

**PLANNING AND REGULATORY COMMITTEE
NOTICE OF MEETING**

Date: Wednesday, 20 March 2019
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
Email: huma.younis@surreycc.gov.uk

[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;
Edward Hawkins (Vice-Chairman)	Heatherside and Parkside;
Mary Angell	Woodham and New Haw;
Stephen Cooksey	Dorking South and the Holmwoods;
Ernest Mallett MBE	West Molesey;
Andrew Povey	Cranleigh & Ewhurst;
Mrs Penny Rivers	Godalming North;
Keith Taylor	Shere;
Rose Thorn	Godstone;
Saj Hussain	Knaphill and Goldsworth West;
Bernie Muir	Epsom West;

EX OFFICIO MEMBERS (NON-VOTING) [4]

Tim Oliver	Leader of the Council	Weybridge;
Tony Samuels	Chairman of the Council	Walton South & Oatlands;
Helyn Clack	Vice-Chairman of the Council	Dorking Rural;
Colin Kemp	Deputy Leader	Goldsworth East and Horsell Village;

APPOINTED SUBSTITUTES [09]

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;
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 - 8)

To confirm the minutes of the meeting held on (21 November 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 MINERALS/WASTE WA/2018/1613- LAND ADJACENT TO WETWOOD COTTAGE, CHIDDINGFOLD ROAD, DUNSFOLD, GODALMING, SURREY GU8 4PB

(Pages 9 - 40)

This is an application for the construction and use of an importation, sorting, processing and storage facility for green waste on a site of approximately 0.85 hectares comprising 2no office and storage buildings, 10 parking spaces, open storage bays and log

storage area, additional tree planting and a new access off the Chiddingfold Road.

8 WASTE APPLICATION REF. WA/2018/0097- BROADWATER PARK GOLF CLUB, MEADROW, GODALMING, SURREY, GU7 3BU

(Pages 41 - 130)

This is an application for the capping of a historic 8ha landfill; remodelling and enhancement of existing driving range and 9-hole par 3 golf course with associated ecological and public access improvements; provision of new 490m² driving range building, adventure golf facility, practice putting green, 17 additional car parking spaces and rainwater harvesting scheme; involving the use of 342,578 tonnes (214,111m³) of inert waste material and 70 HGV trips (140 HGV movements) per working day over a period of 18-24 months.

9 APPLICATION FOR VILLAGE GREEN STATUS-LAND AT THE GREEN, LANDEN PARK, HORLEY

(Pages 131 - 204)

The Committee is asked to consider whether or not to register the land the subject of this application as a Village Green.

Application for Village Green status by Adrian Woolsey, Philippa Parry, Tina Constanti and Lynda Muggeridge dated 15 January 2017 relating to land at Landen Park, Horley.

10 ENFORCEMENT AND MONITORING UPDATE REPORT

(Pages 205 - 210)

This report covers the period from 1st March 2018 to 1st March 2019.

11 DATE OF NEXT MEETING

The next meeting of the Planning & Regulatory Committee will be held on 17 April 2019 in the Ashcombe Suite, County Hall, Kingston Upon Thames.

Joanna Killian
Chief Executive
Thursday, 07 March 2019

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 National Planning Policy Framework (NPPF) (revised July 2018 and updated February 2019) and subsequent 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 February 2019. This revised NPPF replaces the previous NPPF published in March 2012 and revised in July 2018. 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) 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

The Human Rights Act 1998 does not incorporate the European Convention on Human Rights into 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.

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 21 November 2018 in the 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 Natalie Bramhall
- *Mr Stephen Cooksey
- *Mr Edward Hawkins
- *Mr Ernest Mallett MBE
- *Dr Andrew Povey
- *Mrs Penny Rivers
- *Mr Keith Taylor
- *Mrs Rose Thorn
- Mrs Mary Angell

41/18 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS [Item 1]

Apologies for absence were received from Mary Angell.

42/18 MINUTES OF THE LAST MEETING [Item 2]

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

43/18 PETITIONS [Item 3]

There were none.

44/18 PUBLIC QUESTION TIME [Item 4]

There were none.

45/18 MEMBERS' QUESTION TIME [Item 5]

There were none.

46/18 DECLARATIONS OF INTERESTS [Item 6]

Dr Andrew Povey declared a non-pecuniary interest as a trustee of the Surrey Hills Society. Edward Hawkins declared an interest, stating that he was the Surrey County Council representative on the Blackwater Valley Countryside Partnership.

47/18 ALLEGED PUBLIC BRIDLEWAYS BETWEEN LOW LANE (FARNHAM) AND THE MOORS (TONGHAM) [Item 9]

Officers:

Daniel Williams, Countryside Access Officer

Speakers:

Mark Dixon, made representation in objection to the application. The following key points were made:

- Clients he is representing own the field shown hatched in green and marked number one on drawing H93.
- The field was actively cropped during the 1990s.
- Field has been securely fenced and gated since 2009 and remains so today.
- Many of the user evidence forms lodged with the council do assert access to and trespass over client lands.
- Have scrutinised the 20 user evidence forms, evidence should be discredited as land was being actively farmed and had been fenced during periods users say they were using alleged routes.
- Fully support officer professional opinion that no public rights of way or bridleway exists over the land in question.
- If a map modification order is made, clients will still object to alleged routes and will ask matter to be referred to Secretary of State for consideration.

Caroline Amond, the applicant, raised the following key points:

- Supported the application and stated that it was a shame that the county council did not support the application being considered.
- Access to route has changed over the years as obstacles have been encountered.
- Have lived in the village for 30 years and Low Lane for 5 years and have accessed route across the field with horses, horse drawn carriages and by foot.
- Bridleways cross many areas i.e. Thursley Common but it is a shame there is nothing locally for local riders.
- Would support safe off road riding routes as these are desperately needed as the network is being eroded and both horses and riders are in danger of possible fatality.
- Approval of this application would support gap between Christmas Pie route through to Tongham and then to Crooksbury Common.

Key points raised during the discussion:

1. The report was introduced by the Countryside Access Officer who explained that Surrey 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 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. Evidence regarding the alleged public bridleways was gathered through a number of sources including public user evidence forms and local consultations. The officer was of the view that that no public bridleway, nor a public right of way of any other kind can reasonably be alleged to subsist over the route(s).

2. The Vice-Chairman stated that he supported public access but agreed with the officer recommendation that there was not enough evidence to support the establishment of a public right of way or bridleway over the land in question. The Vice Chairman further added that he had asked officers to go back out to public consultation but no further information regarding the application was gathered as a result of this.

RESOLVED:

The Planning and Regulatory Committee unanimously agreed 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 be **refused**.
- 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 adopt a neutral stance.

48/18 SURREY COUNTY COUNCIL PROPOSAL WA/2018/1044- LINDEN FARM, ROSEMARY LANE, ALFOLD, CRANLEIGH, GU6 8EU [Item 7]

Officers:

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

Key points raised during the discussion:

1. An update sheet was circulated and tabled at the meeting.
2. The Chairman explained that no public speakers had been registered to speak on this application as per the Councils Standing Orders (67.10).
3. The Planning Regulation 3 Team Leader explained that this application had been considered by the Committee on 17 October 2018 and was referred back to the applicant on grounds that the proposal was contrary to policies D1 and D4 of the Waverley Borough Local Plan 2002 in terms of appearance of the buildings. Officers felt that the applicant had provided justification for the use of dark cladding and a steel roof and agreed that this was not out of character for the local area. The proposal was therefore considered to be acceptable.
4. A Member of the Committee stated that he fully supported the concerns raised by the Committee on 17 October and was aware that the Cabinet Member was minded to make a change on the horticultural element of the application. The Member argued that it would be difficult for the Committee to oppose policies D1 and D4 from

- a planning point of view but it was clear that the way the adult social care department had dealt with this application was unacceptable.
5. A Member of the Committee stated that she had made contact with both Waverley Borough Council and Alfold Parish whose concerns with the application still stood.
 6. It was explained by a Member that there were many buildings with black cladding within his division and it would therefore be difficult for the Committee to justify a refusal when there were so many dark cladded buildings within the Surrey Hills area.
 7. Majority of Members were of the opinion that it was important that the application was permitted and officers get on with building this much needed facility. Many of the concerns raised were outside the remit of the Committee and needed to be addressed by adult social care.
 8. A Member commented that the images contained within the officer report showed tiled roof and no steel roof.
 9. The Chairman moved the recommendation to permit the application. There were seven votes for, two votes against and one abstention; therefore the recommendation was carried and the application permitted.

RESOLVED:

That pursuant to Regulation 3 of the Town and County Planning General Regulations 1992, application number, WA/2018/1044 be **permitted** subject to conditions and informatives listed in the report.

49/18 MINERALS AND WASTE APPLICATION SP18/00304/SCC - SHEPPERTON QUARRY, LITTLETON LANE, SHEPPERTON, SURREY TW17 0NF [Item 8]

Officers:

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

Key points raised during the discussion:

1. The report was introduced by the Senior Planning Policy Officer who explained that this was a retrospective application for the use and siting of two container units for employee welfare purposes for a temporary period until 30 September 2019. The container units were situated next to the existing two-storey weighbridge office and mess hut in the south-west corner of the aggregates recycling facility (ARF). 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 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. Therefore there is no longer a need for the two container units and officers recommend refusal.

2. A Member of the Committee commented that the welfare units had been in use for a number of years on the site and could not see the issue with permitting the application as it was providing a welfare facility for employees. The Senior Planning Policy Officer explained that this application went alongside a retrospective application for an ARF which was refused by the Committee on 17 October 2018. As that application was refused, the need for the welfare units no longer exists. A number of objections had also been received.
3. Another Member of the Committee stated that within the report there was lots of reasons stating no significant impacts as a result of this application. The Senior Planning Policy Officer re-stated that the purpose for the units no longer exists and a decision notice was issued on 1 November. Officers are working with the applicant to restore the site.
4. The Planning Development Manager commented that although the application did comply with planning policy in many ways, it importantly did not accord with green belt policy and constituted inappropriate development in the green belt.
5. The Chairman moved the recommendation to refuse the application. There were nine votes for and one vote against; therefore the recommendation was carried and the application refused.

RESOLVED:

That Minerals and Waste application number, SP18/00304/SCC be **refused** for reasons and informatives listed in the report.

50/18 DATE OF NEXT MEETING [Item 10]

The date of the next meeting was noted.

Meeting closed at 11.10am

Chairman

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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.

ADDITIONAL INFORMATIONLetter from Vail Williams (Agent) dated 6th November 2018**CONSULTATIONS AND PUBLICITY**

One further letter of representation has been received raising a series of comments.

Planning considerations:

- The works have already commenced therefore retrospective
- Recommendation ignores concerns by Waverley Council, Alford Parish Council and no consultation with Historic England
- Appearance of the scheme detrimental to the conservation area and countryside
- Reduction in facilities detrimental to residents, wider village and neighbours
- Increase in traffic flow

Officer note: the above comments were discussed at the committee on the 17th October.

Non-planning matters:

- Cost cutting
- Impact on saleability of new houses

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TO: PLANNING & REGULATORY COMMITTEE

DATE: 20 March 2019

BY: PLANNING DEVELOPMENT MANAGER

DISTRICT(S) WAVERLEY BOROUGH COUNCIL

ELECTORAL DIVISION(S):
Waverley Eastern Villages
 Mrs Young

CASE OFFICER:

Stephen Jenkins, Deputy Planning
 Development Manager, 020 8541
 9424

PURPOSE: FOR DECISION

GRID REF: 499202 135490

TITLE: MINERALS/WASTE WA/2018/1613

SUMMARY REPORT

Land adjacent to Wetwood Cottage, Chiddingfold Road, Dunsfold, Godalming, Surrey GU8 4PB

The construction and use of an importation, sorting, processing and storage facility for green waste on a site of approximately 0.85 hectares comprising 2no office and storage buildings, 10 parking spaces, open storage bays and log storage area, additional tree planting and a new access off the Chiddingfold Road.

The application site is about 0.85 hectares in area, located on the northern side of the Chiddingfold Road between the villages of Chiddingfold and Dunsfold. The site area is grassland bordered by trees and hedgerows and is adjacent to the semi-detached dwelling, Wetwood Cottage. Various outbuildings have occupied the curtilage of the property and land beyond including the application area, with hardstandings remaining in part of the site. The application site has been used by previous owners as a smallholding. The applicant owns both the application site and the adjacent Wetwood Cottage. The application site is outside the Green Belt, but within an Area of Great Landscape Value (AGLV). Millmead Cottage is approximately 90m to the south-east and Woodside Cottage is approximately 110m to the north-west of the site boundary. Chiddingfold Storage depot, a waste processing facility for automotive parts is situated 20m to the south-west on the southern side of the Chiddingfold Road and agricultural poultry sheds belonging to Wetwood Farm are on adjacent land to the east.

The applicant is seeking planning permission for a timber waste (logs, chippings, green waste) processing and storage facility in conjunction with his tree care business on the land adjacent to his property at Wetwood Cottage. The application includes the provision of a new access off Chiddingfold Road, which will also provide a safer and improved access for Wetwood Cottage. The applicant is currently operating from a smaller site in Chilworth, which is inadequate. The proposed development will include: the erection of two storage buildings (incorporating an office); parking spaces; storage bays; log storage area; tree planting along the west and south of the site boundary; and a new access off the Chiddingfold Road, which will share with Wetwood Cottage. The facility will be small scale and would involve the importation, sorting, processing and storage of approximately 622 tonnes per annum of waste wood and green waste.

The development would include the equivalent of 6 full-time members of staff operating Monday to Friday from 0700 hours to 1800 hours. No working is proposed on Saturdays, Sundays or Bank, National or Public Holidays. Up to 6 cars will arrive on site between 0700 hours and 0730 hours each working day; staff would then leave the site in company vehicles, and return at the end of the working day before leaving the site in their cars. The business has 8 small vehicles

of varying types from 2 to 4-wheel drives. In addition 1 articulated HGV would visit the site each month to collect and take away wood chip for electricity generation. In total there would be approximately 17 two way movements per day.

The County Planning Authority (CPA) has received 6 letters of representation in respect of the proposed development, five of which are objecting and one is offering advice in respect of conditions to limit the impact on local amenity. The Borough Council and Dunsfold Parish Council have raised objections to the development on various grounds, however the CPA has not received any technical objections to the development in respect of noise, traffic, drainage, ecology and pollution control.

Officers consider that the proposed development would facilitate the sustainable management of arboricultural waste arisings in the local area. Whilst this is relatively small scale in terms of throughput, dealing with approximately 600 tonnes per annum of wood/green waste, it would contribute to the waste management capacity in the County. The development would facilitate the movement of waste up the waste hierarchy by making beneficial use of waste materials for electricity generation. Officers also consider that the development proposed would support and facilitate the development of an existing land-based rural business in accordance with the National Planning Policy Framework 2019.

The recommendation is to PERMIT subject to conditions.

APPLICATION DETAILS

Applicant

Charterhouse Tree Care

Date application valid

20 September 2018

Period for Determination

01 February 2019 (extension agreed with the applicant)

Amending Documents

- Email dated 26 November 2018 with Industrial Noise Impact Assessment (ref: IMO5332-3)
- Email dated 05 December 2018 with Drainage Strategy (ref: D1614/DS/1.0) dated 29 November 2018 and Surface Water Drainage Summary Pro-forma
- Email dated 10 December 2018 with Drawing No. 2017/3953/004 (Rev.: A) Proposed Visibility Splay dated November 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.

	Paragraphs in the report where this has been discussed
Sustainable Waste Management	27-38
Traffic and Highways	39-50
Environment and Amenity	51-72

ILLUSTRATIVE MATERIAL

Site Plan

Plan 1 – Proposed Site Plan (Drawing No.2018/02/01 Rev.E)

Aerial Photographs

Aerial 1 – Site location

Aerial 2 – Site location

Site Photographs

Figure 1 – view south across proposed site area

Figure 2 – view of ponds along western boundary of site

Figure 3 – view south east along roadside hedge toward Wetwood Cottage

Figure 4 – view north west along roadside hedge toward proposed site area

Figure 5 – view north from proposed dwelling access road toward proposed site area

BACKGROUND

Site Description

1. The application site is about 0.85 hectares in area and shares its eastern boundary with Wetwood Cottage and its curtilage. It is approximately 2.9 kilometres (km) east of Chiddingfold and about 1.7 km west of Dunsfold and lies on the northern side of the Chiddingfold Road. Chiddingfold automotive waste storage/processing depot is situated approximately 20m away on the southern side of the Chiddingfold Road.
2. The application site is within Flood Zone 1 (less than 0.1% chance of flooding in any year) by the Environment Agency and is also located within an area locally designated for landscape as the Surrey Hills Area of Great Landscape Value (AGLV).
3. Although the application site is located within an AGLV, it is not situated within the Metropolitan Green Belt or Conservation Area. The Chiddingfold Forest SSSI is approximately 140 metres (m) to the south-west of the site boundary of the application site.
4. The nearest property is Wetwood Cottage, which is owned and occupied by the applicant and is immediately adjacent to the application site. Millmead Cottage is approximately 90m to the south east and Woodside Cottage is approximately 110m to the north west of the site boundary of the application site. Wetwood Farm and various poultry buildings are adjacent to the north east boundary, which is the subject of an application for the erection of agricultural buildings for pig breeding, including associated laboratory and parking.

Planning History

5. There is no recent case history with regards to minerals and waste development for the application site. Whilst there is no formal planning history with the borough, the site area and curtilage of Wetwood Cottage, has various outbuildings and areas of hardstanding, which has been previously used as an agricultural smallholding.

THE PROPOSAL

6. The applicant is seeking permission for the proposed development of an importation, sorting, processing and storage facility for green waste, as the existing facility in Chilworth is no longer adequate. The proposed development will include the following:
- 2 storage buildings approximately 36mx10mx4.5m and 20mx10mx4.5m respectively; to include an office facility
 - 10 parking spaces;
 - Open storage bays;
 - Log storage area;
 - Additional tree planting along the west and south of the site boundary; and
 - A new access off the Chiddingfold Road, which will share with Wetwood Cottage (the existing residential access would be blocked up)
7. The proposed importation, sorting, processing and storage facility for green waste will process approximately 622 tonnes per annum of waste wood and green waste. The tree surgery business employs 6 full-time members of staff operating Monday to Friday from 0700 hours to 1800 hours. It is not proposed to work on Saturdays, Sundays or Bank, National or Public Holidays. Employees will arrive in their cars and park on site between 0700 hours and 0730 hours each working day; staff would then leave the site in company vehicles, and return at the end of the working day before leaving the site in their cars. The business has 8 small vehicles of varying types from 2 to 4-wheel drives. In addition 1 articulated HGV would visit the site each month to collect and take away wood chip. In total there would be approximately 17 two way movements per day.

CONSULTATIONS AND PUBLICITY

District Council

8. Waverley Borough Council: Objection on the grounds that harm would be caused to the visual amenity of the countryside and cumulative impact of built form of an industrial scale and operation within this area that would result if the scheme was permitted.

Consultees (Statutory and Non-Statutory)

- | | | | |
|-----|---------------------------|---|------------------------------------|
| 9. | County Ecologist | : | No objection subject to conditions |
| 10. | County Highways Authority | : | No objection subject to conditions |
| 11. | County Noise Consultant | : | No objection subject to conditions |
| 12. | Environment Agency | : | No objection |
| 13. | Thames Water | : | No comments received |
| 14. | SuDS & Consenting Team | : | No objection subject to conditions |

Parish/Town Council and Amenity Groups

15. Dunsfold Parish Council: Objection on the grounds that the development will have a harmful impact upon the setting and appearance of the rural location and, second, that the noise and traffic created by the operations will be inconsistent with the rural location of the site.

Summary of publicity undertaken and key issues raised by public

16. The application was publicised by the posting of 1 site notice and an advert was placed in the local newspaper. A total of 6 of owner/occupiers of neighbouring properties were directly notified by letter. 6 letters of representation have been received, 5 letters object to the proposed development. These letters raise the following comments:

Area of Great Landscape Value / Rural Character

- The proposed development does not accord with the Waverley Local Plan Policy RE3 and Surrey Waste Plan Policy CW5
- The application site is within an Area of Great Landscape Value (AGLV) and it should be protected
- The intensification of use is not in line with the rural nature of the location

Noise

- Noise that result from the proposed activities envisaged is inappropriate given the residential and rural nature of the location
- Noise from chainsaws are considered to be an issue to the neighbourhood
- There is a concern about the noise in early morning as there will be operation from 0700 hours

Traffic and Highways

- The location of the proposed development is not suitable on traffic grounds
- The proposed development will generate a large number of vehicle movements
- A series of tight bends in High Street Green and a pinch point at Hazel Bridge on Pickhurst Road are not possible for two large vehicles to pass without one stopping
- There is a restriction at Chiddingfold Green marked as unsuitable for HGV traffic

Previously Developed Land / Settlement Boundary

- The property is not within previously developed land and the applicant has made an incorrect statement
 - The proposed development is outside the settlement boundary of Chiddingfold and Dunsfold
17. 1 letter of representation, which has come from one of the nearest residential properties has suggested conditions to ensure protection of local amenity, in particular restricting activities and noise, working hours and the erection of additional road signs.

PLANNING CONSIDERATIONS

Introduction

18. 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.
19. In this case the statutory development plan for consideration of the application consists of the Surrey Waste Plan 2008, Surrey Waste Draft Local Plan 2018, Waverley Borough Local Plan 2002 and Waverley Borough Local Plan 2016 Part 1: Strategic Policies and Sites.
20. In considering this application the acceptability of the proposed development will be assessed against relevant development plan policies and material considerations. 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: Sustainable waste Management, Highways and Traffic, Environment and Amenity.

Surrey Waste Draft Local Plan 2018

21. Surrey County Council is now in the process of reviewing the Surrey Waste Plan 2008 and published the Surrey Waste Draft Local Plan 2018 (SWLP 2018) for consultation in December 2017. As the SWLP 2018 remains at an early stage of preparation and has not been subject to independent examination, little weight can be given to the policies contained within it.

Waverley Borough Local Plan 2002 saved policies

22. The Waverley Borough Local Plan 2002 sets out the planning policies that we use to encourage and guide development in the Borough. From 28 September 2007, some of the policies in the Local Plan ceased to have effect. The remaining policies have now been 'saved' under the Planning and Compulsory Purchase Act 2004 and continue to form part of the development plan.

Waverley Borough Local Plan 2016

23. Waverley Borough Council sets out the timetable for the production of new or revised Development Plan Documents, which is known as the Local Development Scheme (LDS) in July 2016 and proposes to produce its new Local Plan in two stages: Local Plan Part 1: Strategic Policies and Sites (Part 1) and Local Plan Part 2: Non-strategic Policies and Sites (Part 2). They will eventually replace the current Local Plan (2002).
24. The Part 1 sets out Waverley Borough Council's spatial policy framework for delivering the development and change needed to realise our vision for development in Waverley borough up to 2032. Waverley Borough Council submitted the Waverley Borough Local Plan Part 1: Strategic Policies and Sites to the Secretary of State for Communities and Local Government, on 21 December 2016 for independent examination. As such, Officers consider that the Part 1 carries some weight in the consideration of this planning application.
25. The Part 2 provides the more detailed day-to-day planning policies and will allocate sites needed for housing or other land use needs. It also reviews the boundaries of the town centres and important local landscape designations. As the Part 2 remains at an early stage of preparation and has not been subject to independent examination, little weight can be given to the policies contained within it.

Environmental Impact Assessment

26. The proposed development was evaluated by the County Planning Authority in line with the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 and the advice set out in the National Planning Practice Guidance on Environmental Impact Assessment (EIA). On 16 May 2017 the County Planning Authority adopted a screening opinion under Regulation 7 of the above EIA Regulations, where it considered the proposed development in the context of Schedule 2, and based on the information submitted, is of the opinion that there are not likely to be any significant environmental effects (in terms of the meaning of significant in the EIA Regulations) and therefore it was recommended that the proposed development would not be EIA development.

SUSTAINABLE WASTE MANAGEMENT

Surrey Waste Plan 2008 (SWP 2008)

Policy CW4 – Waste Management Capacity

Policy CW5 – Location of Waste Facilities

27. In England, the waste hierarchy is both a guide to sustainable waste management and a legal requirement, enshrined in law through the Waste (England and Wales) Regulations 2011. The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery (including energy recovery), and last of all disposal (e.g. landfill).
28. The National Planning Policy Framework 2019 (NPPF) does not contain policies relating to waste management. Instead national waste management policies are contained within the National Planning Policy for Waste 2014 (NPPW) and Waste Management Plan for England 2013 (WMP). However, the NPPF promotes the sustainable growth and expansion of all types of business in rural areas, and the development and diversification of agricultural and other land-based rural businesses.
29. The WMP argues that the dividends of applying the waste hierarchy will not just be environmental. The costs of waste treatment and disposal can be reduced and we can save money by making products with fewer natural resources. It also advocates that the benefits of sustainable waste management will be realised in a healthier natural environment and reduced impacts on climate change as well as in the competitiveness of our business through better resource efficiency and innovation – a truly sustainable economy.
30. The NPPW also sets out that the Government’s ambition of working towards a more sustainable and efficient approaches to resource use and management by driving waste management up the waste hierarchy and helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.
31. SWP 2008 Policy CW4 states that planning permissions will be granted to enable sufficient waste management capacity to be provided to:
 - manage the equivalent of the waste arising in Surrey, together with a contribution to meeting the declining landfill needs of residual wastes arising in and exported from London; and
 - achieve the regional targets for recycling, composting, recovery and diversion from landfill by ensuring a range of facilities is permitted.
32. SWP 2008 Policy CW5 states that sites will be allocated, and proposals for waste facilities on unallocated sites will be considered in accordance with the following principles:
 - priority will be given to industrial/ employment sites, particularly those in urban areas, and to any other suitable urban sites and then to sites close to urban areas and to sites easily accessible by the strategic road network;
 - priority will be given over greenfield land to previously developed land, contaminated, derelict or disturbed land, redundant agricultural buildings and their curtilages, mineral workings and land in waste management use;
 - Areas of Outstanding Natural Beauty, Areas of Great Landscape Value, and sites with or close to international and national nature conservation designations should be avoided; and
 - the larger the scale of development and traffic generation, the more important is a location well served by the strategic road network or accessible by alternative means of transport.

33. The existing tree care business currently occupies a unit in Chilworth, which is too small and inadequate for the business operations, as such the applicant has proposed to relocate his business to this site outside of the Green Belt. Due to inadequate capacity at the existing facility, the applicant sometimes has to tip off chippings at third party sites, involving additional travelling up to 25 miles. Although the application site is within an Area of Great Landscape Value (AGLV), there is an existing hardstanding on part of the application site and therefore the applicant argues that it is a Previously Developed Land (PDL). The applicant also argues the paragraphs 83 and 84 of the NPPF give increased importance to support sustainable growth and expansion of all types of business in rural areas.
34. Waverley Borough Council and some residents have raised objection to the proposed development as the application site is not suitable for waste facilities on the grounds of cumulative impact of built form of an industrial scale and operation within this area. Some residents also argue that it is not a previously developed land and the applicant has made an incorrect statement.
35. The National Planning Policy Framework 2019 (NPPF) has a specific definition of Previously Developed Land (PDL) under the Annex 2 Glossary¹. Officers disagree with the applicant that the application site can be considered PDL, as the hardstanding within the site area is likely to have been in support of the agricultural smallholding. There are clearly many small buildings and hardstandings within the curtilage of Wetwood Cottage.
36. Policy CW5 of the SWP 2008 states that AGLV should be avoided when considering a waste application. However, paragraph B42 clearly points out that it is not to preclude the development of small-scale waste management facilities for local needs. Paragraph B36 also sets out that opportunities for waste management facilities in urban areas are limited and so land beyond needs to be considered, including disturbed land and redundant farm buildings and their curtilages. To minimise the negative effects of transporting waste, priority will be given to sites that are closer to the main sources of the waste.
37. The proposed importation, sorting, processing and storage facility for green waste will process approximately 622 tonnes per annum of waste wood and green waste and has two major functions:
 - Logs, green rakings and woodchips storing; and
 - Processing of green waste for transfer to waste into energy generation.

