account the SuDS Hierarchy;
 - Drainage calculations illustrating existing and proposed surface water discharge rates and volumes;
 - Drawings and plans including: a topographical survey; the proposed drainage layout; and the existing drainage layout.
66. In the event that planning permission is granted, the LLFA have suggested the imposition of two planning conditions. The first is a pre-commencement condition requiring details of the design of a surface water drainage scheme to be submitted to and approved in writing by the CPA. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The proposed planning condition also lists the specific drainage details that should be provided. The second condition requires a verification report to be carried out by a qualified drainage engineer and submitted to and approved by the CPA prior to the first

occupation of the development. However, both conditions would be unenforceable as the application is retrospective and the two proposed container units for employee welfare purposes are already on site and actively in use.

67. Spelthorne Borough Council have raised no objection to the application. No views have been received from Thames Water and no other comments on this subject have been received from other consultees or residents who have submitted representations on the proposal.
68. The applicant has considered the points raised by the EA and the LLFA and disagrees with their findings. They believe that the requested information is not justified and is disproportionate. This is given the context of the site which has been operating as an ARF for nearly 20 years and the nature of the retrospective application which seeks to extend the period for the use and siting of the two container units, which have been on site for around 7 years, from 21 May 2017 until 30 September 2019. Consequently, the applicant has informed the CPA that they are not prepared to undertake the additional work requested on revising the FRA.

Conclusion

69. Officers consider that although the development has been operational for almost 20 years, and the two container units have been present on site for around 7 years, policy requirements and technical standards have changed over this period. As this is a full retrospective planning application seeking express temporary planning permission for the two container units, the impacts of the proposal need to be fully assessed. In view of the deficiencies with the submitted FRA, as highlighted in the objection letter received from the EA and the LLFA's response recommending that planning permission be refused, together with the applicant's decision not to address the concerns raised, Officers conclude that the proposal is contrary to development plan policy in respect of surface water drainage and the risk of flooding.

Landscape and Visual Impact

Assessment

70. The submitted Planning Statement sets out that the effects of the proposed development on landscape and visual amenity were assessed as being acceptable as part of the previous planning permission ref: SP/16/00663/SCC dated 8th August 2016. This application proposes no changes to the physical appearance or positioning of the container units.
71. The Planning Statement points out that the development remains mostly screened from public viewpoints by vegetation along the B376 Shepperton/Laleham Road to the north, along Littleton Lane to the east, Littleton Lane industrial estate and the development at Shepperton Quarry to the south east and south, and by development and vegetation on the western banks of the Shepperton Quarry lake to the west. It explains that although the nearest housing does not overlook the site, it remains visible from the adjacent Laleham Farm and in glimpsed distant views from the north and east through the roadside boundary vegetation of the perimeter screen bunding, with occasional views of plant and machinery protruding above the bunding. It also notes that there are no public rights of way across the site or the land at Laleham Farm to the north.
72. In the context of the site as a whole, the Planning Statement considers that given the temporary nature of the units which will remain ancillary to the ARF, the proposal continues to have a very limited visual impact on the local landscape. Therefore, the applicant argues that the proposed development is acceptable in terms of its impacts on landscape and visual amenity and complies with the relevant development plan policies.

73. No objections have been received on the grounds of the impact on landscape and visual amenity. Officers note that in considering the previous planning permission (ref: SP/16/00663) to retain the two container units on site for a further 12 months until 21 May 2017, the County Landscape Architect made no landscape objection to the proposal given the modest scale of the development and its ancillary nature.
74. However, the proposed container units would no longer be ancillary to the ARF following the recent refusal of planning application ref: SP18/00308/SCC in November 2018. They would therefore be more conspicuous in the landscape as they would no longer be screened by the existing two storey weighbridge office or the plant and machinery and stockpiles of processed and unprocessed materials associated with the ARF once the site has been cleared. However, in view of their scale, temporary nature and the existing screening around the wider site, the visual and landscape impact of the development is considered to be acceptable.

Conclusion

75. In view of the existing screening around the periphery of the wider Shepperton Quarry site and the scale and temporary nature of the proposed development, Officers are satisfied that in terms of the landscape and visual impact of the development, the application is not likely to have any significant adverse effects and is therefore acceptable and complies with the development plan in this respect.

Ecology

Assessment

76. The submitted Planning Statement explains that the effects of the proposed development on ecology and biodiversity were assessed as being acceptable as part of planning permission ref: SP/16/00663/SCC dated 8th August 2016. It points out that the application proposes no changes to the positioning of the container units, which continue to be located on a gravel surfaced area, surrounded by stockpiles and machinery, which is well used by people and cars. It notes that this particular location, in the south-western corner of the ARF, has no significant features of nature conservation and is not likely to attract wildlife. Due to their temporary nature, the Planning Statement sets out that the two container units do not require foundations, and so no below-surface works have taken place which might affect wildlife and their habitats.
77. The Planning Statement adds that on cessation of the development, restoration of the recycling facility in conjunction with the restoration and landscaping of the wider Shepperton Quarry site should ensure that biodiversity and ecological interests are maintained and enhanced in the longer term. For these reasons, the Planning Statement concludes that the proposed development will not result in an adverse impact on ecological interests.
78. Officers note that although the County Ecologist made no comments on the previous planning application (ref: SP/16/00663/SCC), permitted on 8th August 2016 to retain the two container units for a further 12 months, the County Ecologist considered an earlier planning application (ref: SP/14/00633/SCC) permitted on 24 September 2014 to retain the container units for 2 years. In response, the County Ecologist raised no objection and had no further comments to make. It is also noted that the County Ecologist raised no objection to refused planning application ref: SP18/00308/SCC to retain the ARF until 21 May 2019.
79. However, following the refusal of planning application ref: SP18/00308/SCC in November 2018, the proposed development will no longer be surrounded by stockpiles and machinery, as indicated in the Planning Statement, after the site has been cleared. The two container units are situated within the Shepperton Quarry Site of Nature Conservation

Importance (SNCI) which is important for wintering wildfowl. They have already been present on site for around 7 years. As any features of ecological value within the aggregates recycling area are already likely to have been disturbed, the application is not likely to have any significant adverse impacts on ecology and biodiversity interests.

80. No objections have been received to the application on the grounds of the impact on ecology and biodiversity. The aggregates recycling area, which comprises the application site, is subject to an approved restoration scheme to restore the land to nature conservation use comprising meadow grassland divided by new and retained hedgerows. Officers note that the approved restoration scheme, which covers the wider Shepperton Quarry site as a whole, is no longer deliverable. Accordingly, a revised restoration scheme will need to be submitted for approval. However, it is understood that there is no need to amend the restoration of the aggregates recycling area itself. Officers are therefore confident that restoration will be achieved resulting in ecological benefits and an increase in the biodiversity value of the site in a manner that complements the Shepperton Quarry SNCI and the nearby Littleton Lake SNCI.

Conclusion

81. No objections have been received on biodiversity or ecological grounds. Given the length of time the two container units have been on site, any features of ecological or biodiversity interest are likely to have already been disturbed. The application site is subject to an approved nature conservation based restoration scheme. The proposal is for a temporary period and Officers are satisfied that restoration can be achieved in a manner which will increase the biodiversity and ecological value of the site and complement the existing SNCI designations. For these reasons, the application is in accordance with development plan policy relating to biodiversity and ecological interests and the protection of SNCIs.

Lighting

Assessment

82. The Planning Statement explains that it will be necessary to provide lighting at the facilities for health and safety reasons. However, this will only be used during operational hours and will not be illuminated over the night time period. No objections have been received in relation to lighting and no issues have been raised. Officers note that no changes are proposed to the previous lighting regime at the site which has been in existence for approximately 7 years.
83. No changes are proposed to the operational hours of the welfare facilities. These would need to be secured by the imposition of a planning condition. This follows the refusal of planning application ref: SP18/00308/SCC for the ARF. This is because the condition controlling hours of operation was previously only imposed on the planning permission for the ARF.

Conclusion

84. In view of the considerations discussed above, Officers are satisfied that the application would not give rise to a significant adverse impact in relation to glare and meets the requirements of development plan policy on this subject.

Restoration

Assessment

85. This retrospective application is proposing to retain the two container units on site for a temporary period until 30 September 2019. The Planning Statement explains that the container units would be removed from the site upon cessation of the recycling activities

and the site shall be restored in accordance with the scheme of restoration and landscaping for Shepperton Quarry approved under planning permission reference SP98/0643 dated 28th February 2012.

86. Refused planning application ref: SP18/00308/SCC for the ARF had proposed to allow recycling operations to continue for a temporary period of two years until 21 May 2019 with restoration to be completed by 30 September 2019. Subject to planning permission being granted, the restoration of the land occupied by the two container units would be capable of being secured through the imposition of a planning condition.
87. The application would delay the restoration of the small area of land occupied by the two container units, as well as the aggregates recycling area in its entirety, by up to 28 months until September 2019. The impact of this delay is considered relatively minor in restoration terms given the very small area occupied by the two container units in the context of the wider Shepperton Quarry site. Further, almost all of the aggregates recycling area could be restored in advance and the proposal would not delay the restoration of the wider Shepperton Quarry site where restoration is required to be completed by 21 February 2020.
88. Charlton Village RA has commented that the site should have been restored years ago and should be restored back to 'residents land' and not for 'water use' as is currently proposed. This is because the approved restoration scheme is for nature conservation use and does not make provision for public access. It also includes the formation of three additional water bodies within the wider Shepperton Quarry site where the remaining mineral reserves were to be extracted. However, the land owner has now confirmed that they no longer intend extracting the remaining mineral reserves.
89. As a consequence, the approved restoration scheme is no longer deliverable and a revised restoration scheme will need to be submitted for approval. Officers are aware that there is a desire within the local community for some form of public access to be incorporated into the revised restoration scheme and this will be explored in discussions between Officers and the landowner.
90. The approved restoration scheme requires the aggregates recycling area, including the land occupied by the two container units, to be restored to meadow grassland divided by new and retained hedgerows. Officers do not envisage there being a need to change the restoration for the aggregates recycling area as part of the revised restoration scheme. This is because the aggregates recycling area is not affected by the land owner's decision not to work the remaining mineral reserves.
91. A representation has been received objecting to the application for, amongst other reasons, the applicant failing to restore the site by 21 May 2017. However, the operator's intention to retain the two container units for a further temporary period until 30 September 2019 was made apparent to the CPA in advance of the expiry of planning permission. This followed the submission of a planning application by the landowner in March 2017 which was subsequently withdrawn. Accordingly, restoration has been delayed pending the submission and determination of the planning applications for the ARF and the two container units.