The applicant has shown that the application site is well-sited to the main highway and is in an ideal location within the catchment area of the tree care business and the waste arisings.

38. Paragraph C8 of the SWP 2008 recognises that recycling, recovery and processing facilities are expected to enable and to encourage waste to be used as a resource, and to recover materials that will be put to beneficial use. Officers consider that the proposed development can help support the sustainable waste management policy for Surrey. In

¹ According to the Annex 2 Glossary of the National Planning Policy Framework 2019 (NPPF), Previously Developed Land (PDL) is defined as "Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."

England, the NPPW and WMP both seek to reduce dependence on landfill and give priority to move sustainable forms of waste management by moving waste management up the waste hierarchy with prevention at the top followed by preparing for reuse, recycling, recovery and last of all disposal. Therefore, Officers consider that the proposed development is in accordance with policies CW4, CW5 of the Surrey Waste Plan 2008.

TRAFFIC AND HIGHWAYS

Surrey Waste Plan 2008 (SWP 2008)

Policy CW5 – Location of Waste Facilities

Policy DC3 – General Considerations

Waverley Borough Local Plan 2016 Part 1: Strategic Policies and Sites (WBLP 2016)

Policy ST1 – Sustainable Transport

Waverley Borough Local Plan 2002 (WBLP 2002)

Policy M13 – Heavy Goods Vehicle

Policy Context

39. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
40. SWP 2008 Policy CW5 states that priority will be given over greenfield land to previously developed land, contaminated, derelict or disturbed land, redundant agricultural building and their curtilages, mineral workings and land in waste management use. Areas of Outstanding Natural Beauty, Areas of Great Landscape Value and sites with or close to international and national nature conservation designations should be avoided. However, to minimise the negative effects of transporting waste, priority is also given to those sites that are located closer to the sources of waste.
41. SWP 2008 Policy DC3 states that planning permissions for waste related development will be granted provided it can be demonstrated by the provision of appropriate information to support a planning application that any impacts of the development can be controlled to achieve levels that will not significantly adversely affect people, land infrastructure and resources. Relevant assessments and appropriate mitigation of the following matters should be identified so as to minimize or avoid any material adverse impact and compensate for any loss, including the adverse effects on neighbouring amenity including transport impacts and the traffic generation, access and the suitability of the highway network in the vicinity, including access to and from the motorway and the primary route network.
42. WBLP 2016 Policy ST1 states that the County Planning Authority will ensure that development schemes:
 - are located where opportunities for sustainable transport modes can be maximised, reflecting the amount of movement generated, the nature and location of the site and recognising that solutions and measures will vary from urban to rural locations;
 - make the necessary contributions to the improvement of existing, and provision of new, transport schemes that lead to improvements in accessibility and give priority to the needs of pedestrians, cyclists, users of public transport, car sharers and users of low and ultra-low emission vehicles;
 - include measures to encourage non-car use such as on-site cycle parking;
 - ensure development proposals are consistent with, and contribute to the implementation of the Surrey Local Transport Plan;

- require the submission of Transport Assessments and Travel Plans and other appropriate measures in new developments that generate significant traffic volumes or have significant impact on the Strategic Road Network;
 - contribute to transport infrastructure improvements, where appropriate and viable;
 - are consistent with the objectives and actions within the Air Quality Action Plan;
 - encourage the provision of new and improved footpaths, bridleways and cycleways; and
 - make appropriate provision for car parking, having regard to the type of development and its location, in accordance with local standards.
43. Additionally, WBLP 2002 saved Policy M13 states that the County Planning Authority will seek to minimise the adverse impact of lorry traffic within the Borough. In particular the County Planning Authority will seek to locate developments which are likely to generate heavy goods vehicle movements where the highway infrastructure is capable of accommodating those movements.

The Development

44. The application site is accessed via Chiddingfold Road, which is a 'C' classified two-way single carriageway and provides access to Dunsfold village to the north-east and to Chiddingfold village to the west of the site. The application site is also located between the A283 to the west and the A281 to the east. Which in turn connect to the wider strategic road network.
45. The applicant has submitted a Transport Statement in support of the proposal. The Statement summarises that the proposed development is forecast to generate no additional two-way vehicle movements during the peak hours of 0800 to 0900 and 1700 to 1800. Though it will still generate approximately 17 vehicles movements during operational hours and will contribute a slight net increase in terms of vehicle movements, it is not considered to have an adverse impact on the local road network. A new access onto Chiddingfold Road will also be constructed for both the proposed development and the existing Wetwood Cottage, while the existing substandard access will be closed. The proposed development also comprises 10 parking spaces on site to accommodate staff parking and company vehicle overnight storage.
46. Some local residents have raised concerns about that the proposed location is not suitable on traffic grounds as it will generate a large number of vehicle movement and that there is a sign at Chiddingfold Green advising that it is unsuitable for Heavy Goods Vehicle (HGV) traffic.
47. The County Highway Authority (CHA) has raised no objections to the proposed development subject to conditions. Officers consider that the applicant has provided sufficient information and the details submitted are acceptable. Officers also acknowledge that the Construction Transport Management Plan shall be submitted prior to the commencement of the development hereby permitted and several pre-occupation conditions to secure that the parking areas shall be laid out in accordance with the approved plan, the existing vehicular access onto Chiddingfold Road shall be closed permanently and a new access shall be constructed.
48. Officers do not agree with the local residents that the proposed will generate a large number of vehicle movements as the submitted Transport Statement clearly concludes that the additional 17 vehicle movements per day (85 vehicle movements per week) will only contribute a slight net increase in terms of vehicle movements, provided that the proposed development operates Monday to Friday only.
49. Officers also consider that the sign at Chiddingfold Green is an advisory to drivers of HGVs and it does not prohibit HGVs from travelling along the local road network. Officers however acknowledge that the proposed development will make a necessary

contribution the provision of new access on Chiddingfold Road for both the proposed facility and the existing Wetwood Cottage.

- 50. Having regard to the above paragraphs, Officers consider that the proposed development, subject to conditions, would not cause significant harm in terms of highways, traffic and access. The construction of the new access will be beneficial in highway safety terms as it will replace the existing sub-standard one. The development therefore satisfies the requirements of Policy DC3 and CW5 of the SWP 2008 and Policies ST1 and M13 of the WBLP.

ENVIRONMENT AND AMENITY

Surrey Waste Plan 2008 (SWP 2008)

Policy DC3 – General Considerations

Waverley Borough Local Plan 2016 Part 1: Strategic Policies and Sites (WBLP 2016)

Policy RE1 – Countryside beyond the Green Belt

Policy RE3 – Landscape Character

Policy SP1 – Presumption in Favour of Sustainable Development

Waverley Borough Local Plan 2002 (WBLP 2002)

Policy D1 – Environmental Implications of Development

Policy D2 – Compatibility of Uses

Policy D4 – Design and Layout

Policy D5 – Nature Conservation

Policy D7 – Trees, Hedgerows and Development

Policy C2 – Countryside beyond the Green Belt

Policy Context

- 51. SWP 2008 Policy DC3 states that planning permissions for waste related development will be granted provided it can be demonstrated by the provision of appropriate information to support a planning application that any impacts of the development can be controlled to achieve levels that will not significantly adversely affect people, land infrastructure and resources. Relevant assessments and appropriate mitigation should be identified so as to minimize or avoid any material adverse impact and compensate for any loss.
- 52. WBLP 2002 Policy D1 states that the Council will have regard to the environmental implications of development and will promote and encourage enhancement of the environment. Development will not be permitted where it would result in material detriment to the environment by virtue of: local watercourses, ecological or landscape value; harm to the visual character and distinctiveness of a locality, particularly in respect of the design and scale of the development and its relationship to its surroundings; loss of general amenity, including material loss of natural light and privacy enjoyed by neighbours and disturbance resulting from the emission of noise, light or vibration; levels of traffic which are incompatible with the local highway network or cause significant environmental harm by virtue of noise and disturbance; or potential pollution of air, land or water.
- 53. Policy D2 of the WBLP states that the Council will seek to ensure that proposed and existing land uses are compatible, and development which may have a materially detrimental impact on sensitive uses with regard to environmental disturbance or pollution will not be permitted.
- 54. WBLP 2016 Policy RE1 states that within areas shown as Countryside beyond the Green Belt on the Proposals Map, the intrinsic character and beauty of the countryside will be recognised and safeguarded in accordance with the NPPF. Policy RE3 continues to state that the same principles for protecting the Area of Outstanding Natural Beauty (AONB) will apply in the Area of Great Landscape Value (AGLV), which will be retained

for its own sake and as a buffer to the AONB, until there is a review of the Surrey Hills AONB boundary.

55. WBLP 2016 SP1 also states that the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants to find solutions so proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
56. WBLP 2002 Policy D4 also states that the Council seek to ensure that development is of a high quality design which integrates well with the site and complements its surroundings. Policy D5 continues to state that development in both urban and rural areas should take account of nature conservation issues. The County Planning Authority will: seek to retain within a site any significant features of nature conservation value; not permit development that would materially harm a protected species of animal or plant, or its habitat; and encourage the enhancement of existing areas or features of nature conservation value and the creation and management of new wildlife habitats. Policy D7 also states development proposals on sites which contain, or are close to, important trees, groups of trees or hedgerows should provide for their long-term retention. The County Planning Authority may attach planning conditions, seek planning obligations or make Tree Preservation Orders to ensure future protection and management of important trees including new planting where appropriate.
57. WBLP 2002 Policy C2 states that the countryside beyond the Green Belt will be protected for its own sake. Policy C3 continues to state that the Council will protect and conserve the distinctiveness of the landscape character areas within the Borough. Management and enhancement of landscape features to conserve landscape character and retain diversity will be promoted. Development appropriate to the countryside will be expected to respect or enhance existing landscape character by appropriate design.
 - a) Areas of Outstanding Natural Beauty – The Surrey Hills and High Weald AONB are of national importance. The primary aim of designation is to conserve and enhance their natural beauty. Development inconsistent with this primary aim will not be permitted unless proven national interest and lack of alternative sites has been demonstrated. Protection of the natural beauty and character of the AONB will extend to safeguarding these areas from adverse visual or other impact arising from development located outside their boundary.
 - b) Areas of Great Landscape Value – Landscapes designated as AGLV on the Proposals Map make a valuable contribution to the quality of Waverley's countryside and the setting of the towns. Strong protection will be given to ensure the conservation and enhancement of the landscape character.

Landscape and Visual Impact

Surrey Waste Plan 2008 (SWP 2008)

Policy DC2 – Planning Designations

58. SWP 2008 Policy DC2 also states that planning permission will not be granted for waste related development where this would endanger, or have a significant adverse impact, on the character, quality, interest or setting of the Area of Great Landscape Value (AGLV) and Groundwater Source Protection Zone unless the development can demonstrate that any significant adverse impacts identified could be controlled to acceptable level in accordance with prevailing national policy and guidance. The assessment will also take into account whether any significant adverse impacts identified could be controlled to acceptable levels.
59. The development involves the diversification of an agricultural smallholding, for use as by a tree surgery business, including the erection of two agricultural style buildings. The

proposed facility and buildings would sit between a much larger industrial waste storage facility and the large agricultural buildings on Wetwood Farm. The proposed buildings would be of similar size to the neighbouring agricultural buildings, up to 4.5m to the eaves with a shallow pitch roof. The development will include additional planting along the north western and south eastern boundaries, which will provide very good screening in conjunction with the existing natural vegetation. Soils from the development would be utilised on site to provide turfed mounds for hedgerow planting.

60. Waverley Borough Council, Dunsfold Parish and local residents have raised an objection to the development because of the impact on visual amenity of the countryside and rural setting. However, Officers consider that this tree surgery business with agricultural style buildings, is not comparable to the adjacent much larger industrial storage facility, but is more akin to the poultry farm buildings to the north east on Wetwood Farm. As such, Officers consider that development in the context of the surrounding built development, would respect the intrinsic qualities of the countryside in which it is located and would not therefore endanger, or have a significant adverse impact, on the character, quality, interest or setting of the Area of Great Landscape Value.
61. Officers therefore consider that the proposal satisfies the requirements of Policies DC2 and DC3 of the SWP, saved Policy D1, Policies RE1 and RE3 of the WBLP.

Flood Risk

Waverley Borough Local Plan 2016 Part 1: Strategic Policies and Sites (WBLP 2016) Policy CC4 – Flood Risk Management

62. Paragraph 163 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment². Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - the development is appropriately flood resistant and resilient;
 - it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - any residual risk can be safely managed; and
 - safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
63. Paragraph 165 of the NPPF continues to state that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- take account of advice from the lead local flood authority;
 - have appropriate proposed minimum operational standards;
 - have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
 - where possible, provide multifunctional benefits.

² A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

64. WBLP 2016 Policy CC4 states that Flood Zones in Waverley are defined as contained within National Planning Practice Guidance and the Council's Level 2 Strategic Flood Risk Assessment. In order to reduce the overall and local risk of flooding in the Borough:
- Development must be located, designed and laid out to ensure that it is safe; that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere; and that residual risks are safely managed. In locations identified as being at risk of flooding, planning permission will only be granted, or land allocated for development, where it can be demonstrated that: (a) where sequential and exceptions tests have been undertaken and passed, any development that takes place where there is a risk of flooding will need to ensure that flood mitigation measures, including a site specific flood evacuation plan, are integrated into the design both on-site and off-site, to minimise the risk of property and life should flooding occur; (b) through a sequential approach, it is located in the lowest appropriate flood risk location in accordance with the NPPF and the Waverley Strategic Flood Risk Assessment (SFRA); and (c) it would not constrain the natural function of the flood plain, either by impeding flood flow or reducing storage capacity.
 - 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.
65. The application site lies within the Environment Agency Flood Zone 1, which has the lowest risk of flooding, according to the NPPF and the PPG. Further to the correspondence from the comments from the County Lead Local Flood Authority – SUDS Team (LLFA), the applicant submitted a Drainage Strategy and a Surface Water Drainage Summary Pro-forma in this application and the Strategy summarises that there will be no adverse impact on flood storage volumes or flood flow routes, though the proposed development will increase the impermeable area on the site from 0.05 hectare to 0.37 hectare. The Strategy also set out that there will be no adverse impact on flood storage volumes or flood flow routes as the proposed development will follow the existing topography of the site.
66. The County Lead Local Flood Authority – SUDS Team (LLFA) has raised no objection to the proposed development subject to the imposition of conditions including the submission of the details of the design of a surface water drainage scheme prior to the commencement of the development hereby permitted and a verification report demonstrating the drainage system has been constructed as approved shall be submitted prior to the first operation of the development hereby permitted.
67. Officers consider that the applicant has provided sufficient information and the details submitted are acceptable. Officers acknowledge that the details regarding the design of a surface water drainage scheme shall be submitted prior to the commencement of the development hereby permitted and a pre-occupation condition shall also be imposed to secure that a verification report demonstrating the drainage system has been constructed as approved shall be submitted. Officers therefore consider that the proposal satisfies the requirements of Policies DC3 of the SWP, saved Policy CC4 of the WBLP.

Noise

68. A noise impact assessment was submitted in support of the application, which provided a background noise survey at the land next to Wetwood Cottage, to understand the level of impact at the site as a result of the proposed tree surgery and wood storage company. The measurements were undertaken in accordance with British Standard 4142: 2014 and ISO 1996 – Part 2: 2007 to establish if the proposed development would have a demonstrable adverse effect in terms of noise. The background noise levels were recorded to be $L_{A90,1 \text{ hour}}$ 44dB, between 07:00 and 23:00hrs, at the nearest noise sensitive receptor (Wetwood Cottage). It is proposed that the barns would be used to store equipment that is not generally used on site, and activity is limited to starting some pieces of equipment (wood chippers) to load onto a trailer for transportation. Assessments and calculations are to be made in accordance with BS 4142: 2014 in order to ensure the proposed development does not have a detrimental acoustic effect on local residents and the nearest noise sensitive receptors. The report concluded that the resulting noise levels from the site running on a worst case scenario indicate a 'low impact' criteria and give an indication that complaints and impact on the local amenity is unlikely.
69. The local residents and Dunsfold Parish Council have raised concerns about the potential noise from the proposed activities, stating that this would be inappropriate given the residential and rural nature of the location. In particular noise from chainsaws and the early morning starts, with vehicle movements.
70. The CPA's Noise Consultant is satisfied with the noise assessment, in that they do not consider that noise would not cause a significant adverse impact, subject to conditions restricting noise levels associated with the development not exceeding 44dB. Having regard to the above paragraphs, Officers do not consider that the proposed development, subject to conditions, would give rise to an unacceptable impact on local amenity by way of noise arising from site activities. Accordingly, Officers consider that the proposed development satisfies Policy DC3 of the SWP and Policy D1 of the WLP.

Ecology

71. A Preliminary Ecological Appraisal (PEA) Report was submitted in support of the planning application, which is an ecological assessment method which evaluates the existing ecological value of a site and identifies any ecological constraints to a proposed development. The report concluded that habitats found within the proposed development site boundary included improved grassland, scattered trees, hedgerows and ephemeral ponds. The habitats were assessed as having the potential to support amphibians, hedgehogs, badgers, reptiles, dormice, bats and birds. The assessments on the ponds gave a below average score for suitability to support Great Crested Newts. The report set out a number of precautionary measures for safeguarding the site and ensuring the protection of species evident in the local area.
72. The County Ecologist is satisfied with the PEA Report, however the recommendations are too vague to be referred to under condition, as such a pre-commencement condition is being recommended requiring the submission of a scheme of ecological mitigation and enhancement to be submitted for approval. Officers therefore consider that the development would not have an unacceptable impact on local ecology subject to conditions. Accordingly, Officers are satisfied that the development complies with Policies DC2 and DC3 of the SWP, Policy D1 of the WLP, and Policy NE1 of the SWLP.

HUMAN RIGHTS IMPLICATIONS

73. 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.
74. It is the Officers view that the scale and duration of any potential impacts are not considered sufficient to engage Article 8 or Article 1 and that potential impact can be mitigated by the imposition of planning conditions. As such, this proposal is not considered to interfere with any Convention right.
-

CONCLUSION

75. This is a small scale wood/green waste development providing a suitable base for a local tree surgery business which is considered compatible with the rural environment. The facility will enable the sustainable management of wood waste and support and facilitate the development of an established rural business. The wider environmental and economic benefits of the proposed waste management facility is a substantial benefit of the proposal and with no objections from technical consultees, Officers consider that the development would not have an adverse impact on the local environment, landscape and amenity. There is a need to provide additional waste management facilities in order to achieve sustainable waste management within the County, and Officers consider that whilst the site is located in the AGLV, this is a non-Green Belt site.
76. The development would add to the County's net sustainable waste management capacity, driving waste management up the waste hierarchy and therefore satisfies a significant need as set out by the Surrey Waste Plan 2008 and the National Planning Policy for Waste 2014. The development would recover arboricultural green waste predominantly arising in the County for the purposes of fuel for electricity generation.
77. Officers acknowledge the concerns raised by some local residents, the Borough Council and local Parish Council, however it is considered that the proposal is considered acceptable, subject to conditions controlling the impact on local amenity and the environment.

RECOMMENDATION

The recommendation is to **PERMIT** the application subject to the following conditions:

Conditions:

CONDITION NO(S) 5, 7 & 12 MUST BE DISCHARGED PRIOR TO THE COMMENCEMENT OF THE DEVELOPMENT HEREBY PERMITTED.

CONDITION NO(S) 6, 8, 9, 10 AND 11 MUST BE DISCHARGED PRIOR TO THE FIRST OPERATION OF THE DEVELOPMENT HEREBY PERMITTED.

Approved Documents

1. The development hereby permitted shall be carried out in all respects in accordance with the following plans/drawings:
 - Drawing Ref. 2018/02/01 (Rev. E) Proposed Site Plan dated 01/07/18
 - Drawing Ref. 2018/02/02 (Rev. A) Proposed Buildings dated 18/05/18

- Drawing Ref. 2018/02/03 (Rev. A) Location Plan dated 20/09/18
- Drawing Ref. 2018-D1614-100 (Rev. P1) Existing Overland Flow Routes dated 26/11/18
- Drawing Ref. 2018-D1614-200 (Rev. P1) Site Location Plan dated 26/11/18
- Drawing Ref. 2018-D1614-300 (Rev. P1) Impermeable Areas Comparison dated 27/11/18
- Drawing Ref. 2018-D1614-400 (Rev. P1) Proposed Drainage Strategy dated 29/11/18
- Drawing Ref. 2017/3953/004 (Rev. A) Proposed Visibility Splay dated November 2018.

Commencement

2. The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission. The applicant shall notify the County Planning Authority in writing within seven working days of both the commencement and completion of the development hereby permitted.

Hours of Operation

3. Except in emergencies to maintain safe site operations, which shall be notified to the County Planning Authority in writing within 7 working days of those emergency operations taking place, no lights shall be illuminated nor shall any operations or activities related to construction of the proposed development authorised or required by this permission, be carried out except between the following times:

Monday to Friday : 0700-1800

There shall be no operations or related activities carried out on Saturdays, Sundays, Bank Holidays, Public or National Holidays.

Noise Control

4. The Rating Level, $L_{AR, TR}$, of the noise emitted from all plant, equipment and machinery, including on site vehicle movements, associated with the application site shall not exceed 44dB at any time at the nearest noise sensitive receptor. Any assessment carried out in pursuance of this condition shall be undertaken in accordance with British Standard (BS) 4142:2014 'Methods for rating and assessing industrial and commercial sound'.

Prevention of Flood Risk

5. Prior to the commencement of the development hereby permitted, the detailed design of a surface water drainage scheme demonstrating the design satisfies the Sustainable Drainage System (SuDS) Hierarchy and the compliance with the national Non-Statutory Technical Standards shall be submitted to and approved in writing by the County Planning Authority. The details of the surface water drainage scheme to be submitted shall include:
 - Evidence that the proposed solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development, associated discharge rates and storages volumes shall be provided using a maximum Greenfield discharge rate.
 - Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.).

- Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the application site will be managed before the drainage system is operational.
 - Details of drainage management responsibilities and maintenance regimes for the drainage system.
 - A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.
6. Prior to the first operation of the development hereby permitted, a verification report demonstrating the drainage system has been constructed as per the approved scheme referred to in Condition 5 above shall be submitted to and approved in writing by the County Planning Authority.

Traffic and Highways

7. Prior to the commencement of the development hereby permitted, a Construction Transport Management Plan shall be submitted to and approved in writing by the County Planning Authority. The details of the Construction Transport Management Plan to be submitted shall include details of:
- parking for vehicles of site personnel, operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials;
 - programme of works (including measures for traffic management);
 - provision of boundary hoarding behind any visibility zones;
 - HGV deliveries and hours of operation;
 - vehicle routing;
 - measures to prevent the deposit of materials on the highway;
 - before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused; and
 - on-site turning for construction vehicles

The Construction and Transport Management Plan shall be implemented as approved.

8. No part of the development hereby permitted shall be commenced until the proposed vehicular access onto Chiddingfold Road has been constructed and provided with visibility splays in accordance with Drawing Ref. 2017/3953/004 (Rev. A) Proposed Visibility Splay dated November 2018. The visibility splays shall be kept permanently clear of any obstruction over 1.05 metres high.
9. Prior to the first operation of the development hereby permitted, a scheme specifying arrangements for deliveries to and removals from the site shall be submitted to and approved in writing by the County Planning Authority. The details of the scheme to be submitted shall include:
- The types of vehicles to be used and hours of their operation;
 - The design of delivery areas within the development site; and
 - The dimensions and layout of lorry parking areas and turning areas.

The Scheme specifying arrangements for deliveries to and removals from the site shall be implemented as approved.

10. Prior to the first operation of the development hereby permitted, the existing vehicular accesses onto Chiddingfold Road shall be permanently closed and any kerbs, verge, footway, fully reinstated.
11. Prior to the first operation of the development hereby permitted, parking spaces shall be laid out in accordance with Drawing Ref. 2018/02/01 (Rev. E) Proposed Site Plan dated

January 2018 for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.

Ecology

- 12 Prior to the commencement of the development hereby permitted, a scheme of ecological mitigation and enhancement shall be submitted and approved in writing by the County Planning Authority. The scheme shall include all the recommendations for mitigation and precautionary measures as outlined in Section 5 of the Preliminary Ecological Appraisal Report dated April 2018. The ecological mitigation and enhancement scheme shall be implemented as approved.

Reasons:

- 1. For the avoidance of doubt and in the interests of proper planning.
- 2. To accord with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004 and to enable the County Planning Authority to control the development and monitor the site to ensure compliance with the planning permission.
- 3. To enable the County Planning Authority to control the development and to ensure that the development is undertaken to safeguard the environment and local amenity in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 4. To enable the County Planning Authority to control the development and to ensure that the development is undertaken to safeguard the environment and local amenity of noise sensitive receptors in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 5. The imposition of a pre-commencement condition is recommended by the Lead Local Flood Authority to secure that the applicant has to submit the detailed design of a surface water drainage scheme demonstrating the design satisfies the Sustainable Drainage System (SuDS) Hierarchy and the compliance with the national Non-Statutory Technical Standards and to safeguard the environment and local amenity of preventing flood risk in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 6. To ensure the County Planning Authority to control the development and to ensure that the development is undertaken in a high standard of sustainability to safeguard the environment and local amenity of preventing flood risk in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 7. The imposition of a pre-commencement condition is recommended by the County Highway Authority to secure that the applicant has to submit a Construction Transport Management Plan and to safeguard the environment and local amenity in terms of traffic and highways and in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 8. To enable the County Planning Authority to control the development and to ensure that the development should not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 9. To enable the County Planning Authority to control the development and to ensure that the development should not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
- 10. To enable the County Planning Authority to control the development and to ensure that the development should not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.

11. To enable the County Planning Authority to control the development and to ensure that the development should not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
12. The imposition of a pre-commencement condition is recommended by the County Ecologist to secure that the applicant has to submit an Ecological Mitigation and Enhancement Scheme to safeguard the environment in terms of ecology and in accordance with Policy DC3 of the Surrey Waste Plan 2008.

Informatives:

1. The applicant is advised to make sure that new development should be connected to the public mains (with the prior written approval of the statutory body) where possible. If it is shown not to be feasible to connect to the public foul sewer, an Environmental Permit from the Environment Agency may be required. The applicant is advised to contact the Environment Agency on 037 0850 6506 regarding the Permit or other enquires about other permits, consents or licences for various activities and for the proof of surface water treatment to achieve water quality standards if proposed works result in infiltration of surface water to ground within a Source Protection Zone.
2. The applicant is advised to contact the Lead Local Flood Authority via SUDS@surreycc.gov.uk and obtain prior written consent if proposed works affect an Ordinary Watercourse.
3. The applicant is reminded that the permission hereby granted shall not be construed as authority to carry out any works on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works proposed and the classification of the road. Please see <http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/the-traffic-management-permit-scheme>. The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991. Please see www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/floodingadvice.
4. When a temporary access is approved or an access is to be closed as a condition of planning permission an agreement with, or licence issued by, the Highway Authority Local Highways Service will require that the redundant dropped kerb be raised and any verge or footway crossing be reinstated to conform within the existing adjoining surfaces at the developers' expense.
5. The applicant is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).
6. When access is required to be 'completed' before any other operations, the Highway Authority may agree that surface course material and in some cases edge restraint may be deferred until construction of the development is complete, provided all reasonable care is taken to protect public safety.
7. The applicant is advised that as part of the detailed design of the highway works required by the above conditions, the County Highway Authority may require necessary accommodation works to street lights, road signs, road markings, highway drainage,

surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.

8. Section 59 of the Highways Act permits the Highway Authority to charge developers for damage caused by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant/organisation responsible for the damage.
9. The applicant would be expected to agree a programme of implementation of all necessary statutory utility works associated with the development, including liaison between Surrey County Council Streetworks Team, the relevant utility companies and the developer to ensure that where possible the works take the route of least disruption and occurs at least disruptive times to highway users.
10. In determining this application the County Planning Authority has worked positively and proactively with the applicant by: entering into scoping of the application; 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; forwarded consultation responses to the applicant; considered representations from interested parties; liaised with consultees and the applicant to resolve identified issues and determined the application within the timeframe agreed with the applicant. Issues of concern have been raised with the applicant including impacts of and on noise, traffic, flooding and ecology, and addressed through negotiation and acceptable amendments to the proposals. The applicant has also been given advance sight of the draft planning conditions. This approach has been in accordance with the requirements of paragraph 38 of the National Planning Policy Framework 2019.

CONTACT

Stephen Jenkins

TEL. NO.

020 8541 9424

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](#)

[Planning Practice Guidance](#)

The Development Plan

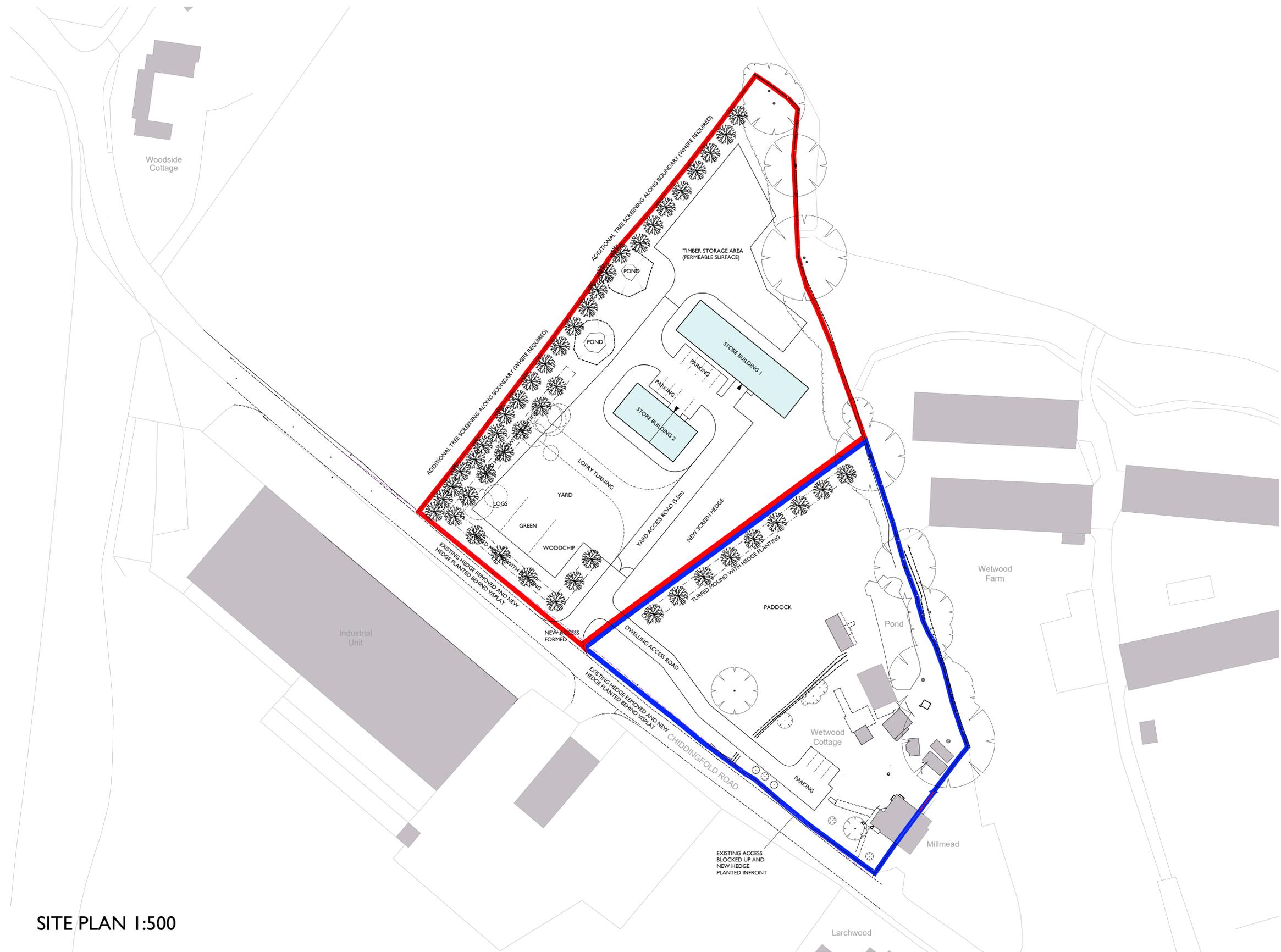
[Surrey Waste Plan 2008](#)

District/borough council development plan documents

Waverley Borough Local Plan 2016 Part 1: Strategic Policies and Sites (WBLP 2016)

Waverley Borough Local Plan 2002 (WBLP 2002)

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SITE PLAN 1:500

Rev.E 01/07/18 Extended survey information added.
 Rev.D 09/06/18 Visplays indicated.
 Rev.C 01/06/18 Revisions as per clients email 31/5/18
 Rev.B 18/05/18 Revisions as per clients email 3/5/18
 Rev.A 28/02/18 Revisions as per clients email 10/3/18

PROJECT
 Land Adj Wetwood Cottage
 Chiddingfold Road
 Chiddingfold

DRAWING
 Proposed Site Plan

SCALE
 1:500@A1

DATE
 JAN 2018

DRAWING No.
 2018/02/01

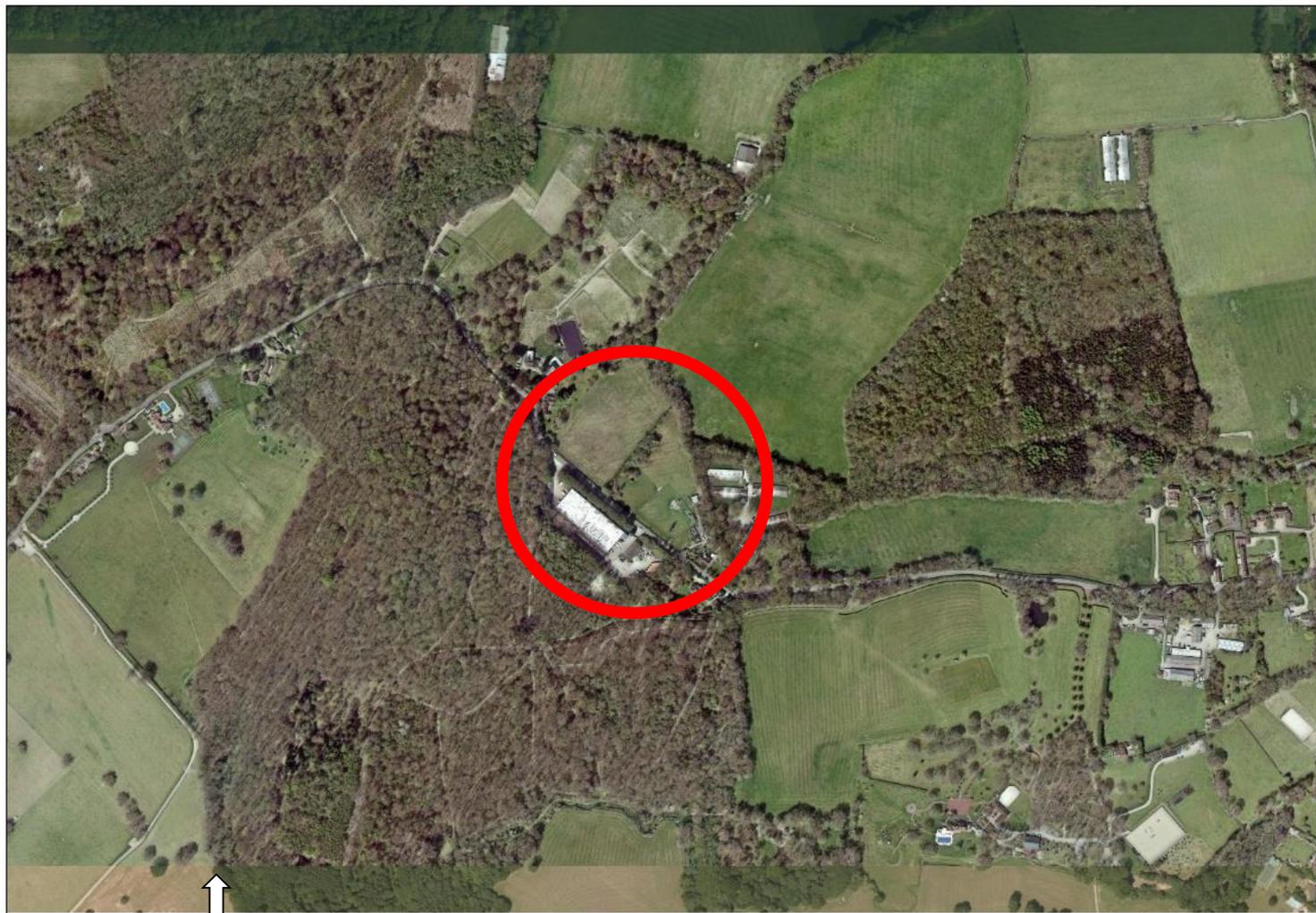
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2018 Aerial Photos

Aerial 1 : Land adjacent to Wetwood Cottage



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Aerial 2 : Land adjacent to Wetwood Cottage



Photo 1 : View south across proposed site area



Photo 2 : View of ponds along western boundary of site



Photo 3 : View south east along roadside hedge toward Wetwood Cottage



Photo 4 : View north west along roadside hedge toward site area



Photo 5 : View north from proposed dwelling access road toward site area



TO: PLANNING & REGULATORY COMMITTEE **DATE:** 20 March 2019
BY: PLANNING DEVELOPMENT MANAGER
DISTRICT(S) WAVERLEY BOROUGH COUNCIL **ELECTORAL DIVISION(S):**
 Godalming North
 Penny Rivers
CASE OFFICER: Dustin Lees,
 Principal Planning Officer,
 020 8541 7673
PURPOSE: FOR DECISION **GRID REF:** 498160 145102

TITLE: WASTE APPLICATION REF. WA/2018/0097

SUMMARY REPORT

Broadwater Park Golf Club, Meadow, Godalming, Surrey GU7 3BU

Capping of historic 8ha landfill; remodelling and enhancement of existing driving range and 9-hole par 3 golf course with associated ecological and public access improvements; provision of new 490m² driving range building, adventure golf facility, practice putting green, 17 additional car parking spaces and rainwater harvesting scheme; involving the use of 342,578 tonnes (214,111m³) of inert waste material and 70 HGV trips (140 HGV movements) per working day over a period of 18-24 months.

Broadwater Park Golf Club (the golf club) is situated within the Metropolitan Green Belt abutting Farncombe to the west, with Godalming and Catteshall further beyond to the south-west. To the south is the A3100 Guildford Road (Meadow). Along the southern side of the A3100, opposite the golf club, are a row of residential properties, a restaurant and bar, and a hotel.

The 8ha golf club forms a part of the wider 29ha award-winning Broadwater Park complex which comprises Broadwater Lake; woodland and open grass areas, enclosed play areas; multi-use games area; a court suitable for playing a variety of ball games; football and cricket pitches; tennis courts; public toilets; and a network of permissive paths. The complex also includes Godalming Leisure Centre; Broadwater Lake; Godalming Angling Society; Godalming Lawn Tennis Club; Guildford Rugby Club; Farncombe Wanderers Cricket Club; and Farncombe Cricket Club.

The golf club, which is a public facility, offers a classic 9-hole par-3 golf course and covered floodlit 16-bay driving range and includes an existing club-house with bar, café and lounge facilities; two storage outbuildings; and a large informal car park for about 70 to 80 vehicles. Apart from its built development, the golf club primarily comprises intensively managed amenity grass interspersed with young and semi mature stands of trees. The edges of the golf course comprise broader bands of more mature, partly native, woodland blocks.

The golf club is not subject to any landscape or nature conservation designations. However, the Wey Valley Meadows Site of Special Scientific Interest (SSSI) is some 250m to the south beyond the A3100, and the Surrey Hills Area of Outstanding Natural Beauty (AONB) is some 0.53km and 0.55km to the west and south respectively. There are also 14 Grade II Listed Buildings and 1 Grade I Listed Building located within 500 metres of the golf club. The majority of the golf club is located within Flood Zone 1 (lowest probability of flood risk) whilst the same is not at significant risk of surface water flooding.

The golf club was established in 1993 after the land which it occupies was used as a landfill for mixed-waste material including household, commercial and industrial waste. In 2013 the applicant, who is the leaseholder, became aware of rising levels of waste migrating to the surface of the golf course including asphalt, metal, concrete and plastic. Additionally, the surface of the golf course continued to settle (as a result of waste decomposition) unevenly to the extent that maintenance and drainage was significantly hampered. In the wetter months the golfing facility is often closed for long periods owing to poor ground conditions. The applicant has provided financial records for 2004 and 2014 to 2017 showing what appears to be a consistent decline in annual revenue since 2004 by some 40%. The applicant has also provided evidence to demonstrate that its insurance broker is concerned about the condition of the golf course and the risk it poses to the public.

Accordingly, between 2013 and 2015 the landowner (Waverley Borough Council) and the applicant commissioned various environmental assessments relating to the landfill underlying the golf club. These assessments explored the risk factors pertaining to the landfill and a remedial capping operation in the context of the golf course and nearby receptors including humans and controlled waters. The result of these assessments, amongst other matters, is the development proposed which is the subject of this report.

The primary purpose of the proposed development is to 'cap' the mixed-waste landfill that lies beneath the existing golf course and driving range facility. This engineering operation seeks to remedy the damaging 'corrugated' landform that is developing as the landfill continues to settle and expose previously landfilled waste at the ground surface.

However, the development would also necessarily involve the complete re-design of the existing 9-hole golf course facility following 'capping' operations. In this regard the applicant intends establishing a 9-hole 'Academy Course' featuring high-quality tee, fairway and green surfaces as well as bunkers, swales, mounds, native planting, streams and water features that are exciting and maintainable to a high standard. Remodelling works would include realignment of the existing golf holes to solve identified safety issues at the boundaries with public areas; and introduction of a winter 'rainwater harvesting scheme' to the golf course so as to sever the facility's reliance on summer mains water supply for irrigation purposes. The latter would require the engineering of positive land-drainage falls, installation of an underground drainage network, and creation of a water storage lagoon above the surface of the landfill.

Following 'capping' works to the area occupied by the existing driving range facility the applicant also proposes to remodel, realign and engineer the driving range outfield to improve safety, ground conditions, ease of maintenance, and customer experience. The enhanced driving range would include 7 new low impact 'Berm' lighting fixtures which would replace and improve the existing lighting for enhanced customer experience and to mitigate existing light spillage. Replacement of the existing 248m² driving range building with a new 490m² building with an additional 6 covered range bays is also proposed, along with new 5m to 15m high safety netting around the range facility to replace similar netting.

The development also includes the provision of a family orientated 'adventure golf' facility to the west of the existing club house and car park. The 'adventure golf' facility's theme will incorporate Godalming and the history of Waverley and seeks to broaden the attraction of the golf club within the local community. It would comprise 18 artificially surfaced putting areas edged with a mixture of natural and faux rock and timber. The holes would be linked with a series of paved pathways. The remaining areas will be mulched planting beds and water features interspersed with hard and soft landscaping and themed props. This facility would be lit by 5 lights mounted on 8m high masts around its perimeter which would be secured by a 2m high palisade fence.

The development would include an extensive native planting programme in keeping with the existing parkland character with some ornamental or specimen tree species. This planting would take place within the golf course proper and along the boundaries of the same primarily around the remodelled driving range facility. It would comprise six woodland blocks totalling 1.5ha;

wildflower grassland amounting to some 0.7ha; 75 ornamental/specimen trees; and 0.3ha of wetland planting. As well as the water storage lagoon, the development would also provide for a new wetland pond, two new amphibian ponds, and a network of ecological-friendly drainage ditches. Further, the applicant has committed to the creation of flora areas associated with the water storage lagoon embankments and marginal areas; creation of open water habitat within the water storage lagoon; retention of suitable tree features; erection of bat and bird boxes in suitable locations; creation of log pile refugia for invertebrates, reptiles and amphibians; and 'planting' of semi-buried wood for invertebrates such as stag beetle.

A new permissive path through the golf club would also be provided as part of the development. This path would offer members of the public with a dedicated access through the golf course from the A3100 in the south to the woodland north of the Godalming Town Football Club ground and south of the Nursery Road car park. Outwith the proposed development and planning application the applicant has committed to continue discussions with Waverley Borough Council about the provision of further permissive paths in and around the golf course facility. Additionally, a new 2m high dark green weldmesh perimeter fence would also be installed around the golf course facility as part of the development. This would seek to mitigate safety concerns of people walking across the golf course and prevent unauthorised access to the facility after hours.

Some 342,578 tonnes (214,111m³) of inert construction, demolition and excavation waste material would be imported to the application site in order to facilitate the proposed development. This would involve approximately 70 HGV trips (140 HGV movements) per working day (Monday to Friday). The existing vehicular access to the golfing facility will need to be temporarily modified to safely accommodate access and egress of HGVs associated with the proposed development.

The duration of the development would be dependent upon a range of factors including weather conditions and the availability of suitable inert waste material. However, the applicant does not envisage that the works would take longer than 24 months to complete. During this time works are proposed to be undertaken during the hours of 0730 to 1830 Monday to Friday with no working on Saturdays, Sundays, bank/public or national holidays. Further, construction traffic would be restricted to accessing the application site between the hours of 0730 and 1630 hours only.

The development would require the benefit of an Environmental Permit from the Environment Agency (EA) before it could proceed.

Nine letters of representation from interested parties have been received by the County Planning Authority (CPA). Of these, 2 are in support of the proposal whilst the remaining 7 raise objection to or concerns about the scheme. In respect of the latter interested parties have raised concerns about the scheme's impact upon nature conservation, landscape, visual impact, public access, air quality, noise, traffic, and the Green Belt.

However, neither statutory nor non-statutory consultees have objected to the proposed development subject to a range of planning conditions. Indeed Waverley Borough Council (Environmental Pollution Control) supports the proposed development and in this regard has explained that it would "*provide a long term solution to the issues at the site with respect to its former use as a landfill. The capping will reduce infiltration of water through the landfill and prevent members of the public from contact with waste at the surface. Overall the proposals will provide significant environmental betterment...*" Similarly, Waverley Borough Council (Parks and Countryside) supports the proposed development subject to a range of practical matters which could be satisfactorily addressed by way of planning conditions.

The statutory development plan for consideration of the proposed development consists of the Surrey Waste Plan 2008, the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018, and the saved policies of the Waverley Local Plan 2002. In assessing the application against development plan policy Officers have considered planning issues relating to sustainable

waste management; highways, traffic and access; air quality and noise; flood risk; landscape and visual impact; ecology; Heritage Assets; and the Metropolitan Green Belt.

The proposed development, which appears to be the only practicable and sustainable option available, seeks to remedy the environmental, health and safety, and business problems resulting from the settling landfill by capping the same and remodelling the golf course as a consequence. Additionally, a range of existing golf course infrastructure would be necessarily enhanced and replaced including the driving range building and a new adventure golf facility.

A relatively moderate volume of inert waste materials generated in Surrey and elsewhere would be imported to the application site over a two-year period to facilitate the development. Officers consider that the use of inert waste as proposed would be for beneficial purposes and as a result for the purposes of 'recovery' in the context of land-use planning and sustainable waste management. The recovery of waste is favoured above its disposal to landfill. The proposal would therefore provide Surrey with additional and sustainable waste management capacity.

The proposed ground levels of the remodelled golf course have been designed to take account of the minimum depth of landfill cap required, necessary positive drainage falls so as to direct surface water away from Broadwater Lake, to the proposed water storage lagoon and soakaways situated beyond the landfill. The proposal includes significant tree planting and the depth of soil material to be deposited across the application site has taken account of the rooting and landfill cap requirements in this respect.

The concerns raised by interested parties have not been borne out by the investigations and assessments undertaken by the applicant, statutory consultees, and the CPA's technical consultees. Officers have concluded that any potential harm in this respect can be mitigated to acceptable levels or otherwise avoided by the imposition of planning conditions and therefore, in relation to the environment and local amenity, assess the development to be in compliance with all relevant Development Plan policies.

Moreover, Officers have concluded that the proposal is inappropriate development in the Green Belt and that there is a presumption against the grant of consent for the same except where very special circumstances are demonstrated. In this regard Officers consider that there is a clear need to provide additional sustainable waste management facilities in Surrey and that the proposal would facilitate the sustainable management of waste in a way that it achieves a substantial improvement in the quality of the application site. Officers consider that this substantial improvement would bring about qualitative and operational benefits at an existing outdoor and public sport and leisure facility and wider environmental and economic benefits. Officers have therefore concluded that the harm arising out of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the grant of planning permission subject to conditions.

Accordingly, the recommendation is to **PERMIT** planning application Ref. WA/2018/0097 subject to conditions.

APPLICATION DETAILS

Applicant

Broadwater Park Golf Club Ltd.

Date application valid

10 January 2018

Period for Determination

Amending Documents

Cora IHT Technical Note 1 dated 7 March 2018 including Drawing Ref. 001 Proposed Construction Site Access dated 7 March 2018
 Broadwater Golf Club Ltd. letter dated 7 October 2018
 Hydro-logic correspondence with Thames Water as prefaced by an email from Hydro-logic dated 3 October 2018
 Email from Hydro-logic dated 3 October 2018 together with 3x Excel spreadsheets showing results of calculations (2 year; 30 year; and 100 year models)
 Email from Hydro-logic dated 3 October 2018 concerning leachate
 Broadwater Golf Club Ltd. letter dated 21 January 2019 regarding permissive paths
 Drawing Ref. 811.12 Rev C Covered Bays Building dated 5 October 2017 (with legible date)
 Preliminary Ecological Appraisal dated 7 January 2019 (including Appendix 1 (figures), 2 (data search), and 3 (walkover assessment and protected species survey))

SUMMARY OF PLANNING ISSUES

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

Planning considerations	Paragraphs in the report where this has been discussed
Sustainable Waste Management	89 - 118
Highways, Traffic and Access	134 - 145
Air Quality	190 - 195
Noise	196 - 199
Flood Risk	200 - 211
Landscape and Visual Impact	212 - 227
Ecology	228 - 240
Heritage Assets	241 - 247
Metropolitan Green Belt	256 - 273

ILLUSTRATIVE MATERIAL

Site Plans/Drawings

Drawing Ref. 811.01 Rev B Existing Site Plan dated 5 October 2017
 Drawing Ref. 811.03 Rev B Landscape Plan dated 29 July 2017
 Drawing Ref. 811.04 Rev C Cross Sections dated 22 December 2017
 Drawing Ref. 811.06 Rev B Rainwater Harvesting Plan dated 29 July 2017
 Drawing Ref. 811.12 Rev C Covered Bays Building dated 5 October 2017

Aerial Photographs

Aerial 1 – Broadwater Park Golf Club, Godalming
 Aerial 2 – Broadwater Park Golf Club, Godalming

Site Photographs

Figure 1 – Existing Vehicular Access
 Figure 2 – Existing Car Park and Club House
 Figure 3 – Existing Driving Range Building
 Figure 4 – Existing Driving Range Outfield and Netting
 Figure 5 – Example of Uneven Settlement and Protruding Waste

Figure 6 – Example of Uneven Settlement and Protruding Waste
 Figure 7 – Example of Uneven Settlement and Protruding Waste
 Figure 8 – Example of Uneven Settlement and Protruding Waste
 Figure 9 – Example of Uneven Settlement and Protruding Waste
 Figure 10 – Example of Uneven Settlement and Protruding Waste
 Figure 11 – Example of Uneven Settlement and Protruding Waste
 Figure 12 – Example of Uneven Settlement and Protruding Waste
 Figure 13 – Example of Uneven Settlement and Protruding Waste
 Figure 14 – Example of Uneven Settlement and Protruding Waste
 Figure 15 – Example of Uneven Settlement and Protruding Waste
 Figure 16 – Example of Uneven Settlement and Protruding Waste

BACKGROUND

Application Site Description

1. Broadwater Park Golf Club (the golf club) lies within the Metropolitan Green Belt in the Borough of Waverley. It abuts Farncombe to the west and is located to the north-east of Godalming and Catteshall respectively. Immediately west of the golf club is Godalming Town Football Club and a number of residential properties¹; to the north are playing fields and playgrounds; to the north-east is the Godalming Leisure Centre; and to the east is Broadwater Lake beyond which are the Broadwater School and Guildford Rugby Club. To the south is the A3100 Guildford Road (Meadow). Along the southern side of the A3100, opposite the golf club, are a row of residential properties, a restaurant and bar², and a hotel³.
2. As described the golf course forms a part of the wider Broadwater Park complex. The 29ha park is a Green Flag award winning facility comprising a Broadwater Lake, woodland and open grass areas; an enclosed play area and sandpit for under-fives, as well as a zip wire, climbing frame and other equipment for older children; multi-use games area; a court suitable for playing a variety of ball games; football and cricket pitches; tennis courts; public toilets; and a network of permissive paths. The wider complex also includes Godalming Angling Society; Godalming Lawn Tennis Club; Godalming Leisure Centre; Guildford Rugby Club; Farncombe Wanderers Cricket Club; and Farncombe Cricket Club.
3. The golf club, which is a public facility, offers a classic 9-hole par-3 golf course and covered floodlit 16-bay driving range and includes an existing club-house with bar, café and lounge facilities; two storage outbuildings; and a large informal car park which comprises hardstanding and loose gravel surface and which can accommodate about 70 to 80 vehicles. Professional Golfers' Association (PGA) coaching lessons are offered by the golf club. Part of the existing car park is used for car washing activities.
4. The application site⁴, which measures some 8ha, is entirely within the confines of the golf club. The limits of its boundaries are largely defined by the extent of the golf club and the permissive footpaths to the north⁵ and east⁶, by woodland blocks and the A3100 to the south, and woodland blocks and the football ground to the west.
5. Apart from its built-development the golf course primarily comprises intensively managed amenity grass interspersed with young and semi mature stands of trees⁷. The edges of the

¹ Pondfield Road

² Beefeater Manor Inn

³ Premier Inn Godalming (Manor Inn public house SCC Historic Environment Record No. 16031)

⁴ As shown on Drawing Ref. 811.01 Existing Site Plan Rev B dated 5 October 2017

⁵ Between the park playground and the golf club

⁶ Between Broadwater Lake and the golf club with an intervening woodland block

⁷ Between 7m - 10m in height

golf course comprise broader bands of more mature, partly native, woodland blocks including oak, pine, silver birch, alder, willow, London plane and sycamore.