Conclusion

92. The proposal would delay the completion of the approved restoration scheme for the aggregates recycling area by up to 28 months. However, with the exception of the small area occupied by the two container units, the restoration of the remainder of the aggregates recycling area could be completed in advance. The impact of the delay to restoration is not considered significant. This is because of the small area occupied by the two container units, the development would not prevent the vast majority of the aggregates recycling area from being restored in advance, and the application would not delay the

restoration of the wider Shepperton Quarry site by 21 February 2020. Officers are satisfied that with the imposition of a planning condition to secure the removal of the two container units and the restoration of the land they occupy, restoration can be achieved in a manner that is sympathetic to the character and setting of the wider area, is capable of sustaining an appropriate after-use and is beneficial in terms of delivering biodiversity enhancements. For these reasons, the proposal meets the requirements of development plan restoration policy requirements.

Green Belt

Surrey Waste Plan 2008 (SWP)

Policy CW6: Development in the Green Belt

Spelthorne Borough Local Plan 2001 (SBLP)

'Saved' Policy GB1: Green Belt

Policy Context

93. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. It goes on to say that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
94. SWP Policy CW6 states that there will be a presumption against inappropriate waste related development in the Green Belt except in very special circumstances. Very special circumstances to justify inappropriate development of waste management facilities in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Policy CW6 goes on to state that the characteristics of the application site and wider environmental and economic benefits of sustainable waste management, including the need for a range of sites, may contribute to very special circumstances.
95. 'Saved' Policy GB1 of the SBLP states that the Green Belt shown on the Proposals Map will be permanent and within it development will not be permitted which would conflict with the purposes of the Green Belt and maintaining its openness. Subject to the above, development will not be permitted except for uses appropriate to the Green Belt.

Assessment

96. The application site is located in the Green Belt and forms part of the wider Shepperton Quarry site where temporary planning permission exists until 21 February 2020 for operations associated with mineral working and restoration. The aggregates recycling area including the area occupied by the two container units were required to have been restored by 21 May 2017. The proposed development is ancillary to the use of the ARF. Consequently, it constitutes waste-related development which is not compatible with the objectives of Green Belt and maintaining openness and therefore represents inappropriate development.
97. No objections have been received on Green Belt grounds. Whilst the proposal is temporary, Officers consider that it would have a limited impact on the openness of the Green Belt. This is in terms of its continuing presence on the land after the remainder of the area occupied by the ARF has been restored following the recent refusal of the planning application. This includes the clearance and restoration of areas of the ARF

occupied by the two-storey weighbridge office, stockpiles of processed and unprocessed waste materials and associated plant and equipment. It would also delay completion of the restoration of the aggregates recycling area by up to 28 months until 30 September 2019.

98. Inappropriate development may only be permitted where very special circumstances are demonstrated which clearly outweigh the harm caused to the Green Belt by reason of inappropriateness, and any other harm. It is a matter for the applicant to demonstrate very special circumstances that overcome the harm to the Green Belt. The applicant has provided a list of factors, which they consider amount to very special circumstances that clearly outweigh the harm to the Green Belt such that an exception to policy can be made. These include:
- The impact of the container units on the surrounding environment and Green Belt is considered negligible as the footprint of the application site totals less than 0.02% of the total Shepperton Quarry site area and 0.15% of the area of the ARF;
 - The length of time the units have already been in place without complaints being received from third parties;
 - Their enclosure within the recycling facility negates any nuisance to local landscape or air quality;
 - It is not proposed to alter the hours of working or any other aspects relating to the use of the two container units;
 - It is not acceptable for WC facilities to be shared by male and female employees;
 - The second unit, used as a drying room for items of clothing, which become wet during the working day, is also essential to the operation of the recycling facility;
 - The removal of the container units will coincide with the restoration of the rest of the recycling facility, and this development would not be a long term or permanent feature within the Green Belt; and
 - The two container units remain essential to the welfare of staff at the site, and are ancillary to the recycling facility proposed as part of a separate planning application.
99. Officers would not dispute the merits of the very special circumstances advanced by the applicant when considered in combination if planning permission had been granted for the ARF. However, following the refusal of planning application ref: SP18/00308/SCC for the ARF, the need for the development no longer exists. As the container units are intended to be ancillary to the use of the land as an ARF, the proposed development together with the very special circumstances put forward by the applicant have now been overtaken by events.
100. Accordingly, the very special circumstances suggested by the applicant are not sufficient to demonstrate that the identified harm to the Green Belt, by reason of inappropriateness and impact on openness, and other harm is clearly outweighed by other considerations. In this particular case, other harm comprises the inadequacy of the submitted technical information to assess the impacts on surface water drainage and the risk of flooding.

Conclusion

101. The development is inappropriate in the Green Belt and by definition harmful to the Green Belt and does not preserve openness and conflicts with the purposes of protecting the Green Belt. It can therefore only be permitted as an exception to policy. The two proposed container units are ancillary to the operation of the ARF. However, the need for the development no longer exists following the refusal of planning application ref: SP18/00308/SCC for the ARF. Officers consider that the factors advanced by the applicant are insufficient to demonstrate the existence of very special circumstances which clearly outweigh the harm identified, by reason of inappropriateness and lack of openness, and any other harm to the Green Belt. In terms of other harm, Officers have identified that this includes the applicant's failure to provide appropriate technical information to assess the impacts on surface water drainage and the risk of flooding. Officers therefore conclude

that the application is contrary to SWP Policy CW6 and 'saved' SBLP Policy GB1 and that an exception to Green Belt policy cannot be made.

HUMAN RIGHTS IMPLICATIONS

102. The Human Rights Act Guidance for Interpretation, contained in the Preamble to the Agenda is expressly incorporated into this report and must be read in conjunction with the following paragraph.
103. The scale of any impact is not considered sufficient to engage Article 8 or Article 1 of Protocol 1 and, if planning permission were to be granted any impact is capable of being controlled or mitigated by the measures incorporated in the planning application proposal, planning conditions and controls available through other regulatory regimes. As such this proposal is not considered to interfere with any Convention right.
-

CONCLUSION

104. The application site is located in the Green Belt and therefore planning permission may only be granted where factors that amount to very special circumstances are demonstrated that clearly outweigh the harm, by reason of inappropriateness, and any other harm to the Green Belt. The retrospective application for two container units ancillary to the use of land as an ARF is for a 28 month period until 30 September 2019 by which date the land is proposed to be restored in accordance with the previously approved restoration scheme (planning application ref: SP98/0643 dated 28 February 2012). The container units have been present on site and operational for around 7 years. They are located in the south-west corner of the ARF, which in turn is situated within the north east of the wider Shepperton Quarry site where mineral extraction and processing has ceased and the site is in the process of being cleared in preparation for restoration by 21 February 2020.
105. No objections have been received to the application in relation to the impact of the development on the Green Belt. However, the proposed development has been overtaken by events following the recent refusal of planning application ref: SP18/00308/SCC for the use of land as an ARF. Whilst the proposal is temporary, Officers consider that it would have a limited impact on the openness of the Green Belt. This is in terms of its continuing presence on the land after the remainder of the area occupied by the ARF has been cleared and restored following the refusal of planning permission.
106. The applicant has provided a list of factors which Officers consider to be insufficient to demonstrate the existence of very special circumstances which clearly outweigh the harm to the Green Belt. This is because the two proposed container units are ancillary to the ARF which has recently been refused planning permission. The applicant has therefore failed to demonstrate that very special circumstances exist to outweigh the harm by reason of inappropriateness, and any other harm which comprises the inadequacy of the submitted FRA to assess the impacts on surface water drainage and the risk of flooding. The application therefore does not comply with the requirements of Green Belt Policy.
107. The EA have objected to the application and the LLFA have recommended that the application be refused because the applicant has not provided appropriate technical information, by way of the submitted FRA, to assess the impacts of the proposed development on surface water drainage and flood risk. The applicant has confirmed that they do not intend amending the submitted FRA to address these concerns. They consider that they are not justified or proportionate given the context of the two container units which have been in existence for approximately 7 years. Therefore, the applicant has not demonstrated that the proposal would not have a significant adverse effect in terms of surface water drainage and risk of flooding contrary to the requirements of development plan policy.

108. The application has also been assessed in relation to its impacts on landscape and visual impact, ecology and biodiversity, lighting and restoration. Objections have been received from Charlton Village RA and local residents primarily due to the failure of the applicant to restore the site by 21 May 2017, the continued delay to restoration, the continued operation of the site following the expiry of planning permission and the failure to comply with planning conditions. Shepperton RA have also expressed their concern. No objections have been received from technical consultees in relation to these issues. Officers are satisfied that the impact of the proposal in relation to these matters is satisfactory and capable of being mitigated through the imposition of planning conditions.
109. In conclusion, the application does not comply with policy requirements in relation to Green Belt, surface water drainage and the risk of flooding. For these reasons, Officers consider that temporary planning permission for the two proposed container units for employee welfare facilities should be refused.

RECOMMENDATION

The recommendation is that planning permission be refused for the following reasons:

Reasons:

1. The proposed development is inappropriate and by definition harmful to the Green Belt and does not preserve openness and conflicts with the purposes of protecting Green Belt land including protecting the countryside from encroachment. The applicant has failed to demonstrate the very special circumstances to outweigh the harm by reason of inappropriateness, and any other harm. The proposal is therefore contrary to Policy CW6 of the Surrey Waste Plan 2008, 'saved' Policy GB1 of the Spelthorne Borough Local Plan 2001 and the National Planning Policy Framework 2018.
2. The applicant has failed to provide the appropriate information to support the application to enable a full assessment of the effects of the proposal and, if necessary, identify appropriate mitigation measures so as to minimise or avoid any material adverse impact with regard to flood risk and enable the County Planning Authority to be satisfied that adequate safeguards can be secured for the protection of the environment as required by development plan policy and therefore the proposal is contrary to the requirements of Policy DC2 (xvi) and DC3 of the Surrey Waste Plan 2008 and Policy LO1 of the Spelthorne Core Strategy and Policies DPD 2009.