6. The application site is to be accessed from the south via the A3100⁸ and the existing access to the golf club facility which leads into the large informal car park with loose gravel surface.
7. As explained above, given its proximity to Farncombe, there are a number of dwellings and other sensitive receptors in close proximity to the application site with the nearest being to the west⁹ and south¹⁰.
8. The application site is also located about 0.24km to the north of the Wey Valley Meadows Site of Special Scientific Interest (SSSI), and some 0.53km to the west and 0.55km to the south of the closest boundaries of the Surrey Hills Area of Outstanding Natural Beauty (AONB).
9. There are fourteen Grade II Listed Buildings¹¹ and one Grade I Listed Building¹² located within 500 metres of the application site. The nearest Conservation Area to the same is the 'River Wey & Godalming Navigations' Conservation Area, some 120 metres to the south beyond the A3100.
10. The majority of the application site is located within Flood Zone 1¹³, whereas a small area within the south-western corner of the golf club is classed as Flood Zone 2. Similarly, the application site is subject to a combination of 'very low', 'low', and 'medium' risk of surface water flooding. With the exception of a very small ornamental pond¹⁴ adjacent to the one of the golfing greens there are no existing water features within the application site.
11. The Godalming Air Quality Management Area (AQMA), which was declared for nitrogen dioxide concentrations, is situated within Godalming proper¹⁵ about 1.75km to the south-west of the application site.
12. The River Wey (Tilford to Shalford), a low, medium, siliceous and unmodified surface watercourse that currently exhibits 'poor' ecological status and 'good' chemical quality, lies some 0.12km to the south of the application site beyond the A3100 and the properties that front the same. Moreover, the application site is underlain by the Godalming Lower Greensand, which exhibits 'poor' quantitative and 'poor' chemical quality.

⁸ Guildford Road/Meadrow

⁹ Wey Court; Pondfield Road; and Nursery Road

¹⁰ Watts Close; and Guildford Road

¹¹ 'Mead' (Historic England List ID 1190568) 70m south;

'Wall to the front of the Almshouses' (Historic England List ID 1378335) 80m south;

'River Mist Cottage' (Historic England List ID 1044507) 80m south;

'Former dairy opposite Nos. 1 & 2 Stable Cottages' (Historic England List ID 1352720) 90m north-east;

'Former kitchen garden wall' (Historic England List ID 1293456) 120m north;

'Meadow House' (Historic England List ID 1044506) 160m south-west;

'Unitarian Chapel & Cottage' (Historic England List ID 1044505) 220m south-west;

'The Cottage (adjoining chapel on west)' (Historic England List ID 1293773) 230m south-west;

'2 & 3 Summersby Close' (Historic England List ID 1293773) 290m north-west;

'Summersby Close' (Historic England List ID 1044486) 280m north-west;

'66 & 70 Meadow (Godalming)' (Historic England List ID 1378334) 360m south-west;

'Farncombe Railway Station with attached footbridge/former railway station building' (Historic England List ID 1293480) 370m north-west;

'62 & 64 Meadow (Godalming)' (Historic England List ID 1293794) 380m south-west;

'Willow Cottage' (Historic England List ID 1044504) 470m south-west

¹² 'The Almshouses' (Historic England List ID 1293743)

¹³ Land with the lowest probability of fluvial flooding

¹⁴ 43m²

¹⁵ Along Ockford Road

13. The former Godalming Council landfill at Broadwater closed in the late 60s early 70s. The landfill covered approximately 8ha and was located in the area now covered by existing golf course facility and may have extended to the adjacent football ground area¹⁶. It is estimated that the landfill contained approximately 232,000m³ of waste to a depth of about 6 metres. There appear to be no records regarding the type of waste deposited in the landfill but contemporary evidence suggests that it comprised mixed-waste materials including household, commercial and industrial waste. Correspondence from 1964 indicates that a 150ft “safety area” was established between Broadwater Lake and the eastern edge of the landfill¹⁷.
14. Following closure of the landfill and restoration of the land the existing golf course facility was established. This was opened in 1993 and since this time there has been no significant reshaping, earth movement, or landscaping activities except for creation of a handful of sand bunkers, a pond, and a raised grassed obstacle within the northern part of the site. Consequently, it is assumed that the application site’s existing landform is essentially that created after landfilling operations and before golfing activities.
15. In 2013 the applicant, who is the leaseholder, became aware of rising levels of waste migrating to the surface of the golf course including asphalt, metal, concrete and plastic. Additionally, the surface of the golf course continued to settle unevenly to the extent that maintenance and drainage was significantly hampered. In the wetter months the golfing facility is often closed for long periods owing to poor ground conditions. The applicant has provided financial records¹⁸ for 2004 and 2014 to 2017 showing what appears to be a consistent decline in annual revenue since 2004 by some 40%.
16. In the context of these circumstances and having been informed of various incidences at the adjacent football ground involving sharp objects migrating to the surface of the pitch, the applicant became increasingly concerned for the health and safety of golf club customers and how this may affect the golf club’s public liability both from a personal injury perspective and in terms of damage to golf equipment, damage to maintenance equipment and injury to staff.
17. Consequently, in September 2013 the matters discussed in the preceding paragraphs were brought to the attention of the landowner, Waverley Borough Council, resulting in the commissioning of a Preliminary Risk Assessment undertaken by Parsons Brinckerhoff¹⁹. This report concluded that:
- Contact with an increasing amount of exposed landfill waste on the application site would increase the risk to human health;
 - Exposed waste, especially metal rods, pose a possible safety risk;
 - There is no evidence of a gas nuisance at the site and no reported off-site nuisance, however 2013 guidance would indicate a high potential for gas generation;
 - A linkage between gassing-waste and humans on and off-site cannot be ruled out and is a moderate risk;
 - Risk to the underlying aquifer is moderate to low; and
 - There is a moderate to low risk of a significant contaminant linkage to surface waters being present.

¹⁶ See Drawing Ref. 811.10 Extent of previous landfill dated 10 December 2015

¹⁷ This was likely to be some form of natural or artificial geological barrier to prevent leachate from entering the lake

¹⁸ Carew and Co. Chartered Accountants letter dated 1 May 2017

¹⁹ Broadwater Park Golf Course, Godalming – Preliminary Risk Assessment Final Ref. FSE96666K dated October 2013, Parsons Brinckerhoff

18. Shortly thereafter Waverley Borough Council commissioned Parsons Brinckerhoff to carry out a Phase 2 Risk Assessment²⁰ so as to evaluate the site more closely. This assessment including intrusive investigations comprising installation of monitoring boreholes, excavations, soil analysis, gas monitoring etc. It concluded that:

- The top 100mm of soil at the site does not indicate a significant risk is posed to users of the golf course;
- Unknown contamination hotspots could be present in the top 100mm of soil but the majority of the site is covered with grass minimising risk of contact;
- If waste material continues to be exposed at the surface of the application site contamination hot spots could be exposed at the surface requiring additional risk assessment;
- Information available indicates historical concerns with regards the quality of the Broadwater Lake;
- Gas data indicates that the landfill is not producing high volumes or flows of methane or VOCs²¹;
- There is some indication of carbon dioxide generation which is usual for older landfills; and
- It is likely that the gas detected in the centre of the site is venting to the atmosphere.

19. Considering the conclusions of these assessments and having taken advice the applicant decided to deal with the issues highlighted. Ground and Water were therefore commissioned in 2014 to conduct an assessment²² into the risk factors pertaining to a remedial capping operation in the context of the underlying landfill, the golf course and surrounding receptors (humans, controlled waters, buildings, building materials and services). This assessment identified that:

- A rise in ground level across the landfill by 1m to 2m on average would sever the majority of plausible pollutant linkages with respect to soil contamination;
- A rainwater harvesting system would significantly reduce leachate production within the landfill therefore mitigating its impact upon groundwater/controlled waters;
- That an additional soil load on the landfill may force additional bio-gas or leachate out of the landfill which may in turn affect the site and neighbours; and
- A range of further environmental (landfill gas, groundwater etc.) investigations be undertaken to support and inform any such development.

20. In April 2015 the applicant received a letter²³ from golfing facility's insurance broker who explained that following an annual review of the facility it was *"a little concerned about the deterioration of the course's condition. Whilst it is at present still playable, the settlement of the underlying "refuse site" is clearly having an increasing detrimental effect on the course and it appears likely that the risk to members and public of injury will increase without remedial action."*²⁴

21. In August 2015 the applicant also commissioned WSP/Parsons Brinckerhoff to undertake a Hydrogeological and Engineering Assessment²⁵ to assess the feasibility and benefits of a remedial capping development in the context of the underlying landfill. In this regard it noted:

²⁰ Broadwater Park Golf Course, Godalming – Phase 2 Risk Assessment Final Ref. 96666M dated June 2014, Parsons Brinckerhoff

²¹ Volatile organic compounds (VOCs) are compounds that easily become vapours or gases.

²² Desk Study Report Ref. GWP935/DS dated October 2014, Ground and Water

²³ Miles Smith Insurance Solutions letter dated 8 April 2015

²⁴ The applicant has also provided an undated letter from a longstanding member of the golf club which expresses concern about *"unplayable"* and *"dangerous"* ground conditions and finding *"glass & other rubbish"* on the course

²⁵ Hydrogeological and Engineering Assessment Ref. 70010607-020 dated August 2015, WSP/Parsons Brinckerhoff

- Thin topsoil with evidence of previous landfill materials coming through (physical and potentially a chemical hazard);
 - Significant undulations and ground level changes due to waste decomposition and settlement (affecting playability and maintenance);
 - Water logging in low areas as well as raised dry areas with brown grass;
 - Poor soil affecting quality of trees on site and shallow root system result in potential for trees to fall over in windy conditions.
22. As with the Ground and Water report, the WSP/Parsons Brinckerhoff assessment concluded that the addition of a soil layer of between 1m and 2m would provide improvement in environmental risk management by separating humans from waste deposits, slowing the generation of leachate from unsaturated wastes, and preventing gas emissions directly to atmosphere. In relation to the latter it recommended that the development include a landfill gas management regime.
23. Further, between August 2015 and October 2017 the applicant sought an Environmental Impact Assessment Screening Opinion from Surrey County Council²⁶, engaged in pre-application discussions with the County Planning Authority, and obtained written support from Waverley Borough Council (Estates and Valuation Manager) in respect of the proposed development.
24. This series of events has resulted in the planning application and proposed development which are the subjects of this report.

THE PROPOSAL

25. The applicant describes the proposed development as *“capping of historic 8ha landfill; remodelling and enhancement of existing driving range and 9-hole par 3 golf course with associated ecological and public access improvements; provision of new 490m2 driving range building, adventure golf facility, practice putting green, 17 additional car parking spaces and rainwater harvesting scheme; involving the use of 342,578 tonnes (214,111m3) of inert waste material and 70 HGV trips (140 HGV movements) per working day over a period of 18-24 months.”*
26. The primary purpose of the development is to ‘cap’ the mixed-waste landfill that lies beneath the existing golf course and driving range facility. This engineering operation seeks to remedy the damaging ‘corrugated’ landform that is developing as the landfill continues to settle and expose previously landfilled waste at the ground surface.
27. However, the development would also necessarily involve the complete re-design of the existing 9-hole golf course facility following ‘capping’ operations. In this regard the applicant intends establishing a 9-hole ‘Academy Course’ featuring high-quality tee, fairway and green surfaces as well as bunkers, swales, mounds, native planting, streams and water features that are exciting and maintainable to a high standard. Remodelling works would include realignment of the existing golf holes to solve identified safety issues²⁷ at the boundaries with public areas i.e. playground on northern boundary of application site and surrounding permissive paths.
28. These operations would also include the introduction of a winter ‘rainwater harvesting scheme’ to the golf course so as to sever the facility’s reliance on summer mains water

²⁶ In accordance with Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, the County Planning Authority considered the proposed development in the context of Schedule 2, and based on the information submitted, was of the opinion that the proposal would not result in significant environmental impacts. The proposal was not considered to be ‘EIA development’.

²⁷ Physical injury and property damage risk posed by ball strike

supply for irrigation purposes. This would require the engineering of positive land-drainage falls, installation of an underground drainage network, and creation of a water storage lagoon. The applicant has provided Thames Water records to demonstrate that annual expenditure for use of water on the golf course has increased from £1,674 in 2013 to £4,851 in 2017. Moreover, these records also show that over 2,500m³ of water is used by the golf course annually. Drawings Ref. 811.13 Rev C Control of Surface Water Runoff and 811.06 Rev B Rainwater Harvesting Plan dated 29 July 2017 provide further detail in these respects.

29. Following 'capping' works to the area occupied by the existing driving range facility the applicant proposes to remodel, realign and engineer the driving range outfield to improve safety, ground conditions, ease of maintenance, and customer experience. The enhanced driving range would include 7 new low impact 'Berm' lighting fixtures which would replace²⁸ and improve the existing lighting for enhanced customer experience and to mitigate existing light spillage. Replacement of the existing 248m² driving range building with a new 490m² building²⁹ with an additional 6³⁰ covered range bays is also proposed, along with new 5m to 15m high safety netting around the range facility to replace similar netting.
30. As can be expected the depth of material to be deposited and engineered across the former landfill varies. Drawing Ref. 811.04 Rev C Cross Sections dated 22 December 2017 shows the proposed levels across various sections of the final landform. A 'cap' of about 1.3m in depth will be the starting point across the extent of the landfill. This would then be extended in most areas by between 2m and 3m of additional soil³¹ and in limited areas by some 4m of additional soil³². The reasons for the proposed increase in soil levels over and above the landfill 'cap' are because there is very little soil in situ that could be reused; there is a need to engineer positive surface water drainage flows of between 5% and 10% for rainwater harvesting and surface water management³³ including subsoil drainage infrastructure; the creation of a water storage lagoon above the surface of the landfill; and to provide golf course interest including significant specimen and native tree planting. Drawing Ref. 811.02 Rev B Grading Plan dated 29 July 2017 provides further detail about the proposed land contours following completion of the development.
31. The development also includes the provision of a family orientated 'adventure golf' facility³⁴ to the south-west of the existing driving range building and west of the existing club house and car park. The 'adventure golf' facility's theme will incorporate Godalming and the history of Waverley and seeks to broaden the attraction of the golf club within the local community. It would comprise 18 artificially surfaced putting areas edged with a mixture of natural and faux rock and faux timber. The holes would be linked with a series of paved pathways. The remaining areas will be mulched planting beds and water features interspersed with hard and soft landscaping and themed props. This facility would be lit by 5 lights mounted on 8m high masts around its perimeter which would be secured by a 2m high palisade fence.
32. Construction of a new 200m² practice putting green/short game area to the west of the existing club house is also proposed as a replacement to a similar artificial practice facility.

²⁸ Four old and inefficient flood light lamps attached to the current driving range building

²⁹ Steel framed structure clad with shiplap timber stained dark brown and a Plastisol coated steel grey coloured flat roof – See Drawing Ref. 811.12 Rev C Covered Bays Building dated 5 April 2017

³⁰ 22 bays in total

³¹ See sections A, B, D, and E

³² See section C1 to C2

³³ To be specifically directed away from Broadwater Lake to the east and to the storage lagoon in the centre of the site

³⁴ See Drawing Ref. 811.9 Rev B Adventure Golf Course dated 5 October 2017

33. The development would include an extensive native planting programme³⁵ in keeping with the existing parkland character with some ornamental or specimen tree species. This planting would take place within the golf course proper and along the boundaries of the same primarily around the remodelled driving range facility. It would comprise six woodland blocks totalling 15,552m² (1.5ha); wildflower grassland amounting to some 7,824m² (0.7ha); 75 ornamental/specimen trees; and 3,819m² (0.3ha) of wetland planting. As well as the water storage lagoon, the development would also provide for a new wetland pond, two new amphibian ponds, and a network of ecological-friendly drainage ditches.
34. Moreover, the applicant has committed to the creation of flora areas associated with the water storage lagoon embankments and marginal areas; creation of open water habitat within the water storage lagoon; retention of suitable tree features; erection of bat and bird boxes in suitable locations; creation of log pile refugia or hibernacula³⁶ for invertebrates, reptiles and amphibians; and 'planting' of semi-buried wood for invertebrates such as stag beetle and other saproxylic³⁷ species.
35. Some 342,578 tonnes (214,111m³) of inert construction, demolition and excavation waste material would be imported to the application site in order to facilitate the proposed development. This would involve approximately 70 HGV trips (140 HGV movements) per working day (Monday to Friday) for 18-24 months.
36. It is proposed that construction traffic enters the area from the north off the A3 using the B3000, New Pond Road. Vehicles would travel along the B3000 to the roundabout with the A3100 where they would turn right onto the A3100 to reach the access to the golf club. Construction traffic would make a right turn into the site. When leaving the site, vehicles would turn left out onto the A3100 and retrace the route back to the A3 along the B3000.
37. The existing vehicular access to the golfing facility will need to be temporarily modified to safely accommodate access and egress of HGVs associated with the proposed development³⁸. The details of this modification are provided on Drawing Ref. 001 Proposed Construction Site Access dated 7 March 2018 and Drawing Ref. G20371/101 Rev. A Visibility Splay dated January 2016.
38. The proposed development is intended to be phased as per the table below:

Phase No.	Primary Activity	Approximate Duration	Inert Material Requirement	HGV Trips ³⁹
Phase 1	Site Setup	2 Weeks	0	0
Phase 2	Surface Water Management Features	4 Weeks	12,417m ³	1,380
Phase 3	Remodelling of Range Outfield ⁴⁰	35 Weeks	110,665m ³	12,296
Phase 4	Remodelling of Southern Section of Golf Course	13 Weeks	41,961m ³	4,662
Phase 5	Remodelling of Central Section	14 Weeks	42,983m ³	4,776

³⁵ See Drawing Ref. 811.03 Rev B Landscape Plan dated 29 July 2017

³⁶ A place in which a creature seeks refuge

³⁷ Invertebrates that are dependent on dead or decaying wood or other organisms that are themselves dependent on dead wood

³⁸ Radius of the eastern side of the site access junction with Medrow to be increased by 2m, and inclusion of measures to ensure pedestrians can continue to safely cross the site access junction with Medrow

³⁹ Based on some 9m³ capacity per HGV

⁴⁰ Including foundation for new range building

	of Golf Course ⁴¹			
Phase 6	Construction of Adventure Golf Course	6 Weeks	6,085m ³	676
Total		74 Weeks	214,111m³	23,790

39. A temporary secure contractors' compound⁴² would be established between the existing driving range building and the woodland copse on the northern side of the A3100 for the duration of the development. The secure compound would comprise 6 car parking spaces; a bunded fuel storage area; storage area for incidental waste materials to be removed from the site; a storage area for plant and materials; and a container to be used for secure storage. Site operatives would make use of the existing club house facilities for welfare purposes during the course of the development.
40. A wheelwash facility together with a single soil screener⁴³ and an administration office would be provided at the access to the development proper that leads from the golf course car park. No crushing plant would be used as part of the development. The soil screener would be used to grade incoming inert material prior to placement for engineering purposes. A road sweeper would also be made available to supplement the intended wheelwashing facility.
41. There would be 4 principal stockpiles of inert waste material on the application site during the course of the development. Each stockpile would measure some 36m long x 36m wide x 2m high. The locations of these stockpiles are shown on Drawing Ref. 811.05 Rev D Contractors Works Plan dated 22 December 2017.
42. The development would also involve the use of 2 x 360-excavators; 1 x bulldozer; 1 x dump-truck; 1 x tractor; and 1 x crane, and there would be up to 6 construction operatives working on the application site at any one time.
43. Following completion of the development an additional 17 parking spaces would be provided by extending the existing car park to the north adjacent to the existing club house. The materials used for the extended car park would match the existing.
44. The new lights proposed for the driving range and adventure golf facilities would be used from dusk up until 2200 hours throughout the year, when needed. The lights would be activated by use of a photo cell sensor. The lights will be turned off by a pre-set timer clock.
45. A new 2m high dark green weldmesh perimeter fence⁴⁴ would also be installed around the golf course facility as part of the development. This would seek to mitigate safety concerns of people walking across the golf course and prevent unauthorised access to the facility after hours which has in the past lead to incidences of vandalism. Further, during the course of the development, temporary tree protection Heras-style fencing⁴⁵ would be installed in and around the application site in accordance with BS 5837⁴⁶.

⁴¹ Including range building construction

⁴² See Drawings Ref. 811.05 Rev D Contractors Works Plan dated 22 December 2017 and 811.14 Contractors Works Plan Further Details dated 19 July 2017

⁴³ A soil screener is proposed with a view to manufacturing suitable top soil to be used as part of the development. Some 10,236m³ of topsoil is required for soiling about 6.8ha to 150mm. Resulting stones and concrete of a suitable size would be used on site as a base for new paths etc.

⁴⁴ See Drawing Ref. 811.08 Hard Landscape Features Rev B dated 29 July 2017

⁴⁵ See Drawing Ref. TPP-CC/403 AR2848 Tree Protection Plan Rev 0 dated 8 March 2016

⁴⁶ BS 5837:2012 Trees in relation to design, demolition and construction. Recommendations

46. In support of the proposal the applicant surveyed a total number of 13 individual trees and 9 tree groups on and around the application site. The proposed scheme provides for the retention and protection of all the trees surveyed with the exception of part of Tree Group 11, Tree Group 19, Tree 20 and part of Tree Group 21 which are largely located on golf course proper (where capping and engineering works are to take place) or to the east of the driving range facility. All of these trees are deemed to be no more than of moderate quality and value. The relevant details are presented in the applicant's Arboricultural Tree Assessment and Method Statement dated March 2016 and Drawing Ref. TPP-CC/403 AR2848 Tree Protection Plan Rev 0 dated 8 March 2016.
47. A new permissive path through the facility would also be provided as part of the development. This path would provide members of the public with a dedicated access through the golf course from the A3100 (just to the west of where Public Footpath 24 ends/starts to the south of the A3100) in the south to the woodland north of the Godalming Town Football Club ground and south of the Nursery Road car park⁴⁷. Outwith the proposed development and planning application the applicant has committed to continue discussions with Waverley Borough Council about the provision of further permissive paths in and around the golf course facility.
48. The duration of the development would be dependent upon a range of factors including weather conditions and the availability of suitable inert waste material. However, the applicant does not envisage that the works would take longer than 24 months to complete. During this time works are proposed to be undertaken during the hours of 0730 to 1830 Monday to Friday with no working on Saturdays, Sundays, bank/public or national holidays. Further, construction traffic would be restricted to accessing the application site between the hours of 0730 and 1630 hours only.
49. The development would require the benefit of an Environmental Permit from the Environment Agency (EA) before it could proceed.

CONSULTATIONS AND PUBLICITY

Consultees (Statutory and Non-Statutory)

- | | |
|--|---------------------------------------|
| 50. Waverley Borough Council (Planning) | - No objection. |
| 51. Waverley Borough Council (Pollution Control) | - No objection subject to conditions. |
| 52. Waverley Borough Council (Parks and Countryside) | - No objection subject to conditions. |
| 53. The Environment Agency | - No objection subject to conditions. |
| 54. Natural England | - No objection subject to conditions. |
| 55. County Highway Authority | - No objection subject to conditions. |
| 56. English Heritage | - No objection. |
| 57. Surrey Hills AONB Board | No objection. |

⁴⁷ See Drawing Ref. 811.03 Landscape Plan Rev B dated 29 July 2017

- | | |
|---|---------------------------------------|
| 58. Lead Local Flood Authority | - No objection subject to conditions. |
| 59. SCC Historic Buildings Officer | - No objection. |
| 60. SCC Arboriculturalist | - No views received. |
| 61. SCC Environmental Noise Consultant | - No objection subject to conditions. |
| 62. SCC Air Quality Consultant (Dust and Vehicle Emissions) | - No objection subject to conditions. |
| 63. SCC Visual Impact and Landscape Consultant | - No objection. |
| 64. SCC Hydrogeological Consultant | - No objection subject to conditions. |
| 65. SCC Lighting Consultant | - No objection subject to conditions. |
| 66. SCC Ecologist | - No objection subject to conditions. |
| 67. SCC Rights of Way | - No views received. |
| 68. Thames Water | - No views received. |

Parish/Town Council and Amenity Groups

- | | |
|----------------------------|----------------------|
| 69. Godalming Town Council | - No views received. |
|----------------------------|----------------------|

SUMMARY OF PUBLICITY UNDERTAKEN AND KEY ISSUES RAISED BY PUBLIC

70. The application was publicised by the posting of four site notices around the application site and within the Broadwater Park complex and an advert was placed in the Surrey Advertiser on Friday 26 February 2017. Additionally, a total of 107 owner/occupiers of neighbouring properties were directly notified by letter. A further round of consultation and publicity (direct letter and email) was undertaken 29 January 2019 concerning the receipt of amending and amplifying information including an updated Preliminary Ecological Appraisal dated 7 January 2019.
71. Nine letters of representation have been received by the County Planning Authority (CPA). Of these, 2 are in support⁴⁸ of the proposal whilst the remaining 7 raise objection to or concerns about the scheme. A summary of the issues raised by the representations is provided below:

General Comments

- This is a much needed facility which should be supported by the local council.
- I like this scheme and so do many others; please support it and enable a rapid start to the work.

⁴⁸ One of these letters is from England Golf dated 10 August 2018

Principle of the Development

- This scheme seeks to cap rubbish of the past and reinvigorate the site.
- This site can still be used for existing purposes and I am not convinced that topsoil is eroding away to such an extent that drainage is hampered.
- We think the 2 year period for the proposed development and its impacts is unbearable and totally unacceptable for daily life.
- The investment proposed would be likely to bring benefits to other courses and clubs in the area by fostering interest and increasing participation in golf.
- We support the proposed development and consider that it would provide Broadwater Park Golf Club with a clear USP and would appeal to a more diverse audience in the local area, who maybe aren't currently considering golf, or aren't attracted to the current playing offer. The variety of golfing options the proposed development would provide, will benefit the local community and will enable the facility to target families more effectively – golf is one of the few sports that all ages and all members of a family unit can participate in together.

Metropolitan Green Belt

- The proposed development would be extremely damaging to the Green Belt.

Surrey Hills AONB

- The proposed development would be extremely damaging to the AONB 0.55km away.

Visual and Landscape Impact

- A well planned and executed golf course will be a benefit to the landscape.
- The new intrusive 2 metre high fence around the perimeter of the site would have a negative impact on the park's landscape and connectivity and would not comply with the management plan for the park.

Nature Conservation

- The proposed development would be extremely damaging to the SSSI 0.24km south.
- The impact of the proposed fencing on wildlife and habitat has not been assessed.

Highways, Traffic and Access

- The number of HGV trips over a two year period would amount to over 35,000 trips which would cause: an increase in pollution; and increase in traffic; serious road safety concerns; an increase in noise pollution; an increased risk to pedestrians.
- The movement of 140 loads per day using Guildford Road would be a nightmare.
- We have already suffered from the lorries servicing Flambards Way and Catteshall Road developments for over 3 years.
- The flood prevention works by the EA to the Wey Canal are due to start and that will undoubtedly mean yet more lorries.
- The roadway gullies along Meadow and Guildford Road must be partially blocked as they flood after rain creating verge water collection areas and the proposed development will only make it worse.
- Wheel washing systems appear not to work or not to be used.
- The 18-24 months of 140 HGV traffic movements will be damaging to the A3100, noise and dirt pollution will be irreversible to the local countryside.
- Object on the grounds of absolute non-suitability for the access of the heavy HGVs to the site.

- We already have difficulty exiting our property due to the volume of regular vehicles along the A31000, before adding 70 HGV vehicles on a daily basis trying to get in and out of this site for a two year period.
- There will also be huge amounts of dirt dropped from these vehicles onto the road just in front of our home and they also cause us great concern for our safety and health.
- Will the applicant or land owner be making provisions for repairs to the A3100 including road surface surveys before and after the proposed development?

Public Access

- Any planning gain in the way of consolidating and widening the existing permissive footpath within the application site would be most desirable.
- It is hoped that Surrey County Council will consider providing additional public access as part of the proposal to support the desire and need of people to move about their community in a safe and environmentally pleasant way as possible.
- While supporting the many improvements that the applicants propose for the golfing area at Broadwater Park, I strongly object to the enclosure of the area with a high, steel-mesh fence that will exclude the public both visually and physically.

Noise

- We are concerned about the huge noise levels for the re-building of the golf course using very heavy machinery.

Air Quality

- The environmental impact of HGVs in volume on a daily basis will stop our right to enjoy our property and our daily life and there will be a huge increase in pollution of the air.

PLANNING CONSIDERATIONS

Introduction

72. 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.
73. In this case the statutory development plan for consideration of the application consists of the [Surrey Waste Plan 2008 \(SWP\)](#), the [Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 \(WLP\)](#), and the [saved policies of the Waverley Local Plan 2002 \(SWLP\)](#).
74. In considering this application the acceptability of the proposed development will be assessed against relevant development plan policies and material considerations.
75. 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: sustainable waste management; highways, traffic and access; air quality and noise; flood risk; landscape and visual impact; ecology; Heritage Assets; and the Metropolitan Green Belt.

SUSTAINABLE WASTE MANAGEMENT

Development Plan Policies Surrey Waste Plan 2008

Policy CW4 – Waste Management Capacity

Policy CW5 – Location of Waste Facilities

Policy WD2 – Materials Recovery

Policy WD7 – Land raising and Engineering Operations

Policy WD8 – Land raising and Engineering Operations

Policy Context

76. In England, the Waste Hierarchy is both a guide to sustainable waste management and a legal requirement, enshrined in law⁴⁹. The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery⁵⁰ and last of all disposal.
77. The [National Planning Policy Framework 2019 \(the Framework\)](#) does not contain policies relating to waste management. Instead national waste management policies are contained within the [Waste Management Plan for England 2013 \(WMP\)](#) and set out by the [National Planning Policy for Waste 2014 \(NPW\)](#).
78. The WMP advocates that the dividends of applying the waste hierarchy will not just be environmental but explains that we can save money by making products with fewer natural resources, and we can reduce the costs of waste treatment and disposal. It envisages that the resulting benefits of sustainable waste management will be realised in a healthier natural environment and reduced impacts on climate change as well as in the competitiveness of our businesses through better resource efficiency and innovation – a truly sustainable economy. Similarly, the NPW sets out the Government’s ambition of working towards a more sustainable and efficient approaches to waste management by driving waste up the waste hierarchy.
79. In this context paragraph 80 of the Framework explains that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.
80. The NPW states that when determining planning applications the County Planning Authority (CPA) should: (a) consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the NPW and the location implications of any advice on health from the relevant health bodies but that the CPA should avoid carrying out their own detailed assessments in these respects; (b) ensure that waste management facilities in themselves are well-designed so that they contribute positively to the character and quality of the area in which they are located; and (c) concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities⁵¹. The CPA should work on the assumption that the relevant pollution control regime will be properly applied and enforced.
81. The SWP explains⁵² that the SCC remains committed to achieving net self-sufficiency, enabling appropriate development that implements the waste hierarchy and ensuring that the County delivers its contribution to regional waste management. In this context it goes

⁴⁹ [The Waste \(England and Wales\) Regulations 2011](#)

⁵⁰ Including energy recovery and other beneficial uses

⁵¹ In this case the Environment Agency and Waverley Borough Council

⁵² Paragraph B30

on to state⁵³ that a range of facilities, type, size and mix will be required, located on a range of sites to provide sustainable waste management infrastructure in Surrey.

82. Consequently, policy CW4 of the SWP requires planning permissions to be granted to enable sufficient waste management capacity to be provided to manage the equivalent of the waste arising in Surrey, together with a contribution to meeting the declining landfill needs of residual wastes arising in and exported from London, by ensuring a range of facilities are permitted.
83. Policy CW5 of the SWP sets out the approach that should be taken in respect of the location of waste management facilities. Generally, waste management facilities should be suited to development on industrial sites and in urban areas giving priority over greenfield land to previously developed land⁵⁴. However, it recognises that opportunities for waste management facilities in urban areas are limited, so land beyond needs to be considered.
84. The development is not a ‘facility’ per se but rather a waste management ‘activity’ which primarily comprises an engineering operation involving land-raising. In this respect policy WD2 of the SWP states that permission for development involving the recovery and processing of waste will be granted at existing or proposed waste management sites, subject in the case of land raising sites or other temporary facilities, to the waste use being limited to the life of the land raising or other temporary facility.
85. Landfill is commonly used to fill voids left by mineral working so as to achieve restoration of the land and an appropriate after-use. Land raising developments are not as common. Whilst land raising activities are often considered inappropriate, such development can be beneficial. Examples include re-grading a steep slope to bring land into agricultural use. Land raising activities can also restore previously derelict and disturbed land to enable a more positive and beneficial use⁵⁵. Inert wastes are often used in engineering operations such as the construction of landscape or noise mitigation bunds. Such land raising activities might be linked to new development and so may make good use of the resultant spoil. In these circumstances these are likely to be sustainable benefits gained from using the spoil in a project close by, rather than transporting it to a more distant facility⁵⁶. However, it is important that mineral workings are properly restored within the County and this should not be prejudiced by the lack of suitable material⁵⁷. The SWP requires land raising schemes to result in not just small changes but that the activity makes a fully beneficial contribution with substantial improvement to the quality of the land. Proposals will also be expected to limit the quantity of deposited waste to the minimum necessary⁵⁸.
86. In light of this policy WD7 of the SWP is clear that planning permission will only be granted for engineering operations provided: (a) the waste to be disposed of cannot practicably and reasonably be reused, recycled or processed⁵⁹ or may otherwise be required for the restoration of mineral workings; and (b) the proposed development is both essential for and involves the minimum quantity of waste necessary⁶⁰; and (c) the proposed

⁵³ Paragraph B32

⁵⁴ Where there is an absence of landscape, and international and national nature conservation designations; and where the site is well served by the strategic road network or accessible by alternative means of transport

⁵⁵ Paragraph C29 of the SWP

⁵⁶ Paragraph C35 of the SWP

⁵⁷ Paragraph C36 of the SWP

⁵⁸ Paragraph C30 of the SWP

⁵⁹ To recover materials - produce compost, soil conditioner, inert residues etc.

⁶⁰ For the purpose of restoring current or former mineral workings sites; or facilitating a substantial improvement in the quality of the land; or facilitating an appropriate after use; or improving land damaged or disturbed as a result of previous or existing uses and where no other satisfactory means exists to secure the necessary improvement; or the engineering or other operations

development does not prejudice the satisfactory restoration of mineral working sites in the locality, having regard to the supply and availability of appropriate waste materials.

87. Notwithstanding the above, to ensure that the potential benefits of engineering works are maximised such proposals must include consideration of the final use of land including proposals for a high quality of restoration and long term management plans for the restored site. The finished levels of a restored site may be higher than adjoining land. However, they will still be expected to incorporate high quality standards of restoration of the site that are appropriate to the surrounding landscape⁶¹.
88. Consequently, policy WD8 of the SWP requires proposals for engineering operations were appropriate, should: (a) incorporate finished levels that are compatible with the surrounding area and any likely settlement. The finished levels should be the minimum required to ensure the satisfactory restoration of the land for an agreed after use; (b) include proposals for aftercare; and (c) make provision where practical for appropriate habitat creation for biodiversity benefit.

The Development

89. The annual volume of construction, demolition and excavation (CD&E) waste generated in Surrey over recent years has increased from about 1.4 million tonnes (mt) in 2009 to over 2mt in 2014. However, between 2015/2016 and 2016/2017 this trend dipped slightly as some 1.97mt⁶² and 1.86mt⁶³ of CD&E waste arose in Surrey respectively. Despite this recent downturn Officers consider its overall upward trajectory is likely to continue beyond the period of the SWP in line with construction activity in the County, South East, and London. This consideration is borne out by Surrey County Council's [2017/2018 monitoring report](#) which records that the County produced an estimated 2.49mt of CD&E waste in that year.
90. Paragraph 6.2.20 of the 2017/2018 monitoring report explains that the 2017/2018 estimate for CD&E waste is high due to an increase in the amount of the same being used for the production of recycled aggregate. Recycled aggregate sales are used as a factor in the steps for calculating the CD&E waste arisings. Further work is being done on the CD&E waste used for recycled aggregates by Surrey County Council and the South East Waste Planning Advisory Group.
91. In addition to CD&E waste arising in Surrey, a significant volume of CD&E waste is imported to the County each year from elsewhere. For instance, in 2014/2015 over 1mt of CD&E waste was imported to the County⁶⁴. There appear to be no import figures for the succeeding years. However, given the County's location relative to London and its urban environs, including road networks through Surrey, it is reasonable to assume that for 2015/2016 onwards the volumes of CD&E waste imported are likely to be at a similar ratio i.e. 2:1.
92. The 2017/2018 Annual Monitoring Report explains⁶⁵ that *"generally there is sufficient capacity overall to deal with the equivalent amount of waste arising in Surrey, however, a significant proportion of this capacity is landfill. While landfill is recognised as an alternative the [Waste Planning Authority] should plan for, it is considered the least desirable method of managing our waste. Therefore, Surrey needs to continue to promote facilities for preparing for reuse, recycling and recovery of waste."*

⁶¹ Paragraph C38 of the SWP

⁶² [Surrey County Council Annual Monitoring Report 2015/2016](#), paragraph 6.1

⁶³ [Surrey County Council Annual Monitoring Report 2016/2017](#), Paragraph 6.1

⁶⁴ [Surrey County Council Annual Monitoring Report 2014/2015](#), Paragraph 5.2.22

⁶⁵ Paragraph 6.3.11

93. It should also be recognised that although the County has sufficient capacity to manage its own CD&E waste, albeit mostly in the least desirable way, CD&E waste imported to the County from elsewhere also needs to be taken into account and managed appropriately.
94. The proposed development seeks to utilise approximately 342,578 tonnes of CD&E waste and would therefore provide the County with an equivalent amount of additional waste management capacity over the two-year period in which the development is to take place. This represents about 18% and 14% of the total volume of CD&E waste generated in Surrey in the years 2016/2017 and 2017/2018 respectively. These percentage figures would be materially lower if one were also to take account of CD&E waste imported to the County and consider that the development would take place over a period of 24-months. However, the proposal would nevertheless provide the County with moderate yet significant additional waste management capacity for the duration of the development. Consequently, Officers consider the development compliant with policy CW4 of the SWP.
95. Setting aside any adverse implications of importing 342,578 tonnes of CD&E waste to the application site as proposed, from a waste management perspective it is recognised by Officers that the engineering aspects of the development seek to utilise waste for beneficial purposes.
96. The applicant has explained that the primary purpose of the development, capping of the landfill, would remedy the damaging 'corrugated' landform that is developing as it continues to settle and expose waste at the ground surface and therefore the adverse implications settlement has on the golf course and its users. The proposed development would also bring about other benefits. For instance it would reduce the volume of leachate generated by the landfill as a result of bespoke surface water management arrangement - this is likely to benefit the local water environment over the long-term. Capping of the landfill would also sever contact between people and landfill waste protruding through the ground surface, and is likely to mitigate landfill gas emissions directly to atmosphere⁶⁶ through a formal landfill gas management regime and associated infrastructure.
97. Capping of the landfill would also provide the applicant with an opportunity to remodel and re-align the golf course and practice ground outfield for improved safety, maintenance and golf course interest; introduce a rainwater harvesting system so as to sever the golf club's reliance on Summer mains water supply thereby reducing pressure the wider domestic supply; create a family-friendly adventure golf facility; provide for dedicated public access; create a mosaic of differing habitats including panting of 1.5ha of woodland, 0.7ha of wildflower grassland, 75 ornamental/specimen trees, and 0.3ha of wetland habitat; and renew and modernise a number of existing features of the golf course including the driving range building, lighting, boundary treatment⁶⁷, short-game practice area, car park etc.
98. These aspects of the proposed development are vital to the club's ambitions to raise the quality of the golf course to a level commensurate with facilities within the wider Broadwater Park complex and to create a 'Golfing Academy' with a strong emphasis on the local community including schools. It is also projected that the development would result in an increased use of the golf course thereby providing additional revenue to an existing local business and public facility.
99. In this context Officers consider that the use of waste to facilitate the development proposed as an alternative to the use of primary materials to achieve the same would, for planning purposes, amount to the 'recovery' of waste managed in Surrey. From a sustainable waste management perspective the recovery of waste is preferred over its use for landfill.

⁶⁶ See paragraph 22 above

⁶⁷ Existing arrangements include change in ground levels between golf course and surrounding land and woodland blocks

100. The development is to set to be completed within a temporary period of up to 24 months. The application site is not covered by any landscape designations or national or higher-level nature conservation designations which Natural England's consultation response confirms. The Surrey Hills AONB Board and the CPA's Visual Impact and Landscape Consultant has confirmed that the proposal would not have an adverse impact on the Surrey Hills AONB some 0.53km to the west and 0.55km to the south. Engineering and land raising activities are to take place within the confines of the existing golf course and once completed would enable continuation of the same land-use. The development would therefore not result in the loss of undeveloped or greenfield land.
101. In respect of access to the strategic road network and the scale of the development the County Highway Authority has not objected to the development, including the proposed HGV haulage route to and from the A3, subject to a range of conditions to secure the mitigation measures proposed by the applicant and to improve the site access. For the reasons given in this and the preceding paragraphs Officers consider that the development satisfies policies WD2 and CW5 of the SWP.
102. On the basis of Officers' experience it is considered that the CD&E waste material to be used to facilitate the development is likely to arise from construction, demolition and excavation sites within a 30 mile radius of the application site including London. Considering the strong emphasis on the application of the Waste Hierarchy in the development industry and the economics of reuse, recycling or recovery of waste over its disposal to landfill, Officers share the applicant's contention that a significant proportion of the waste material to be deposited on the application site is unlikely to be suitable for reuse or recycling for various reasons⁶⁸.
103. Reuse, recycling or recovery of inert waste on or off-site is generally much cheaper than disposal which attracts a penalty in the form of a financial tax. Consequently, Officers consider that the development would attract inert waste that is unlikely to be otherwise recycled or reused. As discussed in the preceding paragraphs, large volumes of CD&E waste are managed in Surrey and the development proposed would provide additional capacity over a two-year period to manage a proportion of the same in a sustainable and beneficial way. Accordingly, Officers consider that any impact the proposal may have on the restoration of mineral workings in the locality⁶⁹ is unlikely to be significant. Officers accept that the scale of the development is likely to impact on the 'waste market' within Surrey but Officers do not consider that it would prejudice the timely restoration of mineral workings in the locality over the 2-year development period. In this regard it is notable that the CPA has not received any objection to the proposal from mineral operators in Surrey, and that in 2016/2017⁷⁰ and 2017/2018⁷¹ no mineral workings were subject to a request for an extended time-period for restoration as a result of a lack of suitable inert restoration material.
104. In these respects Officers consider that the development complies with parts (a) and (c) of policy WD7 of the SWP. However, in order to be fully compliant with policy WD7 the applicant is also required to demonstrate that the land raising proposed is both essential and involves the minimum quantity of waste requisite.
105. The environmental and engineering assessments undertaken on behalf of the applicant demonstrate that a capping layer of between 1m and 2m would provide improvement in environmental risk management by separating humans from waste deposits, slowing the

⁶⁸ Including its provenance and proximity to sites where these activities are undertaken; physical characteristics; and composition

⁶⁹ Stanwell Quarry, Shepperton; Addlestone Quarry, Addlestone; Runfold South Quarry, Runfold; Land West of Queen Mary Reservoir, Laleham; Homers Farm, Ashford; Reigate Road Quarry, Brockham; Homefield Sandpit, Runfold

⁷⁰ See Appendix 1 of Surrey County Council Annual Monitoring Report 2016/2017

⁷¹ See Appendix 1 of Surrey County Council Annual Monitoring Report 2017/2018

generation of leachate from unsaturated wastes, and preventing gas emissions directly to atmosphere. The applicant is proposing a cap of about 1.3m deep across the extent of the landfill. The 'cap' would then be extended predominately by an additional layer of soil between 2m and 3m deep⁷² and in limited areas by some 4m of additional soil⁷³. The reasons for the proposed increase in soil levels over and above the landfill 'cap' are because there is very little soil in situ which could be reused; there is a need to engineer positive surface water drainage flows of between 5% and 10% for rainwater harvesting and surface water management⁷⁴ aided by subsoil drainage infrastructure; the storage water lagoon is to be constructed above the landfill, and for the purposes of golf course interest including significant tree planting.

106. Officers consider that it would be clear to any reasonable observer who visits the golf course that the same is in a poor state of repair primarily because of continuing ground settlement, waste materials protruding through the ground surface, and poor drainage. These problems have a wide range of obvious adverse and ongoing implications on the quality and functionality of the golf course including undulating land-form, water pooling and parching, disrupted maintenance regimes, and unstable trees. These implications plainly increase risk to the public and affiliates of the golf course including staff. These matters, which are evidenced by the applicant's supporting documentation⁷⁵, are not conducive to a long-standing local business or indeed an outdoor public leisure facility within an award winning park.
107. Waverley Borough Council (Environmental Pollution Control) supports the proposed development and in this regard has explained that it would "...provide a long term solution to the issues at the site with respect to its former use as a landfill. The capping will reduce infiltration of water through the landfill and prevent members of the public from contact with waste at the surface. Overall the proposals will provide significant environmental betterment..." Similarly, Waverley Borough Council (Parks and Countryside) supports the proposed development subject to a range of practical matters which could be satisfactorily addressed by way of planning conditions.
108. The applicant has explained that the grading design of the landform proposed has been through a lengthy and iterative process whereby the minimum depth of the 'cap' has been established by environmental consultants (between some 1m and 2m) followed by new levels of the golf course (between some 2m and 4m) that ensure surface water is managed in a way that controls and directs runoff away from Broadwater Lake to the east, to the proposed water storage lagoon (which is to be constructed above the landfill cap level), and otherwise to soakaways in areas away from the underlying landfill (primarily to the south and west). Surface water management is discussed in more detail in paragraphs 200 to 211 below.
109. In addition to capping and drainage requirements the depth of CD&EW to be deposited across the application site needs to be considered in light of the significant tree planting proposed (six woodland blocks totalling 15,552m² (1.5ha)). In this respect Officers have had regard to the Department for Communities and Local Government 2008 publication '[Woodland Establishment on Landfill Sites - Ten Years of Research](#)'. Amongst other matters this study explains that at least 1m of soil cover is required to enable sustainable growth to be maintained for trees of age up to 10 years; a greater soil cover depth is likely to be required to support the moisture demands of mature trees; and the provision of 1.5m of soil or soil-forming material overlying a 'cap' will ensure that trees can be established on landfills without posing a significant threat to cap integrity up to their 16th year.

⁷² See sections A, B, D, and E

⁷³ See section C1 to C2

⁷⁴ To be specifically directed away from Broadwater Lake to the east and to soakaways away from landfill waste

⁷⁵ Discussed in paragraphs 15 to 23 above.

110. Waverley Borough Council (Parks and Countryside) have queried whether the composition of soils to be deposited on the application site would be suitable for the tree planting proposed. The nature of the soil material imported to the application site would be determined by the Environmental Permit required for the development to proceed. However, so as to ensure that suitable soils are provided in the context of the tree species to be planted a planning condition could be imposed on any consent issued. Such a condition would require the applicant to provide a landscape specification for tree planting which includes provision of suitable topsoils and tree nursery stock in accordance with BS 3882 and BS 3936-1 respectively.
111. Similarly, Surrey County Council's Ecologist considers that the proposal would provide for positive ecological enhancements subject to range of practicalities that could be adequately addressed by way of planning conditions. Ecological matters are discussed in more detail in paragraphs 228 to 240 below.
112. The CPA's Visual Impact and Landscape Consultant has assessed the proposal and explained that the zone of visual influence of the proposed development would be extremely limited in all seasons. Crucially, regarding the landscape character of the local area, the proposal would not materially alter the existing characteristics of the application site, that of a golf course, with existing features being enhanced and so (when complete) these would not be uncharacteristic when set within the context of the existing landscape. As such the Consultant considers that the remodelling and enhancement proposed would have no significant or lasting effect upon the Peasmarsh River Valley Floor Landscape Character Area, or the Surrey Hills AONB; with any potentially adverse effects limited to a very local and contained area in and locally adjoining the application site.
113. Officers recognise that a 'do nothing' scenario or otherwise relocating the existing golf course to some unidentified suitable alternative site would not solve the identified problems with the underlying landfill. It is reasonable to assume that settlement of the landfill and protrusion of waste through the ground surface and all resulting adverse implications will continue for the foreseeable future in the absence of a practical solution. Officers also recognise that 'cut and fill operations', to supplement the required volume of engineering and soil material, thereby reducing the volume of waste required to be imported to the application site, is not a viable option given the general absence of existing top soil and the underlying landfill i.e. there are no viable 'borrow' areas. Other than the capping operations proposed Officers are not aware of any alternative practical and satisfactory solution to the identified problems.
114. Consequently, Officers consider that capping of the landfill as proposed is the only sustainable method of ensuring the existing public outdoor leisure facility remains functional and fit for purpose in the context of the wider Broadwater Park complex. In these circumstances Officers also consider the approach adopted by the applicant in seeking to remodel the golf course (a necessary consequence of capping operations) as proposed including with a view to sustainable surface water management and golf course interest to be reasonable and proportionate.
115. Considering the reasons and justifications given for the proposed development and taking into account the implications on the local landscape Officers consider that land raising proposed is both essential and involves the minimum quantity of waste requisite. Additionally Officers consider that the development, as a whole, has been well-designed so that upon completion it would bring about a substantial improvement to the quality of the golf course and in turn contribute positively to the character and quality of the wider Broadwater Park complex.
116. Accordingly, having regard to paragraphs 104 to 115 above, Officers contend that the development, subject to conditions, satisfies part (b) of policy WD7 of the SWP. For the same reasons and having regard to the additional habitat and ecological improvements to

be provided for by the development⁷⁶ Officers consider that the development, subject to conditions, satisfies policy WD8 of the SWP.

117. Interested parties have raised various questions about the suitability of the waste to be deposited and pollution that may arise as a result. Concerns have also been voiced about the profits to be made by applicant in respect of the waste to be received. These are not matters that should or could be taken into account in determining the proposal with former being a matter for the pollution control authorities whom the CPA should assume would be effective and the latter not a material planning consideration. The Environment Agency has advised that the development would require the benefit of an Environmental Permit and the CPA should assume that this regulatory regime would operate effectively.

Sustainable Waste Management Conclusion

118. Having regard to paragraphs 89 to 117 above, Officers consider that the development satisfies Policies CW4, CW5, WD2, WD7, and WD8 of the Surrey Waste Plan 2008.

Highways, Traffic and Access

Development Plan Policies

Surrey Waste Plan 2008 (SWP)

Policy DC3 – General Considerations

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

Policy ST1 - Sustainable Transport

Waverley Borough Local Plan 2002 (SWLP)

Policy M1 – Location of Development

Policy M2 – Movement Implications of Development

Policy M13 – Heavy Goods Vehicles

Policy MC14 – Car Parking Standards

Policy Context

119. Paragraph 102 of the Framework advises that transport issues should be considered from the earliest stages of development proposals, so that: (a) the potential impacts of development on transport networks can be addressed; (b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; (c) opportunities to promote walking, cycling and public transport use are identified and pursued; (d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and (e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

120. At paragraph 103 the Framework explains that the planning system should actively manage patterns of growth in support of the above listed objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

121. In considering development proposals paragraph 108 of the Framework advocates that it should be ensured that: (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

⁷⁶ As discussed in paragraphs 227 to 239 below

(b) safe and suitable access to the site can be achieved for all users; and (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

122. Paragraph 109 of the Framework then goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
123. Within this context, the Framework explains⁷⁷ that applications for development should: (a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; (d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and (e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
124. Paragraph 111 of the Framework states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
125. Appendix B of the NPW states that in testing the suitability of sites for waste management the CPA should bear in mind the envisaged waste management facility in terms of its nature and scale and consider the suitability of the road network and the extent to which access would require reliance on local roads.
126. In this regard policy DC3 of the SWP requires that applicants demonstrate, by the provision of adequate supporting information, that any impacts of the development can be controlled to achieve levels that will not significantly adversely affect people, land, infrastructure and resources. The policy goes on to state that the supporting information should include, where appropriate, an assessment of traffic generation, access and suitability of the highway network, and mitigation measures to minimise or avoid material adverse impact and compensate for any loss.
127. The Local Transport Plan covering Waverley is the [Surrey Transport Plan \(2011-2026\)](#). This seeks to help people to meet their transport and travel needs effectively, reliably, safely and sustainably within Surrey; in order to promote economic vibrancy, protect and enhance the environment and improve the quality of life. The Borough Council will work with Surrey County Council to ensure that the Borough's needs are reflected in future transport plans. As part of this work, the Borough Council will, where appropriate, require the use of Travel Plans by new development and promote their use within other areas.
128. Policy ST1 of the SWLP explains that the Borough Council will work in partnership with Surrey County Council, neighbouring authorities, transport providers and other key stakeholders to ensure that development schemes: (a) are located where opportunities for sustainable transport modes can be maximised, reflecting the amount of movement generated, the nature and location of the site and recognising that solutions and measures will vary from urban to rural locations; (b) make the necessary contributions to the improvement of existing, and provision of new, transport schemes that lead to

⁷⁷ At paragraph 110

improvements in accessibility and give priority to the needs of pedestrians, cyclists, users of public transport, car sharers and users of low and ultra-low emission vehicles; (c) include measures to encourage non-car use such as on-site cycle parking; (d) ensure development proposals are consistent with, and contribute to the implementation of the Surrey Local Transport Plan; (e) require the submission of Transport Assessments and Travel Plans and other appropriate measures in new developments that generate significant traffic volumes or have significant impact on the Strategic Road Network; (f) contribute to transport infrastructure improvements, where appropriate and viable; (g) are consistent with the objectives and actions within the Air Quality Action Plan; (h) encourage the provision of new and improved footpaths, bridleways and cycleways, provided there would be no significant effect on Special Protection Areas and other areas of importance for nature conservation; and (i) make appropriate provision for car parking⁷⁸, having regard to the type of development and its location, in accordance with local standards.

129. Waverley Borough Council's parking guidelines set out the level of car parking expected for new development. The guidelines are divided into two main sections, one dealing with non-residential development, and one dealing with residential development. In addition to this, the document sets out guidelines for cycle parking provision, disabled parking and school parking requirements. In respect of golf clubs and driving ranges the guidelines suggest 1 car space per 0.3 holes or per driving bay or individual assessment/justification. In addition they require an additional 5% of total parking spaces be allocated for disabled users or a minimum of 1 space per 750m² (whichever is the greater) to meet demand. Further design guidance is also provided by the guidelines.
130. Policy M1 of the SWLP states that the Council will seek to ensure that development is located so as to reduce the need to travel, especially by private car, and to encourage a higher proportion of travel by walking, cycling and public transport. In particular, the Council will seek to: (a) locate major trip generating developments in locations in Farnham, Godalming, Haslemere and Cranleigh which are highly accessible by public transport, cycling and walking; and (b) resist major trip generating developments in peripheral or rural locations where access would be predominantly by private car and where accessibility by other modes is poor.
131. Policy M2 of the SWLP requires that all development proposals should provide safe access for pedestrians and road users, including cyclists, designed to a standard appropriate for the highway network in the vicinity and the level of traffic likely to be generated by the development.
132. Policy M13 of the SWLP states that the Council will seek to minimise the adverse impact of lorry traffic within the Borough. In particular the Council will seek to locate development which are likely to generate heavy goods vehicle movements where the highway infrastructure is capable of accommodating those movements.
133. Policy M14 of the SWLP states that the level of car parking provision appropriate for individual development proposals will be required to make appropriate provision for motor vehicle parking space, having regard to the developer's own requirements, subject to road safety and traffic management implications, and the accessibility of the location to means of travel other than the private car assessed according to the location and type of development.