Informatives:

1. In determining this application the County Planning Authority has worked positively and proactively with the applicant by: entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies and the National Planning Policy Framework including its associated planning practice guidance providing feedback to the applicant where appropriate, and issues of concern have been brought to the applicant's attention in a timely manner affording the opportunity to consider whether such matters can be suitably resolved. This approach has been in accordance with the requirements of paragraph 38 of the National Planning Policy Framework 2018. However, in this instance, it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal.

BACKGROUND PAPERS

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

Government Guidance

[National Planning Policy Framework](#) (Revised July 2018)

[Planning Practice Guidance](#)

The Development Plan

[Surrey Waste Plan 2008](#)

[Surrey Minerals Plan Core Strategy Development Plan Document \(DPD\) 2011](#)

[Aggregates Recycling Joint DPD 2013](#)

[Spelthorne Core Strategy and Policies DPD \(February 2009\)](#)

[Spelthorne Borough Local Plan 2001 \(Saved Policies and Proposals\)](#)

Other Documents

[Spelthorne Flooding Supplementary Planning Document \(July 2012\)](#)

[Spelthorne Borough Council Strategic Flood Risk Assessment \(December 2006\)](#)

[Development and Flood Risk - Guidance for the Construction Industry, CIRIA, 2004](#)

[Non-Statutory Technical Standards for Sustainable Drainage Systems, DEFRA \(March 2015\)](#)

Site Location:

Shepperton Quarry, Littleton Lane, Shepperton, Surrey TW17 0NF



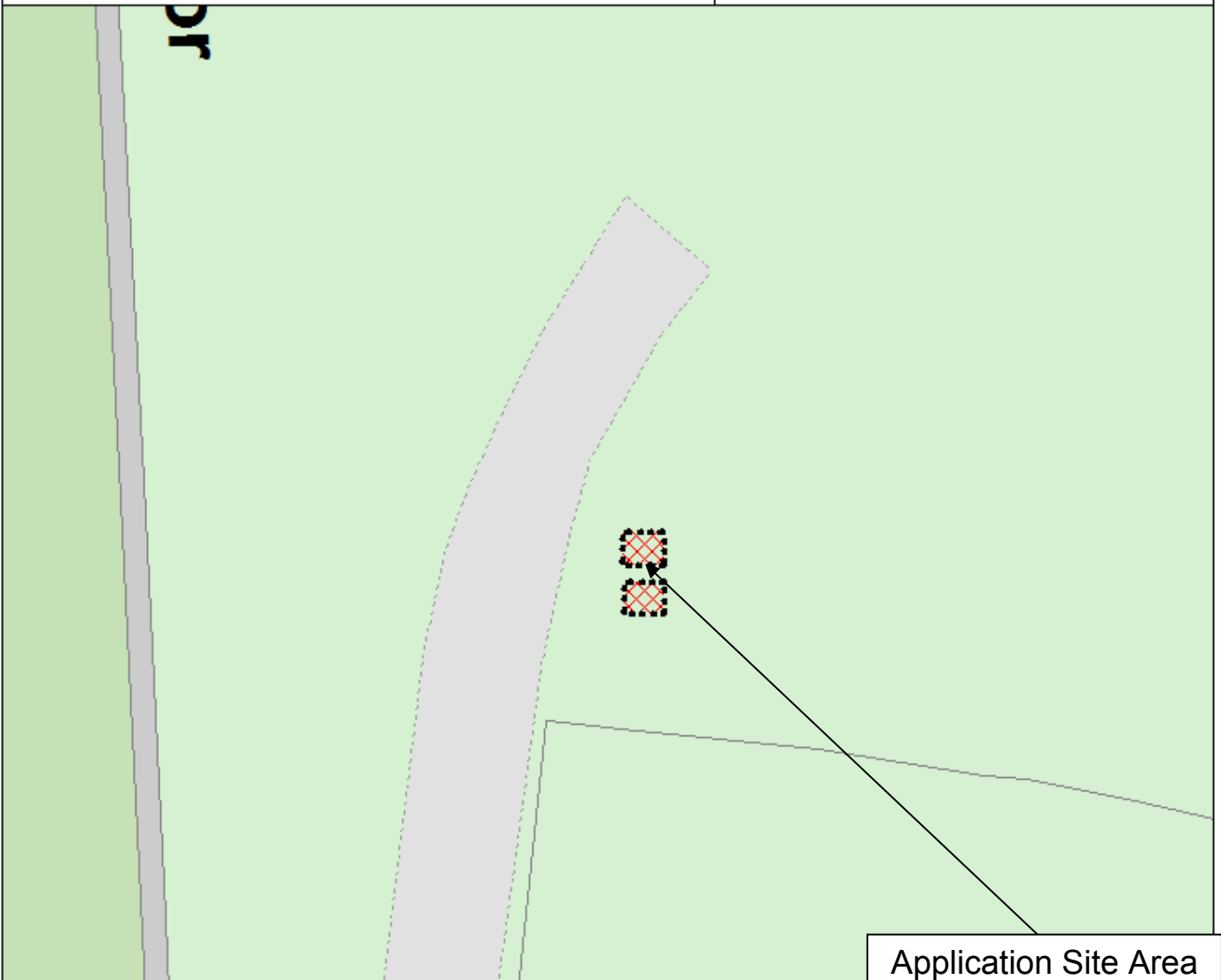
The use and siting of two container units for employee welfare purposes, ancillary to the proposed aggregates recycling facility at the site for a temporary period until 30 September 2019 (retrospective).

Application numbers:
SP18/00304/SCC,

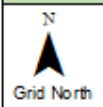
Electoral divisions:
Laleham & Shepperton

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Note: This plan is for indicative purposes only



Application Site Area



Ref No:
SCC REF 2017/0123



Scale: **1:435**
Printed on: 26/10/2018

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2015 Aerial Photos

Aerial 1 : Shepperton Quarry



2015 Aerial Photos

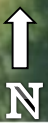
Aerial 2 : Two Container Units (outlined in red)



WC (Ladies)

Clothes Drying Room

Haul Road



All boundaries are approximate

Figure 1 :- Container Unit 1: Clothes Drying Room



Figure 2 :- Container Unit 2: Ladies WC



TO: PLANNING & REGULATORY COMMITTEE

DATE: 21 November
2018

BY: DANIEL WILLIAMS, COUNTRYSIDE ACCESS
OFFICER

DISTRICT(S) GUILDFORD AND WAVERLEY
BOROUGHES

ELECTORAL DIVISION(S):
Shalford and Farnham North

PURPOSE: FOR DECISION

GRID REF: SU 866 487

TITLE:
**ALLEGED PUBLIC BRIDLEWAYS BETWEEN LOW LANE
(FARNHAM) AND THE MOORS (TONGHAM)**

SUMMARY

The County Council has a duty under Section 53 of the Wildlife and Countryside Act 1981 (WCA 1981) to modify the Definitive Map and Statement (DMS) if it discovers evidence which can be reasonably alleged to support a modification.

An application was received for a Map Modification Order (MMO) to add public bridleways between Low Lane (C121), Farnham and Public Bridleway 348 (Tongham) known as The Moors, to the Surrey County Council Definitive Map and Statement (DMS).

It is considered that the evidence shows that no public bridleways can reasonably be alleged to subsist over the routes. As such a legal order to modify the definitive map and statement should not be made.

This case crosses the Borough Council border of Guildford and Waverley. It would be usual to take Rights of Way cases to the Local Area Committee. Given that this would involve two Committees we have been advised to bring such reports just once to Planning and Regulatory Committee. This is in accordance with section 9.2 of the Surrey Code of Best Practice in Rights of Way Procedures.

OFFICER RECOMMENDATIONS

The Planning and Regulatory Committee is asked to agree that:

- i. No public rights are recognised over any of the routes shown on Drawings Nos. 3/1/18/H93 or H93A and that the application for a MMO under sections 53 and 57 of the Wildlife and Countryside Act 1981 to modify the DMS by the addition of a public bridleway is not approved.
- ii. In the event that the Council is directed to make an order by the Secretary of State, a neutral position will be adopted by the Council at any subsequent public inquiry.

1. INTRODUCTION AND BACKGROUND

- 1.1 Mrs Caroline Amond Lewis submitted an application in October 2013 for a Map Modification Order (MMO) to add several public bridleways between Low Lane (Farnham) and The Moors (Tongham) to the Surrey County Council DMS. The routes claimed are shown I-VI on Drg. No. 3/1/18/H93 (Annex A). A total of 20 user evidence forms were submitted in support of the application
- 1.2 Following examination of the plans attached to the user evidence forms and other evidence it is clear that the lines annotated by the applicant on the plan attached to the Schedule 14 application are not an accurate representation of the routes which were or could have been used. There are in addition a number of other routes across the site which were indicated on the user forms and which were indicated to have been used to some extent. These are shown labelled between A and X on Drg. No. 3/1/18/93a (Annex A).
- 1.3 The physical conditions on the ground indicate that some of these routes cannot now and most likely could never have been used. Interviews and careful examination of map and aerial photos were used to clarify some of these anomalies.
- 1.4 It is considered that the evidence shows that no public bridleway, nor a public right of way of any other kind can reasonably be alleged to subsist over the route(s). No legal order should be made.
- 1.5 A legal background to Map Modification Orders is attached at Annex B and considered in section 9.

2. ANALYSIS

PUBLIC USER EVIDENCE FOR THE ROUTE:

- 2.1 20 people completed public user evidence forms, spanning a period of 42 years from 1973 to 2017. Seven of the users were interviewed in person. The time spans and types of use are summarised in table 1 below.

Table 1

	Foot	Horseback	Bicycle	Horse and Carriage
Years	1973-2017	1979-2014	1975-2013	1997-2000
Users	1, 3, 6, 9, 10, 16, 20	1-20	3,4 ,9	1
Times per year	5-300+	6-150	5-50	50
Total usages per year on average	385	979	85	50

- 2.2 On average the evidence suggests about 1499 uses per year which is around 4 uses per day by all means, almost two thirds of which are on horseback.

- 2.3 The plans accompanying the user evidence forms show a variety of routes across this land, which indicates some confusion in the minds of users. This is understandable given that some have not been onto the land for some years, may have been following a guide and the land itself has been subject to much physical change. The table at annex C indicates which users used which routes as shown on drawing Drg. No. 3/1/18/93a.
- 2.4 Riders discovered the route by riding out with friends and family; by generally exploring; through word of mouth or by being taken from Badshot Lea equestrian centre. This was for leisure, pleasure, hacking or horse exercising. Dog walking was also mentioned. All said they had used the route openly. Their descriptions generally describe the routes as running from Low Lane along the south bank of the Blackwater and by the lake. None of the riders suggested that they went into areas where mineral working was taking place.
- 2.5 The width of the way was recalled as varied but generally between 2-4 metres or wide enough for 2 horses.
- 2.6 12 users recall seeing gates or stiles of some description along the route. Mrs Amond suggested that stiles and gates were erected from approximately 2000-2013. Others state that fences or gates were put in around 2012 and this commonly seems to be the date around which many of the riders stopped entering the land, although 6 claim to have continued riding until 2013 or 2014. Five riders noted that there were gates but they were always passable or open.
- 2.7 None of the users claim to have ever requested permission from, worked for or met a landowner.
- 2.8 The consensus is that the entrance at point X was closed in around 2009 after travellers has camped in the field. Subsequently riders entered at point H then I as each was successively blocked during 2012. Most riders had never entered at A or did so only for a very short time.
- 2.9 A gate was described at point C as a locked swing gate, although there was no consensus about whether and when this was locked. Three riders mentioned that it had been locked and that a key and permission was given to the local riding school by the landowner Hanson. This may have been sometime between the late 1980s to the late 1990s. A gate was also described at point E which was probably unlocked during the relevant period.

LANDOWNER EVIDENCE

- 2.10 There are several different routes in consideration here and the contents of the evidence forms are not wholly consistent with the routes indicated on the Schedule 14 application plan. In order to accommodate this variety, every possible landowner which might be affected was contacted. The six affected landowners are listed in table 2 below and shown as plots 1-6 on Drg. No. 3/1/18/H93.

Table 2

Plot	Routes / Points	Title
1	X-B, U-B	Stephanie Elizabeth Fetiveau, Oliver Harold Fetiveau, Marc Alexander Edward Fetiveau, Charlotte Hillary Fetiveau
2	A-B	Brenda Wood
3	B, C, D, J, H, I, K, G, N, P, R, O, Q, E	Hanson Aggregates
4	E-F	LEDA
5	Close to F	The Council of the Borough of Rushmoor
6	F-F2-F1	The County Council of Surrey
7	Part of E-F	The County Council of Surrey

2.11 The Fetiveaus have no objection to the proposed route except where it affects their land. They state that their land has been securely fenced and gated for several years and refute any allegation that horse riders have trespassed across it. A detailed statement of their position is summarised below.

- i. The land was actively farmed between 1992 and 1997. Photographs (from 1992 or 1993) are supplied showing no evidence of trespass.
- ii. A google earth photograph shows evidence of trespass in 2006.
- iii. During May 2009 the land was occupied by travellers as shown by a google earth photograph from 2009. As a result of this, work was commissioned to secure the land, then to flail and plough it.
- iv. At the same time clearance of the track directly to the north of the land was commissioned.
- v. Photographs of the fencing and relevant paperwork 2009 show when the land was secured.
- vi. An analysis of the user evidence forms shows that most use should be discredited as they claim either access during the years when the land was cultivated or show use of other routes not on the land.
- vii. Much of the user covers an insufficient period of time.

2.12 Mrs Brenda Wood has not responded regarding her position as the holder of the caution for part of the affected land.

2.13 Hanson Quarry Products Europe Ltd objected to the bridleway proposals. They had the following comments:

- i. They did not believe that the claimants had enjoyed uninterrupted use of the route(s) as claimed.
- ii. There has been permissive access on foot, but this has never amounted to permission for horses.
- iii. All quarry managers responsible for the site over its operational lifetime since the late 1990s would have discouraged and prevented horse access.
- iv. A physical kissing gate and barriers were erected just west of what were known as the warming ponds (at point E). There was never authorised access east of here from that gateway as this gate was always locked whilst the site was operational.
- v. All other perimeter fences were maintained in a secure condition and regularly repaired when damaged as required by Quarry Regulations procedures.

- vi. They had a close relationship with local residents, walkers and birdwatchers who would have reported any concerns of inappropriate horse riding as they did for cycling and motorbike scrambling.

2.14 No response has been received from LEDA despite several separate attempts to prompt a response both by post and email.

2.15 No response was received from Rushmoor Borough Council.

2.16 Surrey County Council had no objections or comments to make regarding the alleged bridleway.

DEFINITIVE MAP

2.17 The claimed routes are not shown as prospective routes on the 1952 draft definitive map nor are they shown on subsequent definitive maps of 1952, 1959, 1966 and the current consolidated definitive map with the relevant date of 20 April 2016. They were not shown as rights of way on the map produced under the 1932 Rights of Way Act.

HISTORIC EVIDENCE

Historic Maps:

2.18 None of the claimed routes appear on maps produced by Roques 1770, Lindley Crosley 1794 and Mudge 1812. On Greenwoods map of 1823 section only A-B is visible. The land is recorded throughout these times as a combination of open land, fields and woodland.

Ordnance Survey Maps:

2.19 The first edition Ordnance Survey map of 1883 shows section A-B as an enclosed track bounded by solid lines running to a field and recorded as 'road'. There is no sign of any continuing route through to The Moors. The same is also true for the 1897, 1915/16, 1934 and 1961 editions where they are available. At no time are any of the other tracks indicated and the land is crossed by numerous solid field boundaries and drains.

Finance Act 1910:

2.20 On the mapping produced for the 1910 Valuation Act the claimed way appears uncoloured over a short length between A and B indicating that it was not subject to tax and therefore presumed to be a public highway (of some kind) by the Inspector of Taxes. This is good but not conclusive evidence of the existence of public rights over this short stretch, although it gives no indication of what kind of right.

Aerial photographs:

2.21 Section A-B is slightly visible on the 1949 aerial photograph but there is no sign of the rest of the claimed route. The land appears as enclosed fields of various sizes. The same appears to be true of aerial photos from 1964 and 1971. There is no sign of any beaten path or desire lines between B and F2 although issues of scale and lighting make interpretation problematic.

2.22 There is a slight indication of a beaten path from X-B across the field including a point of entry from Low Lane on the 1988 map and also some slight evidence of use along a line running I-G-K. It does not appear that quarrying north of the A31

had yet commenced nor the construction of the Blackwater Valley Relief Road (BVR) and related works.

- 2.23 An aerial photograph of plot 6 dating from between 1988 and 1994 shows works during the excavation of Tongham Pond: a large water body and much disturbed and waterlogged land. Reclamation and landscaping of the site does not appear to have begun in earnest. It seems unlikely that either pedestrians or equestrians would be allowed access whilst these works are ongoing for both health and safety and operational reasons.
- 2.24 Aerial photos from 1998 and 1999 show a clear entry point at or near X and a defined route across the field to B. These photos also reveal a number of beaten paths across the fields in plot 3 which indicate use of some kind. The line I-G-K is quite clear and there is some evidence of use along a route similar to D-J-H and K-N. The land between Low Lane and point F remains mostly fields with some evidence of mineral extraction along its southern edge. This does not yet appear to impinge upon the majority of the claimed routes which are to the north of it. There may be slight evidence of beaten paths between E and F. North-east of F there are clear and presumably 'constructed' routes to the west of Tongham Pond through to The Moors and also around the eastern side of it. The land here appears immature and newly landscaped.
- 2.25 Aerial photos from 2004 and 2006 show that the previously enclosed fields have been partially landscaped and planted with trees in the northern half of plot 3. The western section of the Blackwater River (in plot 3 north) has been 're-routed' and numerous tracks appear to have been laid out. There continues to be a clear entry point and beaten track from X-B. All of the primary routes plotted on drawing 3/1/18/H93A are now visible to some degree.
- 2.26 The 2012/13 photos show a similar situation except that the entry point at X and route across the field is now very faint and presumably no longer in use. Route A-B now seems significantly wider and clearer. The many routes through the landscaped area around north of the quarry and south of the Blackwater are very clear and some additional routes are visible.
- 2.27 There is no way of knowing whether use of any of the routes shown on aerial photographs was by members of the public, either 'as of right' or with permission, but they do clearly show 'use'.

Site photographs

- 2.28 Site photos provide additional evidence regarding the entry points onto the land and various key points on the land from 2009 up to 2015.
- 2.29 Point A:
- **July 2009:** Obstructed by chestnut paling fence. There does not appear to be pedestrian or equestrian use around or over it.
 - **November 2011 and July 2012:** The fencing now contains a small pedestrian metal kissing gate. This could not be passed by horses, and bicycles would have to be lifted over. There is a sign on the gate stating :
"Permissive Footpath. Please keep to the permissive routes at all times. Hanson Aggregates".

- **July 2015.** The paling fence has been replaced with a large field gate, a slightly larger kissing gate and some picket fencing. It is not known if the large field gate is locked.

2.30 Point X:

- **May 2009:** There is a clear entry onto the land with no sign of any gates, fences, notices or other forms of challenge. This entrance appears to have been consciously cut through an earth and vegetation bund. A well-worn track can be seen across the field towards B.
- **July 2009:** There continues to be no gate, fences or notices here but a bund of earth and other materials has been dumped in the entrance to the field. It is not known what the purpose of this was or whether it was undertaken by the landowner. A section of flattened earth over the bund suggests that use has continued to some degree although the narrowness suggests this may have been on foot or bicycle only.
- **July 2012 and July 2015:** Access onto the field is now obstructed by a metal gate and fence. A notice is attached to the gate which says "Private Keep out".