The Development

134. Some 342,578 tonnes (214,111m³) of inert waste material would be imported to the application site in order to facilitate the proposed development. This would involve approximately 70 HGV trips (140 HGV movements) per working day (Monday to Friday) for

⁷⁸ [Waverley Borough Council Parking Guidelines - October 2013](#)

18-24 months. Operational hours of the development is proposed between 0730 to 1830 hours Monday to Friday with no working on Saturdays, Sundays, bank/public or national holidays. Within these constraints construction traffic will only access and egress the application between 0730 and 1630 hours.

135. It is proposed that construction traffic enters the area from the north off the A3 using the B3000, New Pond Road. Vehicles would travel along the B3000 to the roundabout with the A3100⁷⁹ where they would turn right onto the A3100 to reach the access to the golf club and make a right turn into the site. When leaving the site, vehicles would turn left out onto the A3100 and retrace the route back to the A3 along the B3000. The applicant submits that the alternative routes available⁸⁰ are unsuitable for HGV traffic and any significant increase in HGV traffic for reasons of road safety.
136. The speed limit at the golf course access is 40mph. This access benefits from good visibility in both directions along the A3100. The A3100 has an average width of 7.5m in the vicinity of the access and a 1m wide southbound cycle lane. A northbound cycle lane is located on the northern footway. There are pedestrian footpaths on both sides of the A3100 on the approaches to the application site access. These are well lit and in good condition. The golf course is served by several bus routes⁸¹ which have stops in both directions within 200m walking distance on each side of its access. There are also several on and off-road cycle routes close to the golf course.
137. The existing vehicular access to the golfing facility will need to be modified to safely accommodate access and egress of HGVs associated with the proposed development. These modifications would comprise an increased radius of the eastern side of the site access junction with the A3100 by 2m and inclusion of measures to ensure pedestrians can continue to safely cross the site access junction. The detail of these modifications are provided on Drawing Ref. 001 Proposed Construction Site Access dated 7 March 2018 and Drawing Ref. G20371/101 Rev. A Visibility Splay dated January 2016.
138. The applicant has committed to providing a wheelwash facility to ensure mud is not deposited on the public highway as a result of HGVs leaving the application site and a road sweeper to ensure that any mud or debris that is so deposited is cleaned up at the applicant's expense.
139. Officers understand that the golf course facility will be closed to members of the public over the development period. Following completion of the development an additional 17 parking spaces would be provided by extending the existing car park to some 90 vehicle spaces. The applicant anticipates that following completion of the development the new facility would generate a total number of 93 vehicle trips per day (worst case scenario which is unlikely).
140. The applicant has submitted a Transport Statement and Construction Access Report in support of the proposed development. These were supplemented by the submission of a Technical Note in March 2018 to address matters raised by the County Highway Authority (CHA) during their consideration of the proposed development. These assessments modelled and identified the transport implications⁸² of the proposed 70 HGV trips (140 HGV movements) over the working day, and the peak hour and off peak conditions. Similarly, they assessed the implications of 93 vehicle trips to be generated by the golf course facility per day following completion of the development. They conclude that the impact of both phases of the development (construction phase and operational phase) would be very limited in terms of the junction capacity at the A3100/B3000 roundabout, and well within capacity of the site access/A3100 junction with significant capacity to spare;

⁷⁹ About 1km to the north of the golf course access

⁸⁰ To the north of the A3100/B3000 roundabout, and to the south towards Godalming

⁸¹ Routes 523 (Milford Hospital); 503 (Milford - Guildford); and 70/71/72 (Haslemere – Midhurst)

⁸² Specifically on the A3100/B3000 roundabout junction and the site access junction with the A3100

and in any case such impact would be limited to a temporary period of no more than 24 months. They also identify that the impact of the new facility would be at a level where it would not be noticeable within day to day variations in traffic flow and queue lengths at the roundabout.

141. The CHA has assessed the proposed development in terms of the net additional traffic generation resulting from the proposed development, access arrangement and parking provision and are satisfied that it would not have a material impact on the safety and operation of the adjoining public highway. This response is subject to a range of planning conditions including provision of the improved site access prior to commencement of the development, a Construction Transport Management Plan⁸³, and a plan to encourage the use of sustainable transport to and from the golf course.
142. Interested parties have raised concerns regarding an increase in traffic congestion; increased risk to pedestrians; blocked drains and mud on the road; and damage to the road surface as a result of the proposed development. Concerns have also been raised in respect of the cumulative transport implications of the proposed development (in the context of works to the River Way).
143. However, the assessments undertaken on behalf of the applicant and the views of the CHA do not corroborate the concerns raised in respect of congestion, safety and cumulative impact. The proposal would lead to a modest and temporary increase in traffic at the site access junction and the A3100/B3000 junction which both have adequate capacity to deal with such an increase. This is equally true in respect of the golf course facility once the development has been completed. The proposal would not have a material impact on the operation of the highway. Moreover, there is no evidence to suggest that additional vehicles will adversely affect highway safety. For these reasons Officers do not consider that the development will give rise to any material cumulative transport related impacts.
144. Any impact from the passage of HGVs will be of an amenity and/or environmental nature and will be transient and temporary. These aspects of the development are discussed below in the relevant sections of this report and, as with the highway mitigation measures discussed in the preceding paragraphs, can be suitably mitigated by measures to be secured by planning conditions. Such conditions would include measures to prevent mud being deposited on the highway and cleaning of the highway in such an event. Given the scale and temporary nature of the proposed development and its likely transport implications as discussed above, Officers consider it reasonable and necessary to require the applicant to provide for repairs to the public highway following completion of the development. In this regard the applicant has agreed to undertake before and after surveys of the highway and fund any repairs necessary. An appropriate condition could be imposed on any consent granted to secure such measures.

Highways, Traffic and Access Conclusion

145. Subject to a range of conditions therefore Officers conclude that the proposed development satisfies Policy DC3 of the SWP, Policy ST1 of the WLP, and Policies M1, M2, M3, M13, M14 of the SWLP.

Environment and Amenity

Development Plan Policies

Surrey Waste Plan 2008 (SWP)

Policy DC2 – Planning Designations

⁸³ To control matters secure a range of mitigation measures relating to wheel cleaning, road sweeping, hours of deliveries, parking, (un)loading, vehicle routing, storage of plant and materials etc.

Policy DC3 – General Considerations

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

*Policy SP1 – Presumption in Favour of Sustainable Development**Policy SP2 – Spatial Strategy**Policy LRC - Leisure and Recreation Facilities**Policy RE3 - Landscape Character**Policy HA1 - Protection of Heritage Assets**Policy NE1 - Biodiversity and Geological Conservation**Policy CC1 - Climate Change**Policy CC2 - Sustainable Construction and Design**Policy CC4 - Flood Risk Management*

Waverley Borough Local Plan 2002 (SWLP)

*Policy D1 – Environmental Implications of Development**Policy D2 – Compatibility of Uses**Policy D3 - Resources**Policy D5 – Nature Conservation**National Guidance*

146. Paragraph 91 of the National Planning Policy Framework (the Framework) expects planning decisions to realise healthy, inclusive and safe places which: (a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other⁸⁴; (b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion⁸⁵; and (c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs⁸⁶.

147. Similarly, paragraph 92 of the Framework advocates that in order to provide the social, recreational and cultural facilities and services the community needs, planning decisions should: (a) plan positively for the provision and use of shared spaces, community facilities⁸⁷ and other local services to enhance the sustainability of communities and residential environments; (b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community; (c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; (d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and (e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

148. The Framework also explains⁸⁸ that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: (a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or (b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or (c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. It goes on to advocate that planning decisions should protect and enhance public rights of way and

⁸⁴ For example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages

⁸⁵ For example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas

⁸⁶ For example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling

⁸⁷ Such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship

⁸⁸ Paragraph 97

access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails⁸⁹.

149. When it comes to design the Framework emphasises⁹⁰ that creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
150. To this end it requires that planning decisions ensure that developments: (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change; (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks; and (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience⁹¹.
151. In respect of planning and flood risk, the Framework provides helpful guidance⁹². It states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk⁹³. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. It goes on to explain that when determining any planning applications, the CPA should ensure that flood risk is not increased elsewhere.
152. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment⁹⁴ it can be demonstrated that: (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; (b) the development is appropriately flood resistant and resilient; (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; (d) any residual risk can be safely managed; and (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
153. Major developments, as is the case with the proposal, should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: (a) take account of advice from the lead local flood authority; (b) have appropriate proposed minimum operational standards; (c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and (d) where possible, provide multifunctional benefits.
154. In more general terms, paragraph 170 of the Framework advocates that planning decisions should contribute to and enhance the natural and local environment by: (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits

⁸⁹ Paragraph 98

⁹⁰ Paragraph 124

⁹¹ Paragraph 127

⁹² Paragraphs 155; 163; and 165

⁹³ Whether existing or future

⁹⁴ And the sequential and exception tests, as applicable

from natural capital and ecosystem services – including the economic and other benefits of trees and woodland; (c) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality; and (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

155. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents⁹⁵. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings⁹⁶.
156. Paragraph 172 of the Framework also explains that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONB), which have the highest status of protection in relation to these issues.
157. In relation to biodiversity paragraph 175 of the Framework clarifies that when determining planning applications, the CPA should apply the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided⁹⁷, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; (b) development on land within or outside a Site of Special Scientific Interest (SSSI), and which is likely to have an adverse effect on it⁹⁸, should not normally be permitted; (c) development resulting in the loss or deterioration of irreplaceable habitats⁹⁹ should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and (d) opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
158. Additionally, the law¹⁰⁰ places a duty on Surrey County Council (SCC) to consider biodiversity in the full range of their activities including determining planning applications.
159. Turning to the matter of pollution, paragraph 178 of the Framework explains that planning decisions should ensure that: (a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation¹⁰¹; (b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and (c) adequate site investigation information, prepared by a competent person, is available to inform these assessments. The Framework is clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner¹⁰².

⁹⁵ Paragraph 130

⁹⁶ Paragraph 131

⁹⁷ Through locating on an alternative site with less harmful impacts

⁹⁸ Either individually or in combination with other developments

⁹⁹ Such as Semi-natural Ancient woodland and ancient or veteran trees

¹⁰⁰ Section 40 of the [Natural Environment and Rural Communities Act 2006](#)

¹⁰¹ As well as potential impacts on the natural environment arising from that remediation

¹⁰² Paragraph 179

160. Moreover, paragraph 180 of the Framework advocates that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects¹⁰³ of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so it should: (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; (b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and (c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
161. In respect of air quality, paragraph 181 of the Framework requires planning decisions to sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMAs), and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.
162. Further, planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities¹⁰⁴. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development in its vicinity, the ‘agent of change’ should be required to provide suitable mitigation before the development has been completed¹⁰⁵.
163. Paragraph 183 of the Framework requires that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions where these are subject to separate pollution control regimes. Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.
164. Lastly, the Framework explains at paragraph 184 that Heritage Assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
165. Accordingly, applicants should describe the significance of any Heritage Assets affected by the proposal, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the Heritage Assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, Heritage Assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation¹⁰⁶.

¹⁰³ Including cumulative effects

¹⁰⁴ Such as places of worship, pubs, music-venues and sports clubs

¹⁰⁵ Paragraph 182

¹⁰⁶ Paragraph 189

166. Additionally, the CPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal¹⁰⁷ taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal¹⁰⁸.
167. Paragraph 193 of the Framework is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation¹⁰⁹. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
168. Paragraph 194 goes on to explain that any harm to, or loss of, the significance of a designated heritage asset¹¹⁰, should require clear and convincing justification. Substantial harm to or loss of: (a) grade II listed buildings should be exceptional; (b) assets of the highest significance¹¹¹ should be wholly exceptional.
169. Paragraph 195 of the Framework states that where a proposed development will lead to substantial harm to¹¹² a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
170. Paragraph 196 states that 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, where appropriate, securing its optimum viable use.
171. Over and above the guidance provided by the Framework in respect of Heritage Assets, s66 and s72 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) are material to the determination of the subject planning application. In respect of listed buildings s66 requires that Surrey County Council, in considering whether to grant planning permission for development which affects a listed building or its setting, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In respect of Conservation Areas s72 requires that SCC, with respect to any buildings or other land in a conservation area, pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
172. Annex B of the NPW explains that in determining planning applications, The CPA should consider the following factors and also bear in mind the envisaged waste management facility in terms of type and scale:
- (a) Protection of water quality and resources and flood risk management including proximity of vulnerable surface and groundwater or aquifers. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care;

¹⁰⁷ Including by development affecting the setting of a heritage asset

¹⁰⁸ Paragraph 190

¹⁰⁹ The more important the asset, the greater the weight should be

¹¹⁰ From its alteration or destruction, or from development within its setting

¹¹¹ Scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites

¹¹² Or total loss of significance of

- (b) Land instability including the locations, and/or the environs of locations, that are liable to be affected by land instability, will not normally be suitable for waste management facilities;
- (c) Landscape and visual impacts including (i) the potential for design-led solutions to produce acceptable development which respects landscape character, (ii) the need to protect landscapes or designated areas of national importance, (iii) and localised height restrictions;
- (d) Nature conservation including any adverse effect on a site of international importance, a site with a nationally recognised designation, Nature Improvement Areas and ecological networks and protected species;
- (e) Conserving the historic environment including potential effects on the significance of Heritage Assets, whether designated or not, including any contribution made by their setting;
- (f) Air emissions, including dust and the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles;
- (g) Odours including the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment;
- (h) Vermin and birds including the proximity of sensitive receptors.
- (i) Noise, light and vibration including the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered;
- (j) Litter which can be a concern at some waste management facilities; and
- (k) Potential land use conflict. Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility.

Development Plan Policy

173. Policy DC2 of the SWP is clear that planning permission will not be granted for waste related development where this would endanger, or have a significant adverse impact, on the setting of Listed Buildings; Conservation Areas; groundwater; land liable to flood; priority habitat and species; AONBs; and SSSIs. This policy goes on to explain that in assessing each development proposal, due regard will be paid to prevailing national policy and guidance appropriate both to the areas and features of acknowledged importance and the proposed means of dealing with waste, and that this assessment will also take into account whether any significant adverse impact identified could be controlled to acceptable levels.
174. Further, policy DC3 of the SWP explains that planning permission for waste related development will be granted provided it can be demonstrated by the provision of appropriate information to support a planning application that any impacts of the development can be controlled to achieve levels that will not significantly adversely affect people, land, infrastructure and resources.
175. In this regard the information supporting the proposed development must include assessment of the following matters and where necessary, appropriate mitigation should be identified so as to minimise or avoid any material adverse impact and compensate for any loss: (a) the release of polluting substances to the atmosphere or land arising from facilities and transport; (b) the contamination of ground and surface water; (c) the drainage of the site and adjoining land and the risk of flooding; (d) water consumption requirements and consideration of water management within operational plant; (e) groundwater

conditions and the hydrogeology of the locality; (f) the visual and landscape impact of the development on the site and surrounding land; (g) in the case of buildings, demonstration of high quality of design; (h) adverse effects on neighbouring amenity including noise, fumes, vibration, glare, dust, litter, odour, and vermin; (i) adverse effects on open spaces, settlements, woodland, or existing or potential outdoor recreation uses, including Public Rights of Way; (j) the loss or damage to flora and fauna and their respective habitats at the site or on adjoining land including linear or other features which facilitate the dispersal of species; (k) the loss or damage to archaeological resources; (l) potential danger to aircraft from birdstrike and structures; (m) scope for limiting the duration of use; (n) any health impacts; and (o) the management arrangements for residues arising from any waste management facility.

176. Policy SP1 of the WLP 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 Framework. It will always work proactively with applicants to find solutions so proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in Development Plan will be approved without delay, unless material considerations indicate otherwise.
177. Policy SP2 of the WLP sets out the spatial strategy for the Borough. It states that in order to maintain Waverley's character whilst ensuring that development needs are met in a sustainable manner, where relevant the Spatial Strategy to 2032 is to: (a) avoid major development on land of the highest amenity and landscape value, such as the AONB and to safeguard the Green Belt; (b) focus development at the four main settlements including Godalming; and (c) maximise opportunities for the redevelopment of suitable brownfield sites for housing, business or mixed use.
178. Policy LRC1 of the WLP states that the CPA will seek to retain, enhance and increase the quantity and quality of open space, leisure and recreation facilities and to improve access to them.
179. Policy RE3 of the WLP explains that new development must respect and where appropriate, enhance the distinctive character of the landscape in which it is located. The protection and enhancement of the character and qualities of the AONB that is of national importance will be a priority and will include the application of national planning policies together with the AONB Management Plan. The setting of the AONB will be protected where development outside its boundaries harm public views from or into the AONB. The same principles for protecting the AONB will apply in the Area of Great Landscape Value (AGLV), which will be retained for its own sake and as a buffer to the AONB, until there is a review of the Surrey Hills AONB boundary, whilst recognising that the protection of the AGLV is commensurate with its status as a local landscape designation.
180. In respect of Heritage Assets Policy HA1 of the WLP states that the CPA 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 by: (a) safeguarding and managing Waverley's rich and diverse heritage. This includes all Heritage Assets, archaeological sites and historic landscapes, designated and non-designated assets, and their setting in accordance with legislation and national policy; and (b) understanding and respecting the significance of the assets.
181. Policy NE1 of the WLP concerns biodiversity and geological conservation. It states that the CPA will seek to conserve and enhance biodiversity within Waverley. Development will be permitted provided that it: (a) retains, protects and enhances features of biodiversity and geological interest and ensures appropriate management of those features; and (b) ensures any adverse impacts are avoided, or if unavoidable, are appropriately mitigated.

182. Policy CC1 of the WLP explains that development will be supported where it contributes to mitigating and adapting to the impacts of climate change, including measures that: (a) use renewable and low carbon energy supply systems; (b) provide appropriate flood storage capacity; (c) address issues of flood risk through the application of Policy CC4; (d) provide high standards of sustainable design and construction with built-in resilience to climate change, or use green infrastructure and SuDS to help absorb heat, reduce surface water runoff and support habitat networks.
183. Similarly, Policy CC2 states that the CPA will seek to promote sustainable patterns of development and reduce the level of greenhouse gas emissions by: (a) ensuring all new development, including residential extensions, include measures to minimise energy and water use through its design, layout, landscape and orientation; (b) encouraging the use of natural lighting and ventilation; (c) being designed to encourage walking, cycling and access to sustainable forms of transport; (d) building at higher densities where appropriate and supporting mixed-use development; (e) incorporating measures that protect and, where possible, enhance the biodiversity value of the development; and (f) minimising construction and demolition waste and promoting the reuse and recycling of building materials.
184. Policy CC4 of the WLP advocates that in order to reduce the overall and local risk of flooding in the Borough: (a) development must be located, designed and laid out to ensure that it is safe; (b) that the risk from flooding is minimised whilst not increasing the risk of flooding elsewhere; and (c) that residual risks are safely managed. Additionally, sustainable drainage systems (SuDS) will be required on major developments 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.
185. Policy D1 of the SWLP states that the CPA will have regard to the environmental implications of development and will promote and encourage enhancement of the environment. Development will not be permitted where it would result in material detriment to the environment by virtue of: (a) 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; (b) harm to the visual character and distinctiveness of a locality, particularly in respect of the design and scale of the development and its relationship to its surroundings; (c) loss of general amenity, including material loss of natural light and privacy enjoyed by neighbours and disturbance resulting from the emission of noise, light or vibration; (d) levels of traffic which are incompatible with the local highway network or cause significant environmental harm by virtue of noise and disturbance; or (e) potential pollution of air, land or water, including that arising from light pollution and from the storage and use of hazardous substances.
186. This policy goes on to explain that the Council will seek, as part of a development proposal, to resolve or limit environmental impacts. This may include the submission of a flood-risk/run-off assessment to determine the potential flood risk to the development, the likely effects of the development on flood risk to others, whether mitigation is necessary, and if so, whether it is likely to be effective and acceptable.
187. Policy D2 of the WBLP states that the Council will seek to ensure that proposed and existing land uses are compatible. In particular: (a) development which may have a materially detrimental impact on sensitive uses with regard to environmental disturbance or pollution will not be permitted; (b) uses such as housing or schools which are sensitive to

disturbance or pollution will not be permitted near existing premises which generate significant disturbance or pollution, or which handle hazardous substances; (c) the Council will encourage redevelopment of a site with a more appropriate use where an existing permitted or lawful use is causing material detriment to the character and amenities of the area and its loss or relocation is acceptable having regard to other policies of the Development Plan.

188. Policy D3 of the WBLP explains that where a development is acceptable in principle, the Council will encourage environmentally innovative schemes which: (a) conserve energy and water through appropriate location, design, layout, landscaping and materials; and (b) minimise the use of non-renewable resources through the re-use or recycling of previously developed land, buildings and materials.

189. Policy D5 of the WBLP explains that development in both urban and rural areas should take account of nature conservation issues. The Council will: (a) seek to retain within a site any significant features of nature conservation value; (b) not permit development that would materially harm a protected species of animal or plant, or its habitat; and (c) encourage the enhancement of existing areas or features of nature conservation value and the creation and management of new wildlife habitats.

Air Quality

190. Given the nature and scale of the development proposed the potential air quality impacts arising can be expected to be dust impacts (construction phase) and emissions to air (nitrogen dioxide and PM10 particulate matter) from construction and operational traffic. Interested parties have raised a number of concerns in these respects.

191. The applicant has submitted an Air Quality Assessment¹¹³ in relation to both dust and vehicle emissions in the context of residential and ecological receptors. The CPA's Air Quality Consultant (AQC) has reviewed this assessment and agrees that it has identified the potentially significant effects of the proposal using the appropriate guidance¹¹⁴.

192. The AQC considers the applicant's assessment relating to dust emissions to be robust. The assessment concludes that the risk of impacts for earthworks, construction and vehicle track out is high in terms of dust soiling but that these impacts could be mitigated to acceptable levels by the implementation of a number of measures as set out in Section 8 of the document. These measures¹¹⁵ (to be contained in a site-specific Construction Environmental Management Plan) could be secured by planning condition should consent be granted. In respect of human and ecological receptors the risk is considered to be low. However, in this regard Natural England has advised that any such CEMP should explain how construction activities will be undertaken to avoid any detrimental impact on the nearby SSSI from dust, spillages and polluted run-off.

193. In respect of vehicle emissions¹¹⁶ arising from construction traffic, modelled concentrations have been compared with monitored concentrations at 3 locations¹¹⁷ for the construction phase of the development. This to establish the potential impact on human receptors located along the proposed construction traffic route. It has been concluded that the impact of construction related traffic at each of the 11 selected representative sensitive

¹¹³ Ref. VC-170613-AQ-RP-0001 R01 dated 25 July 2017

¹¹⁴ [Guidance on the Assessment of Dust from Demolition and Construction, Institute of Air Quality Management, 2014](#); and [Land-Use Planning & Development Control: Planning for Air Quality, Institute of Air Quality Management and Environmental Protection UK, 2017](#)

¹¹⁵ Practical measures to be put in place in respect of earthworks; construction; and vehicle track out

¹¹⁶ Nitrogen Dioxide, PM10 particulates and PM2.5 particulates

¹¹⁷ Godalming 8 (Godalming AQMA); Godalming 3 (Bridge Street); and Godalming 11 (Catteshall Lane)

receptors¹¹⁸ would be negligible and temporary in nature. The assessment demonstrates that no exceedances of any of the Air Quality Objectives would be expected. The emission impacts arising from the proposed development would therefore not be significant. The AQC consultant agrees with this conclusion.

194. The applicant's assessment also predicted that the operational phase of the development (at worst 93 vehicle movements per day) would be below the relevant threshold for an impact assessment and it would therefore have a negligible impact on local air quality concentrations or the Godalming AQMA.
195. Although interested parties have raised concerns in respect of dust and vehicle emissions, the assessments undertaken on behalf of the applicant and the CPA demonstrate that dust emissions can be controlled and mitigated to acceptable levels and that impacts arising from vehicle emissions for both the construction and operational phase of the development would not be significant. For these reasons Officers conclude that the proposed development is, subject to conditions, compliant with Development Plan policies relating to air quality.

Noise

196. The proposal will give rise to noise as a result of the operation of plant and machinery¹¹⁹ and the coming and going of HGVs including a mobile road sweeper. Accordingly, the applicant has submitted a Construction Noise Assessment in accordance with BS 5228:2014¹²⁰ in support of the same.
197. This assessment has been reviewed by the CPA's Noise Consultant (NC). The NC consultant considers that the applicant's assessment has adopted the appropriate methodology necessary to evaluate the noise impacts that may arise from the development, and that the assumptions contained within the assessment are reasonable. Similarly, the relevant survey locations¹²¹ are considered representative of the nearest noise sensitive receptors. The assessment has predicted that construction noise levels at the identified receptors during each phase of the development would be below noise level thresholds at which significant effects are likely. The NC agrees with this prediction subject to the imposition of planning conditions to control operational noise and the time in which HGV deliveries can take place.
198. Although interested parties have raised concerns about the potential impact of construction noise, the applicant's quantitative assessment demonstrates that the proposed development can be undertaken without causing significant harm to local amenity. However, should planning permission be granted Officers would recommend that certain measures are secured by way of planning conditions to ensure that local amenity is not adversely affected. Such conditions to include measures to ensure that the development is undertaken within a period of no more than 24-months; restricting operational hours to between 0700 to 1800 hours Monday to Friday with no working on Saturdays, Sundays,

¹¹⁸ C3 Diffusion Tube Location (X495509; Y147024); C5 Diffusion Tube Location (X495498; Y147097); C6 Diffusion Tube Location (X495453; Y147206); Guildford Crematorium; Residential property adjacent to Freeborn Guildford; Residential property off Guildford Road; Residential property off Guildford Road; Beefeater Public House; Residential property off New Pond Road; Residential Property at Loseley Park; Compton Village Hall

¹¹⁹ A single 3-way soil screening plant, Extec 5000 or similar; Bulldozer, Cat D6 or similar; 2 x 14t tracked excavator; 10t dump truck; and tractor (Table 3, Part 4, Construction Noise Assessment Ref. VC-102480-EA-RP-0001, 2 August 2017)

¹²⁰ Code of practice for noise and vibration control on construction and open sites

¹²¹ Houses on Pondfield Road to the west of the application site; Houses on Summers Road to the north of the application site (east of the tennis courts); and Hotel and houses to the southeast of the application site

Public, National and Bank Holidays; restricting construction traffic to between 0700 and 1630 hours Monday to Friday; and limiting the number of HGVs on any working day¹²².

199. Accordingly, Officers conclude that the proposed development satisfies Development Plan policies relating to noise.

Flood Risk

200. Although the proposed development is 'water compatible', a site-specific Flood Risk Assessment¹²³ has been submitted in support of the proposed development on the basis that the application site area is greater than 1ha. The purpose of this assessment was to evaluate flood risk at the site and in relation to the proposed development, and devise measures to ensure that the development does not increase flood risk elsewhere.