2.31 Point H:

- **July 2009:** A gap in the hedge about 4-5 metres in width contains a kissing gate across half of its width. There is no obstruction across the remainder of the route.
- **July 2012:** The gap now contains four fixed metal bollards. This would prevent equestrian use but not pedestrian use. A copy of the aforementioned 'permissive footpath' sign is attached to the gate.
- **September 2013:** A locked field gate was in place with adjacent bollards preventing equestrian use.
- **July 2015:** A smaller kissing gate has been installed to the right of a new field gate. Two metal bollards also remain. It appears that equestrian access is not possible although it is not known if the gate was locked.

2.32 Point I:

- **July 2009:** There is a wide access point to the south of the bridge. This consists of two forks each side of a deposited log. These appear to be sufficient for both equestrian and pedestrian use.
- **July 2012:** The log has been removed but replaced by nine metal bollards across the gap. This would prevent equestrian but not pedestrian use.
- **September 2013 and July 2015:** The situation appears the same but a chain or wire appears to link all but one of the gaps between bollards limiting the access to one small gap probably less than 1m wide.

2.33 Point F1

September 2007, January 2012 and September 2013: There is a field gate at F1 which appears unlocked with a gap next to it which is most likely only sufficient for pedestrian use. It is not known if it is easy or possible for horses to pass through the gate.

2.34 Point B:

November 2011 and September 2013: A gate is visible with a bollard next to it which narrows a clearly previously much wider gap.

OTHER EVIDENCE

- 2.35 Minutes of the Farnham Quarry Liaison Meeting held on 11 October 2002 referred to access for the public. They noted that there were 'claimed routes' around the north-west of the site and continuing problems with motorcycles accessing the site and related damage. Representatives of Hanson at the time said that gates could be put at the garage (H) and Pea Bridge (I) to restrict motorcycles, but there would have to be some access for horse riders, with the possibility of keys available. This seems to suggest some permissive access was considered for equestrians but that Hanson had no intention to dedicate public rights.
- 2.36 Site visit reports for the Runfold Farm part of the site have been retained by Surrey County Council from 1993 through to 2006. Amongst other issues they consistently mention public use of that site on foot, bicycle and scrambler (but not horses). In November 1996 some users on site were challenged who noted that there were no signs saying keep out. The Planning Agent for the site commented that everything gets "ripped down or out". This suggest that efforts were being made to prevent or challenge use.
- 2.37 The land over which the claimed routes run has a complex history A brief time line of planning and land changes affecting the site is listed below:
- 1968: Surrey purchased land (plot 6) from Tongham Nurseries*
- 1973: The Tice Family sold the land (plot 3) south of the river to Pioneer Aggregates*
- 1989: Planning permission was given for mineral extraction and concrete batching plant to Hanson for the land on plot 3.*
- 1990: The plot 6 land was taken over for construction of the BVR.*
- 1993: Plot 6 was leased to Costain for mineral extraction.*
- 1998 Mineral extraction commenced on works known as Runfold then Farnham Quarry Site acknowledged by Guilford Borough Council as Tongham Ponds and Tice's Meadow Site of Nature Conservation Interest following a recommendation from Surrey Bird Club*
- 1999: Lease to Costain for mineral extraction at plot 6 came to an end and site restored.*
- Planning permission given for working of site plot 3 to be complete and restored by 2012*
- 2006 First western phase of re-routing of Blackwater River, including landscaping and setting out of permissive paths.*
- 2009: Tongham Pond and Tice's Meadow designated as Site of Nature Conservation Importance. First suggestion that the land could be used as a SANG.*
- 2010: Mineral extraction came to an end on plot 3. Blackwater Valley Countryside Partnership produced a draft management plan for Tongham Pool (plot 6).*
- 2011: Much of restoration of Farnham Quarry site (plot 3) site was completed.*
- 2012: Revised restoration scheme (plot 3) proposed.*
- 2013: Second eastern phase of re-routing of Blackwater River.*
- 2015: Final phases of restoration of Farnham Quarry (plot 3) site.*
- 2015: Consideration of sites as SANGS¹ (plots 3 and 6).*
- 2016 Restoration completion date*
- 2.38 The consultations which would have occurred as part of some the above planning developments would have included local interested parties and local residents covering a wide immediate area. For example, in a 2006 report brought to this committee regarding the restoration of Farnham Quarry, it was made clear that

¹ Suitable Alternative Natural Greenspace

only 'permissive paths' would be laid out. Surrey rights of way officers at the time expressed disappointment that no permanent paths would be dedicated.

3. CONSULTATIONS:

The following parties were consulted as part of this investigation in both 2014 and 2018 (except where specified) and their responses summarised.

Denise Le Gal, County Councillor (2014)	No reply
George Johnson, County Councillor (2014)	No reply
Matt Furniss, County Councillor (2018)	No reply
Stephen Spence, County Councillor (2018)	No reply
Waverley Borough Council	Damian Roberts (Director of Operations) noted that the route does not traverse any land belonging to Waverley Borough Council and therefore they had no information or comment.
Guildford Borough Council	No reply
Rushmoor Borough Council	No reply
Mr R. Potter, Farnham Town Council	No reply
David Attfield (Farnham Town Council)	Mr Attfield passed on comments collected from a local birdwatcher (Mr Sargeant), who said he had not seen (c. December 2017) horseriders on the site in the last 10 years. He was aware that Ms Amond had attempted to ride her horse at Tice's Meadow once extraction had ceased but this stopped when BWVCT ² closed one of the access points. She has not been riding around for the last 20 years. She would not have been able to due to mineral extraction. Other comments passed on from a Mr Horton suggested that Ms Amond had been trying to get equestrian access for the last 7 years and not 20 years. He said Hanson and Pioneer had never allowed equestrian access to Tice's Meadow that is why barriers were put up to stop it. If horses were allowed disabled and general public would not be able to access the area because the paths would be impassable.
Margaret Murray, Tongham Parish Council	Remembered horses occasionally using the way. The Parish Council thought that the path past the pond remained open throughout the workings. There was probably very little use onto The Moors as access was not possible through there to Tongham
Tim Devis, Ramblers (Farnham Town)	No reply

² Blackwater Valley Countryside Trust

Alan Keeley, Ramblers (Tongham)	No reply
Colin Sandford, British Horse Society (Guildford)	No reply
Sandra Smith, British Horse Society (Waverley)	No reply
Bob Milton, Open Spaces Society (Guildford and Waverley)	No reply
CTC / Cycling UK Simon Scobie, Terry Manton, Timothy Barr	No reply
Mr S. Sharp, Auto Cycle Union	No reply
Gail Brownrigg, British Driving Society	No reply
Mr M Wheaton, Trail Riders Fellowship (2018)	No reply
Steve Bailey, Blackwater Valley Countryside Partnership (BVCP)	<p>BVCP works to improve access to the countryside throughout the Blackwater Valley and during 2013 promoted the issue of creating a bridleway as part of the restoration with Hanson. He raised the issue at Quarry Liaison meeting so Surrey should hold minutes of these. The idea was not accepted and is not included in the restoration plans.</p> <p>In December 2011 the track off Low Lane (A) was cleared to improve access. At this time there was chestnut pale fencing and a kissing gate. This was replaced on 26 March 2014 with a (locked) gate and the gate at B removed. Wire and wooden posts were added at I on 21 March 2017 to metal posts erected by Hanson. This still allowed bikes to get through.</p>
David Brittain (DB Landscape Consultancy Ltd)	No reply
Badshot Lea Community Association (2018)	No reply
Scottish and Southern Electric (2018)	No reply
Thames Water (2018)	No reply
Highways Information Team	Provided maps showing highway extent at both ends of the claim.
Environment Agency	Their biodiversity team had no comments.
Tices Meadow Bird Group (2018)	<p>Several responses were received from individuals.</p> <p><i>Cliff Watts:</i> There was a gate at 'C' which prevented all but pedestrian access since I first visited the site in 2008, although both the gate and posts were continually cut</p>

	<p>down over the years, probably by locals wanting to rider their motorbikes on the site.</p> <p><i>Richard Seargent:</i> Had been birdwatching regularly on the site since before 2006 and there had never been horse riders until briefly about 2 years ago which was stopped by the Blackwater Valley Conservation Trust Ranger. Many of the routes being claimed were within the bounds of the working quarry. If horse-riding were to occur it would severely damage the surface of existing paths.</p> <p><i>Oliver Sackwood:</i> He had lived in Badshot Lea since 1989. The site was used for agriculture then partly as a working quarry. At no point has there been a bridleway or regular use by riders. Fences had been knocked down but were soon replaced and signs put up to say no entry/private. Many of the routes claimed were impossible. There has been a locked gate at point E for a long time with no way through except for pedestrians.</p> <p><i>Mark Elsoffer:</i> Provided a number of photographs of the site from November 2011. They show that a sign was posted on the kissing gate at A which said: <i>“Permissive Footpath. Please keep to the permissive routes as all times”</i>. They also show the new fencing erected at B which prevented access from the field and point X.</p>
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4. OPTIONS

- 4.1 The Committee may agree or disagree with the officer’s recommendation, both in terms of the status of the way and whether rights exist at all.
- 4.2 Decisions can only be made on the basis of the evidence available. The recommendation is based upon the evidence submitted and interpreted under the current legislation. Matters such as convenience, amenity, security or safety are irrelevant (see Annexe B).
- 4.3 Where the County Council decides not to make an order, the decision can be appealed to the Secretary of State. If such an appeal resulted in the Council being directed to make a map modification order we would remain neutral at any ensuing Public Inquiry or similar.

5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

- 5.1 The cost of making an order is not a relevant factor in this decision. The County Council is under a duty to make a MMO to add a route to the DMS where evidence is discovered which, taken as a whole, is sufficient to reasonably allege the existence of a right of way.
- 5.2 The cost of advertising a Map Modification Order would be approximately £1200, which would be met from the County Council’s Countryside Access budget. If objections are received and a Public Inquiry held, additional costs of around £4000 will also be met from the same budget. Most costs are fixed by our duties under Schedule 15 of the WCA 1981.