201. The applicant's assessment establishes that there are no formal surface water drainage arrangements for the golf course and that half of the course drains towards Broadwater Lake to the east. The other half of the golf course contributes directly to the River Wey catchment which is beyond the A3100 to the south of the application site. Local variations in topography, particularly undulations caused by the subsiding landfill waste means that drainage paths are not clearly defined. The application site is at low risk of flooding from any sources.

202. However, the proposed capping and remodelling works (which will raise ground levels within the application site) is likely to increase the percentage surface water runoff thereby increasing the risk from surface water flooding. Accordingly, the remodelling of the golf course has been designed to direct the majority of surface water inwards towards the proposed water storage lagoon whilst runoff from the peripheral banks would be intercepted by a system of swales, infiltration trenches and an infiltration basin.

203. Runoff from the banks in the south-west and west will be intercepted by a swale and trench system then infiltrated via an infiltration trench¹²⁴ beyond the edge of the landfill at hole 6. Runoff from the banks to the south east will be intercepted by a swale and trench system then infiltrated via an infiltration trench¹²⁵ and basin beyond the edge of the landfill south-east and east of hole 1. Runoff from the driving range on the northern margins of the application site would be intercepted by an infiltration trench¹²⁶ located beyond the edge of the landfill to the north and east thereby preventing runoff into Broadwater Lake.

204. Details of the proposed surface water management arrangements are provided on Drawing Ref. 811.13 Rev C Control of Surface Water Runoff dated 29 July 2017. The applicant's assessment has provided estimated surface water runoff peak rates and volumes post capping and remodelling.

205. It is expected that irrigation of the golf course will use at least 2,800m³ of harvested rainfall each year, predominantly during 20 weeks in the summer. This irrigation will drawdown the proposed water storage lagoon below the outflow control thereby providing additional storage capacity for the winter months. It would also mitigate the business and environmental costs of using the potable water supply (i.e. drinking water) for golf course irrigation.

206. There is a requirement for the proposed water storage lagoon to outflow to a nearby water body. The nearest water body to the application site is Broadwater Lake to the east. However, Broadwater Angling Club, who manage the lake, object to such an outflow. The

¹²² To be secured by way of a Construction Transport Management Plan

¹²³ Flood Risk Assessment Ref. K0692/1 Rev2 dated January 2017

¹²⁴ 0.42m in depth

¹²⁵ 0.7m in depth

¹²⁶ 0.51m in depth

angling club are concerned that any new outfall to the lake would disturb contaminated silt currently at the bottom of the lake. The next nearest water body to the application site is the ordinary watercourse flowing through the garden of Wey Bank Cottage (beyond the A3100 to the south) eventually discharging to the River Wey. Accordingly, the water storage lagoon could be discharged to this watercourse via a Thames Water manhole at the edge of the golf course. Thames Water have confirmed that such a connection can be made and specified a 100mm pipe.

207. During capping and remodelling operations there will be bare soils on the application site prior to seeding. This may increase the rate of surface water runoff from the application site and delivery sediment off site. It is therefore proposed that the swales are constructed prior to major groundworks so as to intercept the increased runoff. Further, small temporary soil barriers or berms would be placed along the margins of the application site where landscaping works are taking place in order to trap any eroded sediment.
208. The proposed surface water management arrangements would be inspected regularly by the applicant to ensure that it remains capable of acting as designed.
209. Although no objection has been raised, Natural England have recommended that appropriate sustainable drainage systems be used in relation to the car park associated with the golf course so as to manage surface water and pollution runoff. They also recommend that in areas which are at risk of hydrocarbon contamination, oil interceptors should be used to remove hydrocarbons prior to discharge of runoff into soakaways or other drainage systems; and that any drainage systems should include the provision for controlling any pollutants associated with surface water runoff.
210. The Lead Local Flood Authority (LLFA) has reviewed the water surface drainage strategy for the proposed development and assessed it against the requirements under the Framework, its accompanying practice guidance and technical standards. The LLFA is satisfied that the proposed development meets the requirements set out in the aforementioned guidance documents. Accordingly, no objection to the proposal has been raised subject to planning conditions to ensure that the proposed surface water management arrangements are properly implemented and maintained throughout the lifetime of the development. Officers will ensure that any such conditions include the car park and provision for oil interceptors as per Natural England's advice.
211. For these reasons Officers consider that the proposed development satisfies Development Plan policies relating to flooding, surface water management and sustainable drainage systems.

Landscape and Visual Impact

212. The applicant has explained¹²⁷ in the supporting 'visual and landscape character appraisal' that the application site is visually extremely screened from its external surrounds both in summer and winter and exerts no visual impact on the surrounding park as a result. The relevant landscape character is one of a golf facility and the proposal seeks to enhance the same with the only material addition to the landscape being an Adventure Golf Facility adjacent to the existing car park and club house. The proposed landform will be that of a golf course but it will differ from the current landform as a result of the imposed soil cap and remodelling of the golf course. Any areas where higher banks are required will be densely planted and keyed in sensitively (extending existing woodland blocks) to ensure the already limited boundary views are not negatively impacted.
213. The proposed development has been reviewed by the CPA's Visual Impact and Landscape Consultant (VLC). In respect of the effects of the proposed development on

¹²⁷ Section 8: Appearance, page 78, Design and Access Statement V2 dated 30 September 2017

landscape character the VLC concurs with the applicant. The zone of visual influence of the proposal would be extremely limited both in summer and winter. Crucially, regarding the landscape character of the local area, the proposed development would not materially alter the existing characteristics of the application site, that of a golf course, with existing features being enhanced and so (when complete) these would not be uncharacteristic when set within the context of the existing landscape. As such, the VLC considers the remodelling and enhancement of the existing golf course would have no significant or lasting effect upon the Peasmarsh River Valley Floor Landscape Character Area (LCA RV6), the Surrey Hills AGLV or AONB; with potentially adverse effects limited to a very local and contained area in and locally adjoining the application site.

214. In respect of the construction phase of the development, the VLC considers that a combination of onsite plant, material and vehicle movements would result in potential adverse effects upon a number of visual receptors of varying sensitivity, particularly in close proximity to the application site. With the majority of mature vegetation on the site boundaries retained, the VLC considers that any such visual effects during the construction period would largely be as a result of construction traffic using the B3000 New Pond Road and A3100 Guildford Road (Meadow), and accessing and exiting the application site. This would be the case, particularly for residents living adjacent to these routes, as well as road and footway users. With an estimated construction period of up to 24-months, and the already heavily trafficked nature of these routes, the VLC considers that any potentially adverse visual effects would be temporary and not significant.
215. In relation to the operational phase of the development¹²⁸, the VLC considers that the zone of visual influence of the development would be extremely limited, both in summer and winter, with only glimpsed views at a very local level, due to existing mature woodland blocks, trees and vegetation, particularly along the application site boundaries. As the majority of existing vegetation would be retained and enhanced¹²⁹, it is likely that views to the proposed development would continue to be limited with only very glimpsed views in close proximity to the application site and through natural gaps in the vegetation. Accordingly, the VLC considers that there would be no material change to local views and those from wider surrounds as a result of the proposed development.
216. The VLC has also considered the impact of the proposed development on users of the local rights of way network. In this regard Public Footpath 24 (FP24) is in close proximity to the application site and is accessed off the A3100 to the south-west. There would be potential glimpsed views to the proposed development from this footpath, as it joins the A3100, through existing roadside vegetation directly opposite the footpath entry and exit point. Additionally, with land to the south-west rising towards Bunkers Hill Farm, the VLC considers it reasonable to assume that glimpsed views to the proposed development would be available from parts of FP24. However, there are significant blocks of woodland, along with hedgerow and tree vegetation adjacent to and surrounding much of FP24, effectively screening the proposed development from view. Similarly, there are several other footpaths and bridleways (BW) in the local area¹³⁰ along with several footpaths within the urban area of Farncombe. The VLC considers that with the exception of footpaths within Farncombe, these rights of way are located to the south-west of the application site and are similarly surrounded by significant woodland blocks and existing vegetation which would limit views. As the proposal would not materially alter the existing characteristics of the application site, the VLC considers that there would be no significant effect upon views from FP24, or other footpaths and bridleways within the local area as a result of the proposed development.
217. Accordingly, although potential adverse visual effects have been identified for the construction period, these effects would be temporary and limited to a local level and the

¹²⁸ Some interested parties have raised concerns about the visual impact of the proposed perimeter fencing

¹²⁹ See Drawing Ref. 811.03 Soft Landscape Plan Rev B dated 29 July 2017

¹³⁰ FP22; FP470; FP474; BW473; and BW476

VLC does not consider these to be significant. Similarly, the VLC considers that the landscape of the Surrey Hills AGLV and AONB, and LCA RV6 would be unaffected and views from the local rights of way network and other visual receptors in the surrounding landscape would also be unaffected. Consequently, the VLC concurs with the findings of the applicant's assessment and considers that the same is suitable for the nature and scale of the proposed development.

218. Contrary to the view of some interested parties, the Surrey Hills AONB Board has considered the proposed development and concluded, in line with the judgement of the VLC, that the proposal would have no impact upon the setting of the AONB.
219. Further, some interested parties have commented that the new 2 metre high fence around the perimeter of the site would be intrusive and have a negative impact on the park's landscape and connectivity, and as such would not comply with the management plan for the park. Concerns have also been raised about the impact of the fence on existing public access arrangements and local ecology (preventing small mammals passing through the golf course).
220. Waverley Borough Council (Parks and Countryside) have not raised objection to the proposed perimeter fence. However, they have requested that both sides of the fence be planted with suitable native hedge species so as to soften its appearance in the context of the wider park and provide for further habitat and an additional source of food. Such planting can be secured by way of planning condition should consent be granted. They have also commented that they would also like to see some re-alignment of the proposed fence line, as the current proposals seem a little out of sync with the north-western boundary of the applicant's leased area. Re-alignment of the fence could also be satisfactorily addressed by the imposition of a planning condition on any consent issued.
221. The applicant has clearly explained the proposed perimeter fence would seek to mitigate safety concerns of people walking across the golf course and to prevent unauthorised access to the facility after hours which has in the past lead to numerous incidences of anti-social behaviour including dog fouling and vandalism. Subject to satisfying Waverley Borough Council of the alignment and screening of the proposed fence, and requiring provision for small mammal migration across the application site, Officers consider that it is a reasonable and proportionate measure in the circumstances.
222. Waverley Borough Council (Parks and Countryside) welcomes the addition of an adventure golf area within golf course facility. However, they would favour a theme which incorporates links to local history, sport, and the local area in general. This is another matter that can be satisfactorily addressed by way of planning conditions.
223. Waverley Borough Council (Parks and Countryside) has also expressed their approval in respect of the proposed permissive path to be provided as part of the development. In this regard that have confirmed that the same will assist in the overall desire to improve footpath and cycle links around the Broadwater Park complex, and have noted the applicant's intention work with the Borough Council outwith the subject planning application in order to deliver an extension to the proposed permissive path (to the north) and provision of a further permissive path to the east of the golf course.
224. Lastly, Waverley Borough Council (Parks and Countryside) have explained that as part of overall improvements to Broadwater Park in general they are currently embarking on a programme of revising site signage by way of a consistent theme and also the rationalisation of all signage. To this end they would like to discuss proposals for revised entrance signage to the golf course so as to ensure that it fits and that there is a move away from the current signage on display. Signage relating to the golf course falls outside the remit of the subject planning application and the County Planning Authority. This is another matter the applicant will need to engage with the Borough Council about in future.

225. In respect of the driving range facility BERM outfield lighting, together with floodlights, is proposed to improve upon the existing lighting arrangement and to increase customer experience. Beam floodlights would be installed at low level along the length of the range, thereby avoiding the need for high powered floodlights. On the driving range itself the proposal is to install 2 x 400w metal halide floodlights in 7 ground level locations. Mounted at 4m on the tee stalls of the driving range building, 7 x 400w metal halide floodlights are proposed. In relation to the Adventure Golf Facility, the applicant proposes 5 x 8m high columns with 400w metal halide floodlights. Having considered these proposals the CPA's Lighting Consultant considers that the driving range lighting proposed would be generally contained on the driving range with minimal spill lighting. Similarly, in respect of the Adventure Golf Facility the Lighting Consultant considers that light would be generally contained within the boundary of this facility and the proposals are therefore acceptable subject to floodlights being installed at a tilt angle of less than 15 degrees. Overall, the Lighting Consultant considers the proposals to be acceptable subject to reasonable operational hours which can be secured by way of planning conditions.
226. In respect of the proposed building, Officers acknowledge that it is to replace a similar building, used for the same functional purpose, in a similar location. In this regard Officers do not consider that the proposed building, albeit larger, would be out of character with the nature of the land use as a golf course. Taking into account the considered views of the LVC about the likely visual and landscape impact of the proposed development, and considering the planting proposed to be undertaken as part of the development which is primarily around the driving range facility, Officers do not consider that the physical extension of the building would have an adverse impact on visual amenity or the local landscape. The impacts of the building in the context of the Green Belt is discussed in paragraphs 256 to 273 below.
227. Having regard to the matters discussed through this particular section of the report Officers consider that Development Plan policies relating landscape and visual impact are satisfied by the proposed development subject to conditions.

Ecology

228. The applicant has submitted an Ecological Walkover Assessment and Protected Species Survey in respect of the proposed development. This provides the results of the extended Phase 1 Habitat Survey of the existing golf course and adjacent areas of woodland. It includes a full presence and absence reptile survey and Great Crested Newt habitat suitability index surveys. It considers the nature conservation value of the habitats identified and the potential for legally protected or notable species to be present at the application site. Potential effects of the proposed development on such species and their habitats are considered and, separately, issues associated with the legal protection afforded to these animals are identified. Opportunities to avoid potential significant effects and mitigation are also discussed. This report was updated in January 2019¹³¹.
229. The site consists of a 9-hole golf course and a driving range. It has been built on a former landfill site with very thin soil coverage. The ecological survey area focussed on an area comprising high maintenance grassland, scattered trees, scrub and an area of improved grassland to the north.
230. The background ecological data search highlighted the statutory sites Wey Valley Meadows SSSI some 300m to the north and Charterhouse to Eashing SSSI approximately 2km north of the application site. 11 non-statutory designated sites are recorded within 2 km of the site. The proposed development and ongoing management is not anticipated to have an adverse impact on these sites.

¹³¹ Preliminary Ecological Appraisal dated 7 January 2019

231. There are records of protected species including 4x common reptiles, water vole and dormouse, along with red and amber bird species within 2 km of the site. The application site offers suitable habitat for bats, birds, and hedgehog.
232. A Great Crested Newt scoping survey highlighted 1 waterbody within 500 m of the application site boundary (the distance newts travel from their breeding ponds) and 1 within the boundary. Both ponds were subjected to Habitat Suitability Index surveys, both scored poor.
233. Areas of improved grassland and scrub showed low suitable habitat for reptiles. The one building on site showed negligible bat roost potential, several trees were noted with potential roost features and habitats on site offer moderate suitability for foraging and commuting bats, however no trees suitable for bat roosts would be affected by the proposed development.
234. The applicant's report identifies that ongoing management should seek to retain and protect important habitats currently bordering the site. These include the retention of the boundary trees where possible and woodland areas. If this is not possible then appropriate mitigation and compensation measures would be required to ensure the sites biodiversity value is maintained.
235. The report also highlights that the proposed development is an exciting and important opportunity to vastly improve the biodiversity of the area. The carefully designed woodland planting and eco-friendly drainage ditches across the application site, will rapidly be colonised through natural succession. The new layout will also create both habitat corridors and wildlife havens, providing ecological niches and an overall high net biological gain over the present habitats and the wider area.
236. It also explains that any disturbances would be temporary and adequately compensated for with stringent mitigation measures employed and monitored throughout the construction phase of the development and into its operational phase; and emphasises that the applicant has worked closely with Ecologists to vastly improve the ecological value of the application site. The planting of wild areas and thousands of new trees all go towards an important biodiversity gain over the existing situation in compliance with the Framework.
237. The proposed development includes ecological compensatory and enhancement measures relating to woodland; wild areas; wildflower/rough grassland; wetland; new ponds; habitat corridors; and additional habitat¹³² as set out in paragraphs 33 and 34 above.
238. SCC's Ecologist has evaluated the proposed development. In this regard it has been explained that there is no objection to the proposal as the applicant's ecological reports are sufficient to conclude that there will be no adverse ecological impacts and no further surveys are required. Moreover, the Ecologist considers that there are positive ecological enhancements that can be achieved through the proposal. The Ecologist points to the mitigation measures to be employed during the construction phase of the development and has recommended that these be secured by planning condition. In relation to the ecological enhancements proposed the Ecologist has recommended that the applicant be required to provide a 10-year Landscape and Ecological Management Plan so as to secure these measures and provide certainty that they will be delivered and managed in the long-term.
239. As discussed in paragraphs 109 and 110 above Waverley Borough Council (Parks and Countryside) have raised concern about the nature of the soil to be deposited on the

¹³² See paragraphs 5.4.1 to 5.4.7 of Ecological Walkover Assessment and Protected Species Survey dated 7 July 2016

application site. Additionally, they have expressed their dissatisfaction about the applicant's proposal to include Red Oak as a tree species to be planted. The Borough Council would prefer to see this species replaced with Maple. The issues relating to soil has been dealt with in paragraphs 109 and 110. So as to ensure that tree species acceptable to the Borough Council are provided as part of the development Officers could impose a condition requiring the submission of a landscape specification for tree planting in accordance with BS 3926. Interested parties have questioned the effect of the proposed perimeter fencing on wildlife. SCC's Ecologist does not consider that it would adversely affect the same subject to the provision of appropriate gaps within the fence to allow for small mammals to pass through the fence and application site. Such provision could be satisfactorily secured by way of condition.

240. For the reasons set out above Officers consider that the proposal satisfies Development Plan policy in respect of ecological matters subject to a range of conditions.

Heritage Assets

241. The two Listed Buildings¹³³ that once formed part of Broadwater Park, together with the lake to the east, are all that remain of what was once a small mid-19th century estate. Whilst the principal residence and many of the estate buildings have been lost, the area of park remains open land, with little significant housing development, save for the buildings of Broadwater School and those associated with the leisure activities that now occupy much of its grounds. All the historic and Listed Buildings that line the southern side of the A3100 Guildford Road (Meadow) form part of a ribbon development situated along, and facing onto, a significant roadway. This has, in all cases, provided their historic setting since the date of their construction.

242. The applicant has submitted a Heritage Statement¹³⁴ in support of the proposed development. This explains that the application site itself is almost entirely overlying a historic landfill site, with the result that little or no buried archaeological remains will survive. The proposed development will not involve the reduction in the existing ground surface. It is therefore not anticipated that there will be any impact upon any buried archaeological remains. Moreover, there are no Heritage Assets within the curtilage of the application site.

243. In respect of the effect of the development upon the setting of Heritage Assets the applicant's assessment explains that it will not lead to any change in the open nature of the application site, with the existing golf course use continuing post development. It acknowledges that the development will lead to a temporary increase in HGV traffic along the road onto which the majority of Heritage Assets face and that this will increase noise, dust and vibration levels for the duration of the development. Such traffic will be arriving at the site from the north-east, thereby impacting upon those Heritage Assets located immediately adjacent to, or north-east of, the application site access.

244. In order to determine whether the proposal will have an impact upon the setting of Heritage Assets, it is first necessary to assess whether and how the setting makes a contribution to their significance. As the applicant's assessment explains, in this case the highlighted Heritage Assets (those along the A3100 to the south of the application site) are, and have always been, located alongside a roadway, with the result that their setting is in fact closely interdependent upon the continued use of that roadway. Indeed the most significant threat to that setting would be either the closure of the roadway or the assets' separation from it.

245. Consequently, the applicant's assessment explains that the increase in noise, dust and vibration, from the increased use of the roadway, while it might impact upon the senses of

¹³³ 'Former dairy opposite Nos. 1 & 2 Stable Cottages' (Historic England List ID 1352720) 90m north-east; and 'Former kitchen garden wall' (Historic England List ID 1293456) 120m north;

¹³⁴ Heritage Statement dated June 2017

individuals in the vicinity, will not impact upon the setting of any Heritage Assets, since that setting is in no way dependent upon an absence of noise, dust and vibration. Indeed it could be argued that it is very much part of that setting.

246. SCC's Historic Buildings Officer (HBO) has evaluated the proposed development and considered the applicant's assessment. In addition the HBO has reviewed the first edition ordnance survey map for the relevant area. This shows that the majority of the area was parkland with a drive through it and the lake with the same outline including its distinctive island. Providing any landraising undertaken has a natural profile in the context of the area the HBO agrees with the applicant's assessment that the setting of nearby Listed Buildings will not be affected from the physical change. Similarly, with regard to temporary impact of HGVs the Officer does not consider that this will have any material impact on the fabric of Listed Buildings.

247. Consequently, Officers consider that the proposal has been assessed in accordance with Framework and that there will be no material impact on the special interest of any Listed Buildings as a result of the proposed development. For these reasons Officers conclude that the proposal satisfies Development Plan policies relating to Heritage Assets.

Environment and Amenity Conclusion

248. In respect of dust, vehicle emissions, noise, flood risk, and landscape and visual impact it has been demonstrated by the provision of appropriate information that the proposed development would not give rise to unacceptable impacts subject to a range of conditions. In relation to Heritage Assets it has been determined by the applicant's assessment and Surrey County Council's Historic Buildings Officer that the proposal would not give rise to material impacts on the special interest of any Listed Buildings or buried archaeological remains. From an ecological perspective the proposal will, subject to a range of conditions, facilitate positive ecological enhancements to the application site and wider Broadwater Park complex without giving rise to any adverse ecological impacts. Officers do not consider that matters pertaining to vermin, odour and stability are relevant to the proposal considering the nature of the same. In this context therefore Officers consider that the development, as a whole, has been well-designed so that upon completion it would, subject to conditions, bring about a substantial improvement to the quality of the golf course and in turn contribute positively to the character and quality of the wider Broadwater Park complex.

249. Accordingly, considering paragraphs 189 to 247 above, Officers conclude that the proposal, subject to a range of conditions, satisfies Policies DC2 and DC3 of the SWP; Policies SP1, SP2, LRC, RE3, HA1, NE1, CC1, CC2, and CC4 of the WLP; and Policies D1, D2, D3, and D5 of the SWLP.

Metropolitan Green Belt

Development Plan Policy

Surrey Waste Plan 2008 (SWP)

Policy CW6 – Green Belt

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

Policy RE2 – Green Belt

Policy Context

249. The National Planning Policy Framework 2019 (the Framework) explains at paragraph 133 that 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.

250. In addition to their aim, paragraph 134 of the Framework explains that the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
251. Paragraph 143 of the Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, the CPA should ensure that substantial weight is given to any harm to the Green Belt. '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.¹³⁵
252. Moreover, the CPA should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are: (a) buildings for agriculture and forestry; (b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; (e) limited infilling in villages; and (f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and (g) limited infilling or the partial or complete redevelopment of previously developed land.¹³⁶
253. Moreover, paragraph 146 of the Framework explains that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are: (a) mineral extraction; (b) engineering operations; (c) local transport infrastructure which can demonstrate a requirement for a Green Belt location; (d) the re-use of buildings provided that the buildings are of permanent and substantial construction; (e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and (f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.
254. Policy CW6 of the SWP states that there is a presumption against inappropriate waste related development in the Green Belt except in very special circumstances. Very special circumstances to justify inappropriate development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The policy outlines that the following considerations may contribute to very special circumstances: (a) the lack of suitable non-Green Belt sites; (b) the need to find locations well related to the source of waste arisings; (c) the characteristics of the site; and (d) the wider environmental and economic benefits of sustainable waste management including the need for a range of sites.
255. Policy RE2 of WLP explains that the Green Belt will continue to be protected against inappropriate development in accordance with the Framework. In accordance with national planning policy, new development will be considered to be inappropriate and will not be permitted unless very special circumstances can be demonstrated. Certain forms of development are considered to be appropriate in the Green Belt. Proposals will be permitted where they do not conflict with the exceptions listed in national planning policy.

¹³⁵ Paragraph 144

¹³⁶ Paragraph 145

The Development

256. As set out at paragraphs 25 to 49 above, the development proposed comprises an engineering operation (capping and remodelling of the golf course) and built-development in the form of a replacement driving range building, Adventure Golf Facility, and associated golf course infrastructure (perimeter fencing, driving range netting, lighting, extension to the existing car park, and hard landscaping features etc.).
257. It would also involve temporary improvement to the existing vehicular access, establishment of a temporary contractors' compound, siting of a temporary wheelwash facility together with a single soil screener and a temporary administration office, 4 x large stockpiles of inert waste material, the operation of a range of plant and machinery, erection of tree protection fencing, the employment of a road sweeper, and 70 HGV trips (140 HGV movements) per working day, all over a temporary period of 18-24 months.

Effect on Openness

258. 'Openness' means the absence of 'development'.
259. The applicant submits that *"as an 'engineering operation' is being carried out by virtue of the proposed development, and not new 'buildings, to provide appropriate facilities for 'outdoor sport and recreation' the principle of the proposal is not inappropriate."* Further, the applicant asserts that *"it is also important to note that the proposal is appropriate for outdoor sport and recreation and it is by virtue of its appropriate nature that 'preserves the openness of the Green Belt' and also that there will be no change in the use of the land as it will remain as (a) a golf course and (b) the proposal will not result in the any material intensification in the use of the club. Accordingly, the proposal also 'does not conflict with the purpose of including land within it [the Green Belt]'.¹³⁷*
260. Officers take a different view. The development proposed would introduce structures, works and activities to land where they would adversely impact the openness of the Green Belt. Officers acknowledge that the development seeks to enhance an existing outdoor sport and recreation land use and that the development would be temporary and limited in nature. However, the features described in paragraphs 25 to 49 above would not preserve the openness of the Green Belt for the duration of the construction phase of the development. Similarly, as discussed in paragraphs 212 to 227 above, the construction phase of the development is likely to have a limited, localised and temporary adverse effect on the visual amenity of the Green Belt. Accordingly, Officers consider the engineering aspects of the development to be 'inappropriate development' in the Green Belt.
261. Moreover, paragraph 145 of the Framework is unequivocal. New buildings in the Green Belt are 'inappropriate' unless they are: (a) appropriate facilities for outdoor sport and outdoor recreation; and (b) they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This paragraph creates a *prima facie* rule namely that the construction of new buildings is inappropriate. It then goes on to state that there are certain 'exceptions to this'. All of these exceptions need to be met in order for the relevant building to be considered 'not inappropriate'. Although Officers accept that the proposed building would amount to an appropriate facility for outdoor sport and recreation, Officers do not consider that the proposed building preserves the openness of the Green Belt due to its scale in the context of the existing building. Accordingly, Officers also consider that the proposed building is 'inappropriate development' in the Green Belt.
262. Given the location and nature of the application site and the site-specific proposal Officers accept that the development proposed would not result in urban sprawl, lead to the

¹³⁷ Paragraphs 1.5.171 and 1.5.172 of Planning Statement V2 dated 30 September 2017

merging of neighbouring towns, encroach on the countryside, or undermine the setting and special character of historic towns. Moreover, for the same reasons Officers do not consider that the development would undermine urban regeneration.

263. In respect of the engineering works and the degree of harm to openness, Officers consider that this would be limited to the duration of the engineering works which would last 18 - 24 months following which the openness and visual amenities of the Green Belt would be fully restored in the context of the existing land use. In respect of the building and the degree of harm to openness, Officers conclude that the building would result in moderate harm given the nature of the existing use, the location of the building within the golf course, and the scale of the existing building to be replaced. Additionally, any enhancement of the existing golfing facilities leading to an increase in on-site activity following completion of the development should not give rise to any additional loss of openness. Accordingly, although the development proposed would undermine the fundamental aim of the Green Belt this would, in large, be temporary and otherwise moderate, and therefore Officers consider that the proposal as a whole would have a limited impact on the openness of the Green Belt.