6. EQUALITIES AND DIVERSITY IMPLICATIONS:

There are no equalities and diversity implications. These are irrelevant factors under the current legislation.

7. LOCALISM:

This issue is not relevant and cannot be considered under the current legislation

8. OTHER IMPLICATIONS:

Area assessed:	Direct Implications:
Crime and Disorder	None of these are relevant considerations under the current legislation
Sustainability (including Climate Change and Carbon Emissions)	
Corporate Parenting/Looked After Children	
Safeguarding responsibilities for vulnerable children and adults	
Public Health	

HUMAN RIGHTS ACT 1998

Local Authorities are required to act to uphold European Convention rights which are now enforceable in British courts as a result of the Human Rights Act 1998. Primary Legislation, of which the Wildlife and Countryside Act 1981 is an example, may require the County Council to act in a particular way. While the Council must interpret primary legislation in a way that is compatible with Convention rights that duty does not apply if the County Council could not have acted differently. In this instance it is first necessary to consider whether the action recommended to Members touches on a Convention right. The making of this order may affect the rights of the landowner/occupier (paragraph 2.12) under Article 8 of the Convention, the right to a private and family life and Article 1 of Protocol 1, the right to peaceful enjoyment of one's possessions. The Act makes it clear that such rights may only be interfered with in a way that is in accordance with the law. Here the action by the County Council as surveying authority is prescribed by law as detailed in paragraph 9.2-9.6 and Annex A of this report. As such the recommendation to the Members is not considered to be in breach of the 1998 Act.

9. CONCLUSION AND RECOMMENDATIONS:

- 9.1 Any decision must be made on the legal basis set out in Annexe B to this report. The only relevant consideration is whether the evidence is sufficient to raise a presumption that a public right of way is reasonably alleged to exist. Other issues such as security, privacy, safety or convenience are irrelevant.
- 9.2 Under Section 53 of the Wildlife and Countryside Act 1981, "the authority shall make such modifications to the Definitive Map and Statement as appear to them to be requisite in consequence of the discovery of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown on the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates".
- 9.3 This involves two tests:

- i. TEST A: Does a right of way subsist on a balance of probabilities? This requires clear evidence in favour of the Appellant and no credible evidence to the contrary.
- ii. Test B: Is it reasonable to allege that a right of way subsists? If there is a conflict of credible evidence, and no incontrovertible evidence that a way cannot be reasonably alleged to subsist, then the answer must be that it is reasonable to allege that one does subsist.

For the purpose of making an Order it is only necessary to meet the second (lesser) test.

- 9.4 Both user and documentary evidence must be considered in this case to come to a conclusion under either statute or common law.

USER EVIDENCE

- 9.5 **Statute Law:** Section 31 (1) of the Highways Act states that: *“Where a way over any land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it”*.
- 9.6 The period of 20 years referred to in sub-section 2.1 above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question whether that is by a notice, by the making of a schedule 14 application, by blocking the route or otherwise. It is necessary to distinguish between different types of use for the purposes of identifying the relevant date.
- 9.7 **Common Law:** For rights to be established at common law it is necessary to provide evidence to show that the facts, taken as a whole, infer that at some point in the past the landowner had been willing to dedicate the way as public. It is also necessary to show that the public have accepted the route. Evidence of public use can be used to demonstrate both of these requirements. Unlike section 31 there is no minimum period of use that must be shown at common law, however the onus of proof lies with the party claiming that rights have been acquired. A landowner can rebut a claim if they can provide evidence that they did not intend to dedicate the route to the public or that the public use had been insufficient.
- 9.8 The evidence shows use on foot back to 1973, cycle use to 1975 and equestrian use to 1979. Prior to 1992 there were only four users, although from this point onwards until 2012 there were 12 users throughout or at various points during this period. Interpreting the user evidence on this site is very complicated due to its size, varied landownership and the number of routes and points of entry into the land. It appears that access via point X was first challenged when earth and rubbish were dumped here between May and July 2009. Most horse riders said they did not stop using this entrance until the fence, gates and notices were erected, which according to landowner was autumn 2009. These structures would have prevented all types of use. Photos suggest there was no use here in the early 1990s. If there was ever use on horse from points U or A then this must have been prior to 2009 as it is clear from the photos at this time that access would not be possible. It is clear that access was not possible even on foot from A at this time.

- 9.9 A locked gate was installed at or near point C and a key and permission given to the local riding school. The exact date when this happened is unclear. Mrs Macleod (5) thought this was late 1980s or early 1990s sometime before she left the area in 2005. Miss Williams (19) said the gate at 'C' was there for a while but was unclear about the date. Mrs Amond (1) says this gate was probably put in during the late 1990s, although she did not mention that it was locked. Supporters of Tices Meadow suggest that the locked gate was in place as late as 2008. All users entering from A or X would need to pass this gate to continue onto the site.
- 9.10 Users indicate that access onto the site from points H and I took place but was minimal until the obstruction of access from X. Site photographs suggest that bollards prevented equestrian (but not pedestrian) use around 2012.
- 9.11 Only around 13 of those who submitted forms continued on to and beyond point F1- some making a circuit of the lake instead. Mrs Amond (1) suggested the gate at F1 went in around 2012 but photographic evidence shows the gate was already in place by 2007. It is not known whether the gate was locked. The gap to the side of the gate appears to be only passable by pedestrians. None of the users originated at this end of the land.
- 9.12 Large swathes of the land in question have been subject to workings (both mineral and highway related) and reclamation/landscaping. Construction of the BVR commenced in 1991 which included the excavation of a large 'borrow pit in plot 6 excavated between 1993 and 1999. Given the size of the lake, the width of the site and the complex construction operations nearby whilst the BVR was being built, it seems extremely unlikely that public access would have been allowed or even possible by any means through the site. Following excavation of the pit and the building of the BVR the whole site was landscaped. There must have been a substantial break in use during these works. In an earlier case of alleged public bridleway rights along The Moors in Tongham, it was reported that 'a side roads order made in 1991 stopped up Public Footpath No. 348 under the bypass and created a new footpath once the works were complete'. The intention of the Order would have been to stop up any existing rights at the time. That The Moors was inaccessible during part of the construction of the BVR is most likely irrefutable and most horse riders who did continue on to F1 then turned right along The Moors and onwards. It seems unlikely then that riders would continue to this point during the construction of the BVR from 1991-1994, irrelevant of whether it was possible to get to F1 past Tongham Pond. It seems likely that there would have been an intention to stop use whilst the works were happening.
- 9.13 The land outlined as plot 3 has been subject to several phases of works. That land which falls within "plot 3 south" has been worked since 1998, during which time mineral works, fencing or standing water would have made use of this land impossible. That land which falls within "plot 3 north" however does not appear to have been subject to these works although it was landscaped around 2006 and then again in 2013. In 2006 the western section of the Blackwater River was realigned. This must have prevented or deterred much of the use of this section of land, particularly by horse riders. Comparison of aerial photos from 1998 and 2006 confirm the situation. Similarly the eastern section of the river was realigned in 2013, now cutting across some of the claimed routes.

Date of challenge:

- 9.14 Given the number of entry points, routes and landscape changes it is not possible to identify one date of challenge which would necessarily have made the landowners' intention clear to all or most users, nor one primary route along which riders have typically ridden throughout the period.
- 9.15 The earliest obvious challenge to use appears to have been the workings which lead to the construction of the BVR and Tongham Pond. This must have been around 1993 when works commenced. It seems likely that this area could not have been useable by the public for several years. Shortly afterwards access to the site from point A or X was challenged by the insertion of the locked gate at C and the granting of an explicit permission and key, not just to an individual but to the owner of the largest local riding school to whom many of the riders had close links. This implies an explicit permission to the individual and an implicit permission which can reasonably be extended to members of the school. This was probably in the late 1990s but may have been earlier. It is not clear after this time when the gate at C either became unlocked or was removed. In 2013 an unlocked metal gate was in place but apparently replaced a previous wooden gate. The entry point at 'H' and 'I' do not seem to have been challenged until around 2012 when bollards were put in but most users did not appear to use these routes until the other access points were closed around 2009. The only date of challenge which applies equally to all of the land is the making of the Schedule 14 application in October 2013.

Conclusions

- 9.16 Evidence suggests that there has been use by the public of various routes across the land between Low Lane and The Moors, on foot, horseback and by bicycle between 1973 and 2014. This would normally be sufficient to give rise to a public right in the 20 years prior to the making of the application (1993-2013) so long as the criteria otherwise set out in the Highways Act 1980 were satisfied, which in this case they are not.
- 9.17 Use across the land has been very diverse. Riders have entered from many different points, successively moving on to the next as routes were blocked off and have used many different routes as the conditions on the ground changed. Notices, Gates and bollards have been widely installed by Hanson around their land since at least 2011 affecting entry points A, H and I. Prior to this, the installation of the gate at B/C would have prevented and challenged the primary access point as early as the late 1980s or 1990s. Mrs Amond thought this coincided with the start of the extraction works, so perhaps this might have been 1998.
- 9.18 Photographic evidence suggests that access on horseback has not been possible since at least 2009 at point A and as indicated above, a continuation of use would have been challenged by the gate at B/C. Mr Hill (4) stated that there has never been bridleway access from this point since he started riding in 1998.
- 9.19 At least 13 of the users entered at point X. Use was challenged by the erection of gates and fences in autumn 2009. Prior to this the installation of earth bunds may have challenged use earlier in 2009 or at least made clear the intention of the landowner and the continuation beyond B would anyway have been challenged by the aforementioned gate.
- 9.20 Little can be said about whether landowners challenged use at F1, but it seems likely that the excavation of the Tongham Pond would have prevented use

between F1 and F for a substantial period after 1993. Whilst not all users passed points A, X and B/C or continued through to The Moors along F-F1 it is clear that those who did were prevented from doing so at various points in time and at different locations.

- 9.21 There is insufficient clarity within the evidence to add any of the claimed routes as bridleways using any 20 year period or over any other period under common law. The number of routes and inconsistency and contradictions within the evidence make finding a presumption of dedication impossible. In addition it seems clear that the landowner Hanson had at times given clear express or implied permission to sufficient numbers of horseriders to indicate that use was not 'as of right'. This indicated their lack of intention to dedicate.
- 9.22 Seven of the users also indicated use on foot, which has been allowed to continue across large parts of the land, six of which showed use before 2012. This is an insufficient volume of use to give rise to public footpath rights at both statute and common law, although it does seem that pedestrian entry to the land at H and I has never been prevented in recent memory. The same cannot be said about entry via X, A, via the gate at C or between F1 and F where use has been more recently challenged.
- 9.23 It is concluded that on the basis of the available evidence no public rights of any kind can be reasonably alleged to subsist over any of the routes shown on drawings 3/1/18/H93 or H93A.

10. RECOMMENDATION

The Planning and Regulatory Committee is asked to agree that:

- i. No public rights are recognised over any of the routes shown on Drawings Nos. 3/1/18/H93 or H93A and that the application for a MMO under sections 53 and 57 of the Wildlife and Countryside Act 1981 to modify the DMS by the addition of a public bridleway is not approved.
- ii. If the Authority is directed by the Secretary of State to make a MMO after it has decided not to do so and objections are made which result in a Public Inquiry being held, the authority will adopt a neutral stance. (See comment in 4.3).

11. WHAT HAPPENS NEXT:

- 11.1 If Committee agrees that no order be made the applicant will have opportunity to appeal to the Secretary of State for Environment, Food and Rural Affairs against this decision.
- 11.2 If Committee decides that an order should in-fact be made and objections are maintained to that order, it will be submitted to the Secretary of State for confirmation.
- 11.3 If the Committee resolution is against Officer's recommendations then they should record the reasons, the precise routes and cite evidence for the decision. This will make it easier to explain the decision should the matter proceed to public inquiry or appeal.
- 11.4 All interested parties will be informed about the decision.

Informatives

Contact Officer:

Daniel Williams, Countryside Access Officer Tel. 020 8541 9245

Consulted:

See section 3

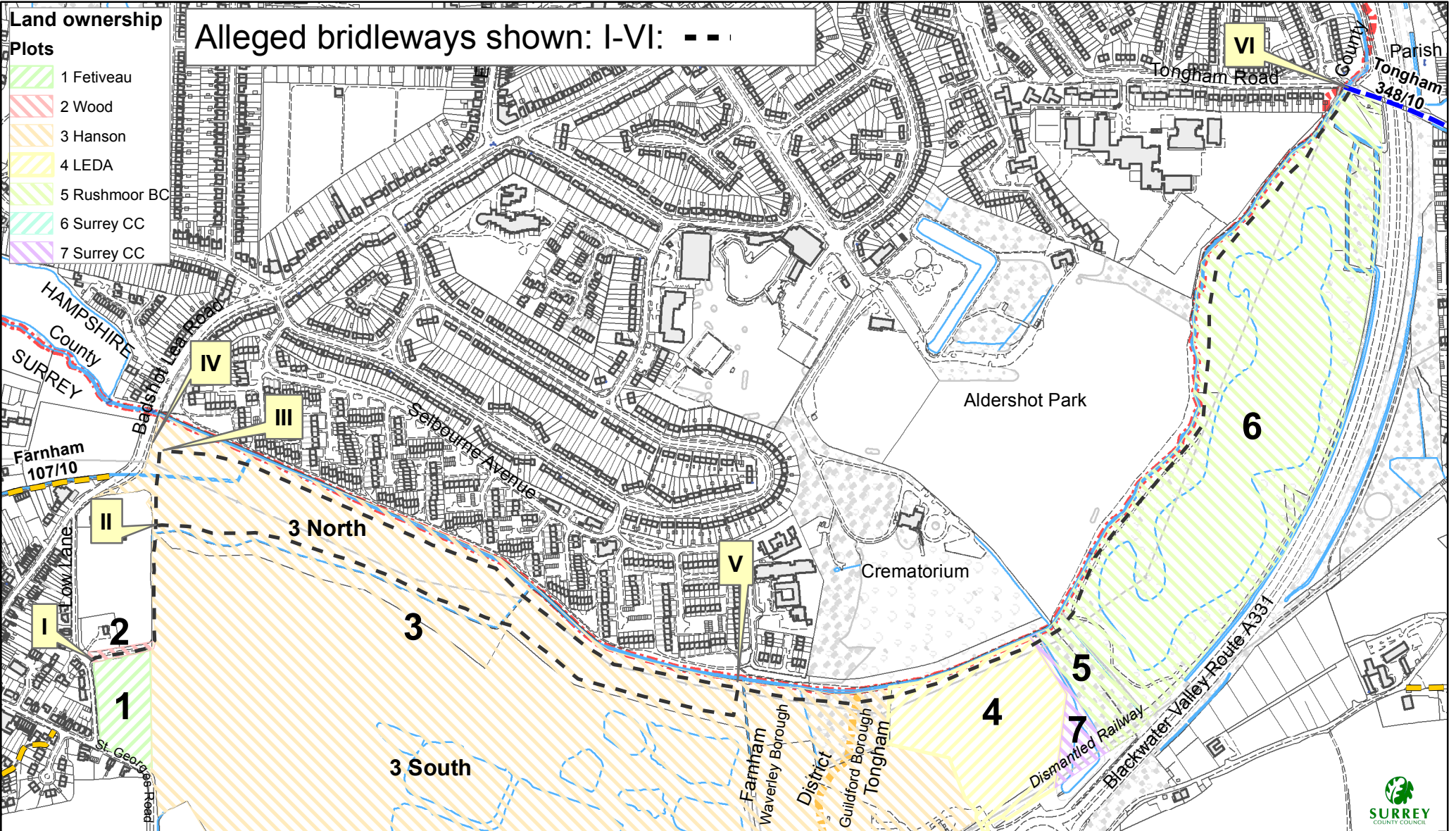
Annexes:

- A Drawings No. 3/1/18/H93 and H93A
- B Legal background
- C User evidence summary and Section use charts
- D Schedule 14 application

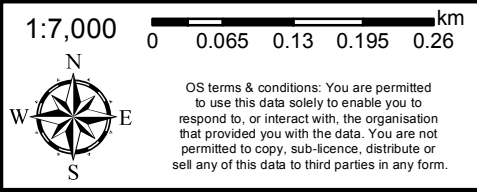
Sources/background papers:

File 'CP562' and all contents, including the application, all correspondence and representations, responses to consultations, landownership details, user evidence, legal cases, assorted mapping documents can be viewed by appointment.

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Page 119



Reference guide to important points on the alleged brideways claimed by Caroline Amond in her application dated 8 October 2013

Drawing No. 3/1/18/H93
 Dated 20/03/2018
 Drawn by: DJW
 Grid Reference: SU 8648 4857
 OS Map Sheet SU 84 NE

RIGHTS OF WAY

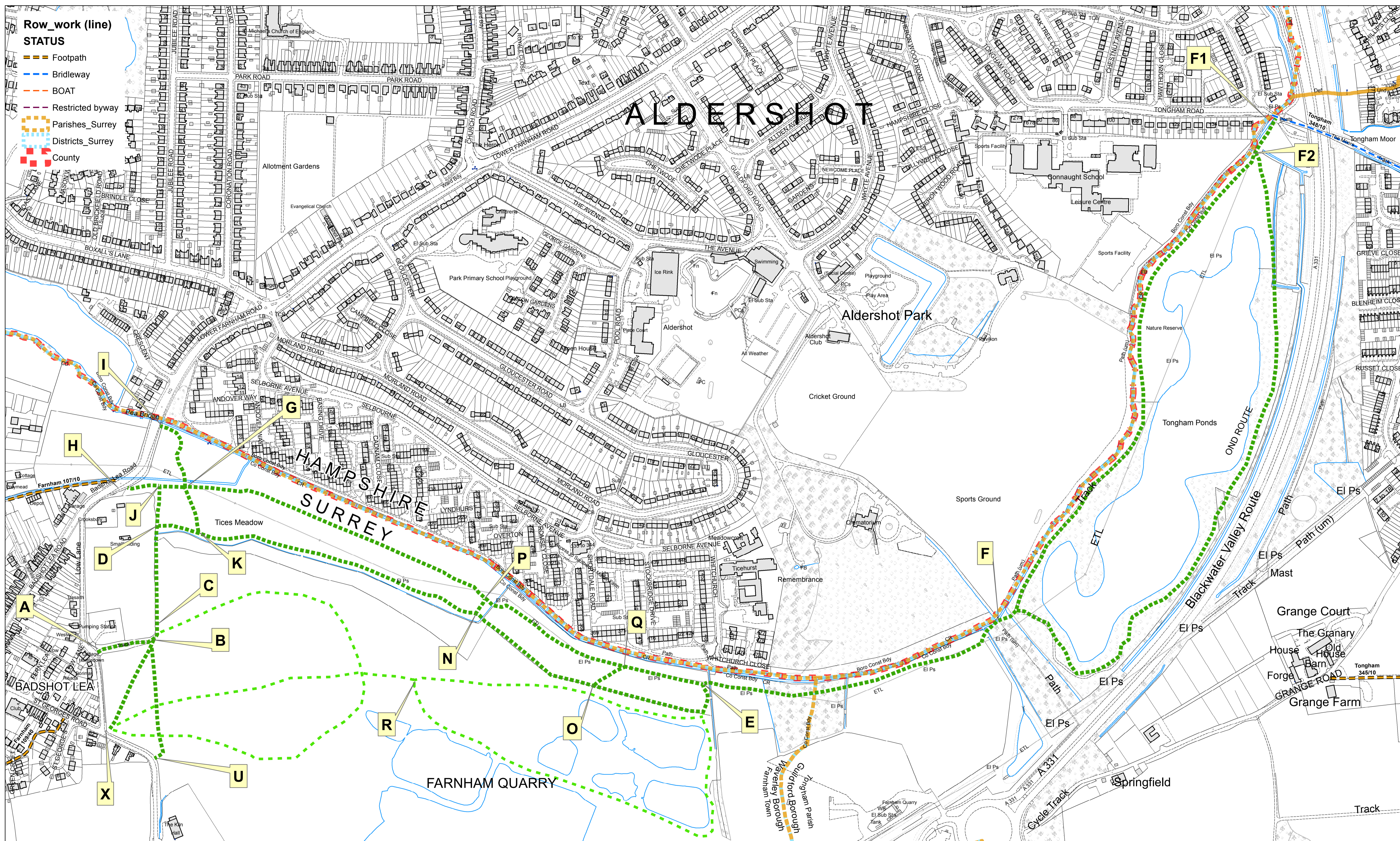
- Footpath
- Bridleway
- BOAT
- Restricted byway

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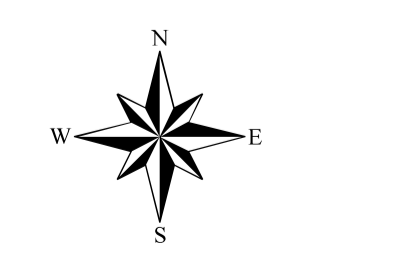
Primary alleged public bridledways shown :

Secondary alleged routes:

H93a



Page 121



WILDLIFE AND COUNTRYSIDE ACT 1981
 MAP MODIFICATION ORDER
 BOROUGH OF WAVERLEY
 FARNHAM

1:2500 at A1L

Grid Ref. at A: 486483 148573
 O.S. Sheet SU 84 NE
 Drawn by : DJW
 Date: 21/11/2017
 Drawing No. 3/1/18/H93a



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Map Modification Orders – Legal Guidance

The National Parks and Access to the Countryside Act 1949 placed a duty on all Surveying Authorities in England and Wales to produce a definitive map and statement, indicating and describing public rights of way within their areas.

The 1949 Act also required Surveying Authorities i.e. County Councils, to keep their definitive map and statement under periodic revision. The Wildlife and Countryside Act 1981 completely changed the way in which the definitive map and statement is updated. Under this Act Surveying Authorities have a duty to keep their map and statement under continuous review.

Certain specified events can trigger that process and one of these is an application under Section 53 of the Act for a map modification order (MMO). Section 53(5) enables any landowner, occupier or user to apply for a Map Modification Order to modify the definitive map. Landowners and occupiers may believe for example that a right of way should never have been shown on the definitive map at all, or is shown on the wrong line or that its status is incorrectly shown, for example, as a bridleway instead of a footpath.

Claims may also be made for routes to be added on the basis of evidence from historical documents or of evidence of public use, either for a continuous period of 20 years, as provided for by the Highways Act 1980 (s31) or for a shorter period under Common Law.

Both at common law and under Section 31 of the Highways Act 1980 the public's enjoyment of the way must have been "as of right" in order to form the basis of implied dedication. "As of right" was interpreted in Merstham Manor v Coulsdon and Purley UDC (1937) as acts done openly, not secretly, not by force and not by permission from time to time given. The House of Lords has held in R v Oxfordshire CC ex p Sunningwell Parish Council (1999) that subjective state of mind of the user does not have to be proved. Users over a long period may have been "subjectively indifferent as to whether a right existed".

Deciding who "the public" are can sometimes be difficult. In general it should be people other than those working for the landowner(s) concerned or who had the permission or licence of the landowner(s) to use the route. The period of 20 years is counted back from the date on which the public's right to use the way was first brought into question or from the date at which an application is made to modify the Definitive Map and Statement. In order to bring the public's right into question, the landowner must challenge it by some means sufficient to bring it home

to the public, for example, through the erection of a fence or locking of a gate across the way, however long ago that date was.

Statute Law

“Section 31 of the Highways Act 1980 provides that the claimants’ evidence must show that the route has been actually enjoyed for a 20-year period. The use must be without force, without secrecy and without permission”.

Although 20 years uninterrupted use by the public establishes a presumption that the way has been dedicated to the public, this can be contradicted by evidence showing that the landowner did not intend to dedicate public rights during that time. Evidence of interruption of the public’s use of the way, would have to be shown to have been both effective in preventing public use and clearly known to the public. The turning back of the occasional stranger will not be a sufficiently positive act - at least where the way continues to be used by locals. Notices clearly displayed and maintained on the way, indicating that it was private, or plans deposited with the surveying authority or its predecessors can prove sufficient evidence of an intention by an owner not to dedicate. Section 31(6) of the Highways Act 1980 enables landowners to protect themselves against claims based solely on use by depositing a map, statement and statutory declaration with the surveying authority showing which rights of way they acknowledge to be public on their land.

It is not possible to claim a route by presumed dedication over Crown Land such land being exempt from the provisions of the Highways Act 1980. Byelaws for some National Trust Land and other open spaces may also prevent the acquisition of rights.

Under Section 53c (i-iii), documentary evidence alone, may be sufficient to establish the existence of public rights and however old the document, the rights recorded will still exist unless there is evidence of a subsequent legally authorised change.

An implication of dedication may be shown if documentary evidence can be provided which enables an inference of dedication and acceptance of a right of way. Section 32 of the Highways Act 1980 requires a court or tribunal to take into account any map, plan or history of the locality, or other relevant document which is tendered in evidence, giving it such weight as appropriate before determining whether or not a way has been dedicated as a highway. If the evidence is sufficient to show that at some stage in the past the route did carry public rights then the accepted legal principle “once a highway always a highway” will apply if no lawful extinguishment can be shown.

In May 2006, the Natural Environment and Rural Communities Act was brought into commencement. The main effect of sections 66 and 67 of this act was to significantly curtail the scope for recording further public rights of way for mechanically propelled vehicles (MPVs) on the definitive map and statement. This was done in two ways. Firstly, any existing unrecorded public rights of way for MPVs (with certain exceptions) were extinguished, so that they cannot then be added to the definitive map and statement as byways open to all traffic (BOATs). Secondly, the act also ensures that no further public rights of way for MPVs can be acquired unless expressly created or constructed. Typically, where such rights had been acquired but were thereafter extinguished, this results in a restricted byway.

Common Law

A highway is created at Common Law by the dedication by the owner of a right of passage across his land for the use by the public at large coupled with acceptance and use by the public as of right. Dedication may also be inferred at Common Law where the acts of the owner conclusively point to an intention to dedicate. In Poole v Huskinson (1843) it was held that “2 things to be made good, that the user has been sufficient in its duration and character and that the presumption then arising has not been rebutted. The length of user evidence is also important but there is no fixed minimum or maximum period of use which must be proved in order to justify an inference of dedication. Under Common Law it is possible to claim a route by presumed dedication over Crown Land. Once again relevant documentary or historical documentation may contribute to any inference.

Schedule 14 Applications For Definitive Map Orders

The procedures for the making and determination of an application are set out in Schedule 14 of the Wildlife and Countryside Act 1981. Anyone making an application must serve notice on every owner and occupier of land affected by the application. In cases of difficulty in tracing the owner or occupier, the authority has the power to direct that a notice be placed on the land instead. The procedures include the right for applicants to appeal to the Secretary of State for the Environment, Food and Rural Affairs against the surveying authority's refusal to make an Order. In such cases the Secretary of State can direct the authority to make the Order even when the authority considers the evidence does not support the making of the Order.

Once the authority has received the certificate of service of notice it has a duty to investigate the application and consult with every local authority concerned, i.e. District/Borough, Parish/Town Council. The authority should make a decision on the application as soon as reasonably practicable. Where the authority has not come to a decision within 12 months of receiving an application, the applicant can appeal to

the Secretary of State for the Environment, Food and Rural Affairs, who can direct the authority to determine it within a specified time.

An authority can act on evidence without a Schedule 14 application being made and should do so on discovery of relevant evidence. There is no requirement to investigate the claim within 12 months and no right of appeal to the Secretary of State for the Environment, Food and Rural Affairs in these cases.

Order-making procedure

If it is established that, on the balance of probabilities, public rights have been acquired, a MMO is published and advertised on site and in a local newspaper. If no objections are received the Order can be confirmed by the County Council. If there are unresolved objections it must be referred to the Secretary of State who will probably decide to hold a Public Inquiry to resolve the matter.

If the authority has been directed by the Secretary of State to make a MMO after it has decided not to do so and objections are made which result in a Public Inquiry being held, the authority will adopt a neutral stance.

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APPLICATION FOR A MODIFICATION TO THE DEFINITIVE MAP AND STATEMENT
Wildlife and Countryside Act 1981

To: Surrey County Council
Countryside Access
Whitebeam Lodge
Merrow Depot, Merrow Lane,
Merrow Lane
Guildford
GU4 7BQ

I/We (i) Caroline AMOND
of (ii) PREYMEAD FARM, BADSHOT LEA, Farnham
GU9 9LR

hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement for the area by (iii):-

(a) ~~Deleting~~ the footpath/bridleway/restricted byway/byway open to all traffic* which runs
from:
to:

(b) ~~Adding~~ the footpath/bridleway/restricted byway/byway open to all traffic* which runs
from: Low lane / lower Farnham Rd, Badshot Lea
to: The MOORS Rd. Tongham.

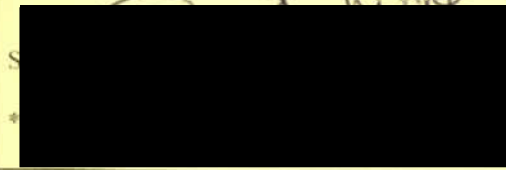
(c) ~~Upgrading/downgrading~~ to a footpath/bridleway/restricted byway/byway open to all traffic* the
footpath/bridleway/byway open to all traffic which runs
from:
to:

(d) ~~Varying/adding~~ to the particulars relating to the footpath/ bridleway/ restricted byway/
byway open to all traffic*
from:
to:
by providing that

as shown on the map annexed hereto.

I/We attach copies of the following documentary evidence [including statements of witnesses] in support of this application:-

(iv) Public way Evidence Forms
& more documents to follow *



Date: 8/10/13

I wish to claim the following route(s) as public ~~FP/BW/RB/BOATS~~
(please delete as appropriate) under
Schedule 14 of the Wildlife and Countryside Act 1981

Signed: [Redacted]

Dated: 10/10/13

Legend

Existing rights of way



Page 130