264. Accordingly, there is a presumption against the grant of consent for the proposed development except in very special circumstances. Very special circumstances to justify the development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Other Harm

265. The potential for other harm has been assessed earlier in this report with regard to highways, traffic and access; air quality; noise; flood risk; landscape and visual impact; ecology; and Heritage Assets. Officers have concluded that the development would be beneficial in respect of the sustainable management of waste in the County and would result in a net gain to local biodiversity over the long-term. Otherwise the development would have no adverse effect in respect of flooding; air quality; noise; landscape; and Heritage Assets. During its construction phase the development would have a temporary, limited and localised adverse impact on visual amenity. Officers have concluded that any harm arising from the development can be mitigated to acceptable levels by the imposition of planning conditions.

Very Special Circumstances

266. Policy CW6 of the SWP outlines that the following considerations, taken individually or cumulatively, may contribute to very special circumstances: (a) the lack of suitable non-Green Belt sites; (b) the need to find locations well related to the source of waste arisings; (c) the characteristics of the site; and (d) the wider environmental and economic benefits of sustainable waste management including the need for a range of sites. It is not necessary to show that each and every factor in itself amounts to a very special circumstance, but that the combination of circumstances, viewed objectively, is capable of being described as '*very special*'. A number of ordinary factors may, when combined together, result in something very special. That is a matter for the planning judgement of the decision-taker.

267. Given the applicant's stance on whether the development is inappropriate or not, specific considerations have not been advanced in the context of 'very special circumstances'. However, the applicant has made reference, in the context of Green Belt, to the need for and benefits to arise from capping the landfill, and the biodiversity enhancements to arise from the development.

268. As discussed in the 'Sustainable Waste Management' section of this report, Officers consider the proposal amounts to a temporary waste management facility concerned with the recovery of inert waste for the purposes of landraising by engineering operations. In

this respect the proposal has been assessed against policies WD2, CW4 and CW5 of the SWP and found to be compliant.

269. It is acknowledged that the principal reason for undertaking the development is to remedy the problems arising from ongoing landfill settlement. A necessary consequence of this remedy would be to remodel the golf course and enhance its existing facilities including the establishment of a rainwater harvesting regime so as to manage surface water and sever the golf club's reliance on mains water supply for irrigation. In these respects Officers have reasonably concluded that the development would result in the substantial improvement in the quality of the application site, that there are no satisfactory alternatives to achieving these improvements, and that the minimum volume of waste requisite would be involved, all in accordance with policy WD7 and WD8 of the SWP. Officers consider that such a substantial improvement should be afforded substantial weight in the context of very special circumstances.
270. Further, Officers have explained that large volumes of inert construction, demolition and excavation waste are managed in Surrey annually and that a majority of this waste is landfilled, which in line with the WMP and NPW is considered to be the least preferable option for waste management. Although a high proportion of Surrey's waste is being managed through reuse, recycling and recovery, a lack of facilities for recycling and recovery within the County means that Surrey is still reliant on landfill capacity to be considered net self-sufficient. Consequently, there is a need to significantly improve the infrastructure provided within Surrey to manage waste without endangering human health or the environment and to enable communities to take responsibility for the waste produced¹³⁸. In this context the development proposed would provide for some 342,578 tonnes (214,111m³) of additional sustainable waste management capacity over a two-year period. This is a modest but significant contribution to the County's sustainable waste management capacity. The CPA has not received any objection to the proposal from mineral operators in Surrey and in 2016/2017 and 2017/2018 no mineral workings sought to extend the time-period for restoration as a result of a lack of inert waste material. Accordingly, Officers consider that the development would contribute to the sustainable management of waste materials in Surrey in a proximate location and in accordance with the SWP and NPW albeit for a temporary period and a limited volume of materials. Officers consider that the wider environmental and economic benefits of sustainable waste management should also be afforded significant weight in the context of very special circumstances.
271. Notwithstanding this, Officers consider that the proposal would result in a substantial improvement in the quality of the application site by way of remedying the problems arising from landfill settlement which cannot be achieved in another satisfactory way; providing for a sustainable rainwater harvesting, storage and irrigation scheme thereby cutting the golf course's reliance on mains water supply and reducing pressure on the wider public supply; securing the future of an existing local business and public outdoor recreation and leisure facility; and providing for a net gain to biodiversity in the local area over the long-term. Officers consider that these qualitative and operational benefits (which would also have wider environmental and economic benefits) in relation to an existing outdoor recreation use in the Green Belt, in the absence of viable and reasonable alternatives to securing these benefits, should be afforded significant weight in relation to very special circumstances.
272. Viewed objectively and taken together, Officers consider that the wider environmental and economic benefits the development would bring about as a result of sustainable waste management and the substantial improvement in the quality of the application do amount to 'very special circumstances' which clearly outweigh the harm arising out of inappropriateness; the limited harm to openness arising from the development as a whole,

¹³⁸ Paragraph B3 of the Surrey Waste Plan 2008

and the limited, localised and temporary adverse harm to visual amenity (including that of the Green Belt) during the construction phase of the development.

Green Belt Conclusion

273. Officers consider that there is a clear need to provide sustainable waste management facilities in Surrey. The proposal would facilitate the sustainable management of waste in Surrey in a way that it achieves a substantial improvement in the quality of the application site. This substantial improvement would bring about qualitative and operational benefits at an existing outdoor sport and recreational facility and wider environmental and economic benefits. Officers attach significant weight to both these factors. Officers therefore conclude that the harm arising out of inappropriateness, the limited impact on openness, and the temporary, limited and localised adverse visual impact of the development, is clearly outweighed by the factors referred to so as to amount to the very special circumstances necessary to justify the grant of planning permission subject to conditions. In this respect, Officers consider that the development satisfies policy CW6 of the SWP and policy RE2 of WLP.

HUMAN RIGHTS IMPLICATIONS

274. 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.

275. Officers do not consider that the proposal engages any Convention rights.

CONCLUSION

276. The development proposed seeks to address unique circumstances relating to an existing and long-standing golf course developed on a historic mixed-waste landfill. The environmental, health and safety, and business problems resulting from the settling landfill are evident. The proposed development is to take place within the Green Belt. The application site is not subject to any landscape or nature conservation designation and is serviced by the primary road network. There are a number of Heritage Assets within close proximity to the golf course.

277. The proposed development, which appears to be the only practicable and sustainable option available, seeks to remedy these problems by capping the landfill and remodelling the golf course as a consequence. Additionally, a range of existing golf course infrastructure would be necessarily enhanced and replaced including the driving range building. A new adventure golf facility would also be provided.

278. A relatively moderate volume of inert waste materials generated in Surrey and elsewhere would be imported to the application site over a two-year period to facilitate the development. The proposal would therefore provide Surrey with an equivalent amount of additional and sustainable waste management capacity. Officers consider that the use of inert waste as proposed would be for beneficial purposes and as a result for the purposes of 'recovery' in the context of land-use planning.

279. The proposed ground levels have been designed to take account of the minimum depth of landfill cap required, necessary positive drainage falls so as to direct surface water away from Broadwater Lake, to the proposed water storage lagoon and soakaways situated beyond the landfill. The proposal includes significant tree planting and the depth of soil material to be deposited across the application site has taken account of the rooting and landfill cap requirements in this respect.

280. The statutory development plan for consideration of the application comprises the Surrey Waste Plan 2008, the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018, and the saved policies of the Waverley Local Plan 2002. In considering the development Officers have assessed its acceptability against the development plan policies and material considerations in respect of sustainable waste management; highways, traffic and access; air quality; noise; flood risk; landscape and visual impact; ecology; Heritage Assets; and the Metropolitan Green Belt.
281. Statutory and non-statutory consultees have not raised objection to the development subject to a range of conditions. Interested parties have raised concerns about the development in relation to nature conservation; public access; noise; air quality; visual amenity; landscape; the Surrey Hills AONB; and highways, traffic and access. However, as discussed throughout the report these concerns have not been borne out by the investigations and assessments undertaken by the applicant, statutory consultees, and the CPA's technical consultees. Officers have concluded that any potential harm can be mitigated to acceptable levels by the imposition of planning conditions and therefore assess the development to be in compliance with all relevant Development Plan policies.
282. Officers have concluded that the development is inappropriate development in the Green Belt and that there is a presumption against the grant of consent for the same except where very special circumstances are demonstrated. Officers consider that there is a clear need to provide additional sustainable waste management facilities in Surrey and that the proposal would facilitate the sustainable management of waste in a way that it achieves a substantial improvement in the quality of the application site. Officers consider that this substantial improvement would bring about qualitative and operational benefits at an existing outdoor and public sport and leisure facility and wider environmental and economic benefits. Officers have therefore concluded that the harm arising out of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the grant of planning permission subject to conditions.

RECOMMENDATION

Officers recommend that planning application Ref. WA/2018/0097 be **PERMITTED** subject to conditions:

Commencement

1. The development hereby permitted shall be begun no later than the expiration of three years beginning with the date of this permission. The applicant shall notify the County Planning Authority in writing within 7 days of commencing the development.

Approved Plans

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

Drawing Ref. 811.01 Rev B Existing Site Plan dated 5 October 2017
 Drawing Ref. 811.02 Rev B Grading Plan dated 29 July 2017
 Drawing Ref. 811.03 Rev B Landscape Plan dated 29 July 2017
 Drawing Ref. 811.04 Rev C Cross Sections dated 22 December 2017
 Drawing Ref. 811.05 Rev D Contractors Works Plan dated 22 December 2017
 Drawing Ref. 811.06 Rev B Rainwater Harvesting Plan dated 29 July 2017
 Drawing Ref. 811.07 Rev C Application Boundary Plan dated 5 October 2017
 Drawing Ref. 811.08 Rev B Hard Landscape Features dated 29 July 2017
 Drawing Ref. 811.09 Rev B Adventure Golf Course dated 5 October 2017
 Drawing Ref. 811.11 Rev A Phasing Plan dated 29 July 2017

Drawing Ref. 811.12 Rev C Covered Bays Building dated 5 October 2017
 Drawing Ref. 811.13 Rev C Control of Surface Water Runoff dated 29 July 2017
 Drawing Ref. 811.14 Contractors Works Plan Further Details dated 19 July 2017
 Drawing Ref. 811.15 Rational Plan dated 29 July 2017
 Drawing Ref. 001 Proposed Construction Site Access dated 7 March 2018
 Drawing Ref. G20371/101 Rev. A Visibility Splay dated January 2016
 Drawing Ref. TPP-CC/403 AR2848 Tree Protection Plan Rev 0 dated 8 March 2016

Duration

3. The development hereby permitted shall be completed in all respects within 24 months from the date that the development is commenced as notified to the County Planning Authority in accordance with condition 1 above. The applicant shall notify the County Planning Authority in writing within 7 days of completion of the development.

Volume of Waste

4. No more than 342,578 tonnes (214,111m³) of inert waste material shall be deposited on the application site in order to facilitate the development. Accurate daily records of the volumes of inert waste deposited shall be maintained for the duration of the development and made available to the County Planning Authority within 7 days of such request.

Hours of Operation

5. During the construction phase of the development no lights shall be illuminated nor shall any operations or activities authorised or required by this permission be carried out except between 0730 to 1830 Monday to Friday. No activities or operations shall be undertaken on Saturdays, Sundays or bank, public or national holidays. This condition shall not prevent working in emergencies to maintain safe site operations. Such emergencies shall be notified to the County Planning Authority in writing as soon as practicable and in any case within 5 working days.
6. Notwithstanding condition 5 above, construction traffic shall only access and egress the application site between 0730 and 1630 hours on Monday to Friday. No construction traffic shall access or egress the application site on Saturdays, Sundays or bank, public or national holidays.
7. Lighting associated with the driving range and adventure golf facility shall be installed at a tilt angle of less than 15 degrees and be switched off at 2200 hours.

Highways, Traffic and Access

8. The development hereby permitted shall not commence until the proposed modified vehicular access to Meadow (A3100) and associated visibility splays have been provided in accordance with Drawing Ref. 001 Proposed Construction Site Access dated 7 March 2018 and Drawing Ref. G20371/101 Rev. A Visibility Splay dated January 2016 so as to safely accommodate the movement of construction traffic.
9. The development hereby permitted shall not commence until a Construction Transport Management Plan (CTMP), in general accordance with Drawing Ref. 811.05 Rev. D Contractors Works Plan dated 22 December 2017 and Drawing Ref. 811.14 Contractors Works Plan Further Details dated 19 July 2017 has been submitted to and approved in writing by the County Planning Authority. The CTMP shall include details of:

(a) Parking for vehicles of site personnel, operatives and visitors;

- (b) Loading and unloading of plant and materials, storage of plant and materials, no more than 70 deliveries to the application site per weekday, and no deliveries at weekends, bank, national or public holidays;
- (e) Provision of boundary hoarding behind any visibility zones;
- (f) Measures to prevent the deposit of materials on the highway;
- (g) Vehicle routing;
- (h) Before and after construction surveys of the highway and a commitment to fund the repair of any damaged caused as a result of the development;
- (i) Deliveries to take place between 0700 to 1630 hours Monday to Friday only;
- (j) No HGVs associated with the development to park and/or wait on Meadow at any time;
- (k) On-site turning for construction vehicles.

Only the approved details shall be implemented and they shall be maintained for the duration of the construction of the development.

10. The development hereby permitted shall not be opened to paying customers unless and until the vehicular access and associated footway have been reinstated to their original width/layout in accordance with a scheme to be submitted to and approved in writing by the County Planning Authority.
11. The development hereby permitted shall not be opened for paying customers unless and until space has been laid out within the application site in accordance with the approved plans listed in condition 2 above and for vehicles to be parked and turned so that they enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purpose.
12. The development hereby permitted shall not be opened to paying customers unless and until the following measures have been provided in accordance with a scheme to be submitted to and approved in writing by the County Planning Authority:
 - (a) The secure parking of bicycles within the development site;
 - (b) Providing safe routes for pedestrians and cyclists to travel within the site and between the site and Meadow (A3100); and
 - (c) Information to be provided to staff and visitors regarding the availability and whereabouts of sustainable travel options including bus and cycle routes.

The approved measures shall be provided, retained and maintained for the duration of the development.

Landfill Gas

13. No soil, clay or inert waste material shall be deposited on the application site until the following details have been submitted to and approved in writing by the County Planning Authority:
 - (a) A landfill gas risk assessment strategy that includes the number and locations of proposed monitoring boreholes (both in the waste and in natural ground around the site perimeter), and the frequency and duration of the baseline gas monitoring period;
 - (b) A Landfill Gas Risk Assessment (LGRA) (to include on-site and off-site sensitive receptors) based upon the approved baseline gas monitoring as per (a) above; and
 - (c) A Landfill Gas Management Plan (LGMP) including (i) a monitoring plan for the construction phase and for 10-year management period; (ii) landfill gas compliance limits for the protection of both on-site and off-site receptors; (iii) a mitigation strategy, contingency action plan, and verification plan to address any exceedances of the compliance limits and/or predicted/potential negative impacts (as described in the approved LGRA).

14. Monitoring and management of landfill gas shall be undertaken in accordance with the approved LGMP (as per condition 13 above) and verification reports shall be submitted to the CPA for approval in writing at the following intervals:

- (a) Within 4-weeks of completion of the construction phase of the development; and
- (b) Every 3-years following completion of the development for the 10-year management period.

Ground and Surface Water

15. The development shall not commence until a Groundwater and Surface Water Monitoring and Management Plan (GSWMMP) has been submitted to and approved in writing by the County Planning Authority. The GSWMMP shall incorporate the following details:

- (a) A written scheme of groundwater and surfacewater monitoring, sampling and testing;
- (b) Leachate and groundwater monitoring and sampling network and a programme for baseline monitoring, sampling and laboratory testing;
- (c) Establishment of a surface water monitoring and sampling network and a programme for baseline monitoring, sampling and laboratory testing;
- (d) After initial baseline conditions are established, the preparation of a baseline monitoring report and further assessment to determine the risk to groundwater, surface water and human health from the development;
- (e) Subject to the outcomes of (a) to (d) above and before commencement of any earthworks, the preparation of an Operational Management Plan, Mitigation and/or Remediation Strategy (if necessary), Construction and Post-Construction Phase Monitoring Plan, compliance limits (trigger and action levels) for contaminants of concern, and as necessary a Contingency Action Plan; and
- (f) A programme for regular report submissions to the County Planning Authority for approval including monitoring and review reports during the construction of the development and verification reporting on completion of the development.

The Groundwater and Surface Water Monitoring and Management Plan shall be implemented and maintained as approved.

Surface Water Drainage

16. The development shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the County Planning Authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF, and Ministerial Statement on SuDS. The surface water drainage scheme shall include:

- (a) Evidence that the proposed solution will effectively manage the 1 in 30 & 1 in 100 (+40%) allowance for climate change storm events during all stages of the development (Pre, Post and during), associated discharge rates and storages volumes shall be provided using maximum Greenfield discharge rates of 12.7 litres/sec 1 in 2 year, 16.2 litres/sec 1 in 30 year and 16.6 litres/sec 1 in 100 year + 40% (as per the SuDS pro-forma or otherwise as agreed by the County Planning Authority);
- (b) Detailed drainage design drawings and calculations to include finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, oil interceptors, inspection chambers etc.);
- (c) Details of how the scheme will be protected during construction and how runoff (including any pollutants) from the development site (including the car park) will be managed before the drainage system is operational;
- (d) Details of drainage management responsibilities and maintenance regimes for the drainage system; and

(e) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on-site and off-site will be protected.

The approved details shall be implemented and maintained for the duration of the development.

17. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer and demonstrating that the drainage system has been constructed as approved in accordance with condition 16 above must be submitted to and approved in writing by the County Planning Authority.
18. No surface water from the application site shall flow into Broadwater Lake to the east of the application site.

Construction Environmental Management Plan

19. Within 6 months of the date of this permission a site-specific Construction Environmental Management Plan (CEMP) in general accordance with Paragraphs 8.1 to 8.4 and Appendix D of Air Quality Assessment Ref. VC-170613-AQ-RP-0001 R01 dated 25 July 2017 shall be submitted to the County Planning Authority for approval.

The approved CEMP shall be implemented and maintained for the duration of the construction phase of the development.

Ecology

20. As per Arboricultural Tree Assessment and Method Statement dated March 2016 and Drawing Ref. TPP-CC/403 AR2848 Tree Protection Plan Rev 0 dated 8 March 2016, all trees to be retained in and around the application site shall be protected from construction activities in accordance with BS 5837:2012 Trees in relation to design, demolition and construction, Recommendations.
21. Within 6 months of the date of this permission a Landscape Specification for Tree Planting shall be submitted to the County Planning Authority for approval. This scheme shall include details of how topsoil and trees are to be provided on the application site in accordance with BS 3882: 2015 Specification for topsoil; and BS 3936-1:1992 Nursery stock, Specification for trees and shrubs. The development shall be undertaken in accordance with the approved details.
22. Within 6 months of the date of this permission a 10-year Landscape and Ecology Management Plan (LEMP) (5-years maintenance and 5-years aftercare shall be submitted to the County Planning Authority for approval. The LEMP shall:
 - (a) Demonstrate how new planting is to develop from newly planted to established habitat;
 - (b) Provide for the management of new planting and habitat primarily for ecological benefits;
 - (c) Set out how the landscape will be maintained including tree aftercare and replacement; and
 - (d) Be in general accordance with Drawing Ref. 811.03 Rev B Landscape Plan dated 29 July 2017 and paragraphs 5.41 to 5.4.7 of Ecological Walkover Assessment and Protected Species Survey dated 7 July 2016.

The LEMP shall be implemented and maintained as approved.

Perimeter Fencing

23. Within 6 months of the date of this permission details of the perimeter fencing to be provided around the application site shall be submitted to the County Planning Authority for approval. These details shall include:
- (a) The specifications, location, alignment and extent of the perimeter fencing;
 - (b) Native hedge planting specifications for both sides of the fence including maintenance responsibilities and regimes;
 - (c) Provision for 13cm x 13cm gaps every 100m to allow small mammals to pass unhindered.

The details shall be implemented and maintained as approved.

Adventure Golf

24. Within 6 months of the date of this permission details of the theme for the adventure golf facility shall be submitted to the County Planning Authority for approval. The approved details shall be implemented and maintained for the duration of the development.

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. So as to comply with the terms of the application and in the interests of local amenity in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
4. So as to comply with the terms of the application and so as to not prejudice the timely restoration of mineral workings in the locality in accordance with Policy WD7 of the Surrey Waste Plan 2008.
5. So as to comply with the terms of the application and in the interests of local amenity in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
6. So as to comply with the terms of the application and in the interests of local amenity in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
7. So as to comply with the terms of the application and in the interests of local amenity in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
8. In order that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
9. In order that the development does not prejudice highway safety nor cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
10. In order that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.

11. In order that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
12. In order that the development does not prejudice highway safety or cause inconvenience to other highway users in accordance with Policy DC3 of the Surrey Waste Plan 2008.
13. In the interests of the environment, local amenity and human health in accordance with Policy DC3 of the Surrey Waste Plan 2008.
14. In the interests of the environment, local amenity and human health in accordance with Policy DC3 of the Surrey Waste Plan 2008.
15. In the interests of the environment, local amenity and human health in accordance with Policy DC3 of the Surrey Waste Plan 2008.
16. To ensure the design meets the national Non-Statutory Technical Standards for SuDS and the final drainage design does not increase flood risk on or off site in accordance with Policy DC3 of the Surrey Waste Plan 2008.
17. To ensure that the drainage system is constructed to the National Non-Statutory Technical Standards for SuDS.
18. So as to comply with the terms of the application and in the interests of local amenity and the environment in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
19. So as to comply with the terms of the application and in the interests of local amenity and the environment in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
20. So as to comply with the terms of the application and in the interests of local amenity and the environment in accordance with Policy DC3 of the Surrey Waste Plan 2008 and saved Policy D1 of the Waverley Borough Local Plan 2002.
21. To ensure that topsoil to be deposited and tree species to be planted are suitable in the interests of local amenity and the environment in accordance with Policy DC3 of the Surrey Waste Plan 2008.
22. So as to comply with the terms of the application and in the interests of local amenity and the environment in accordance with Policy DC3 of the Surrey Waste Plan 2008.
23. In the interests of local amenity and the environment in accordance with Policy DC3 of the Surrey Waste Plan 2008.
24. So as to comply with the terms of the application and to ensure that the theme of the adventure golf facility is appropriate for its location within the wider Broadwater Park complex and otherwise satisfies the requirements of Waverley Borough Council.

Informatives:

1. If the development affects an Ordinary Watercourse, Surrey County Council as the Lead Local Flood Authority should be contacted to obtain prior written consent. More details are available on Surrey County Council's website.
2. If the development results in infiltration of surface water to ground within a Source Protection Zone the Environment Agency will require proof of surface water treatment to achieve water quality standards.

3. The import of waste soils associated with this development will require an Environmental Permit, under the Environmental Permitting (England and Wales) Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss issues likely to be raised. The applicant should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at www.gov.uk/environmental-permit-check-if-you-need-one
4. The permission hereby granted shall not be construed as authority to carry out any works on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works proposed and the classification of the road. Please see <http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/the-traffic-management-permit-scheme>. The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991. Please see www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/flooding-advice.
5. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).
6. The developer is advised that as part of the detailed design of the highway works required by the above condition(s), the County Highway Authority may require necessary accommodation works to street lights, road signs, road markings, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.
7. Section 59 of the Highways Act permits the Highway Authority to charge developers for damage caused by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant/organisation responsible for the damage.
8. Attention is drawn to the requirements of Sections 7 and 8A of the Chronically Sick and Disabled Persons Act 1970 and to the Code of Practice for Access of the Disabled to Buildings (British Standards Institution Code of Practice BS 8300:2009) or any prescribed document replacing that code.
9. 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 shown it is absolutely certain that nesting birds are not present.

10. 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 and European Regulations, providing feedback to the applicant where appropriate. Further, the County Planning Authority has: identified all material considerations; forwarded consultation responses to the applicant; considered representations from interested parties; liaised with consultees and the applicant to resolve identified issues and determined the application within the timeframe agreed with the applicant. Issues of concern have been raised with the applicant including impacts of and on traffic, flooding, landscape, ecology, visual impact, and public access, and addressed through negotiation and acceptable amendments to the proposals. The applicant has also been given advance sight of the draft planning conditions including pre-commencement conditions. This approach has been in accordance with the requirements of paragraph 38 of the National Planning Policy Framework 2019.

CONTACT

Dustin Lees

TEL. NO.

020 8541 7673

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
Planning Practice Guidance](#)
[Waste Management Plan for England 2013](#)
[National Planning Policy for Waste 2014](#)

The Development Plan

[Surrey Waste Plan 2008](#)
[Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018](#)
[Saved policies of the Waverley Local Plan 2002](#)

Other Documents

[The Waste \(England and Wales\) Regulations 2011](#)
[Surrey County Council Annual Monitoring Report 2014/2015](#)
[Surrey County Council Annual Monitoring Report 2015/2016](#)
[Surrey County Council Annual Monitoring Report 2016/2017](#)
[Surrey County Council Annual Monitoring Report 2017/2018](#)
[‘Woodland Establishment on Landfill Sites - Ten Years of Research’](#)
[Surrey Transport Plan \(2011-2026\)](#)
[Waverley Borough Council Parking Guidelines - October 2013](#)
[Natural Environment and Rural Communities Act 2006](#)
[Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)
[Guidance on the Assessment of Dust from Demolition and Construction, Institute of Air Quality Management, 2014](#)

[Land-Use Planning & Development Control: Planning for Air Quality, Institute of Air Quality Management and Environmental Protection UK, 2017](#)

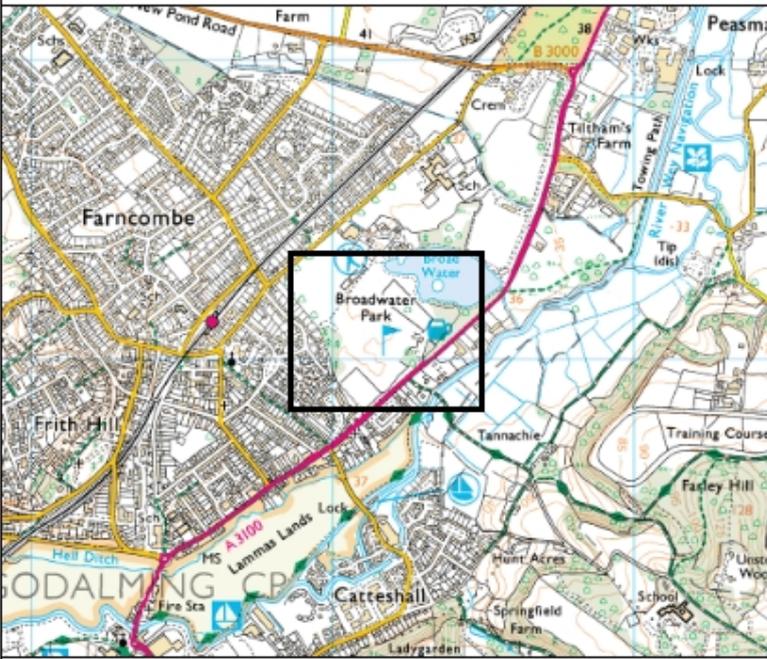
BS 5228:2014 Code of practice for noise and vibration control on construction and open sites

BS 3882:2015 Specification for Topsoil

BS 3936-1:1965 Nursery stock. Specification for trees and shrub

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Site Location: **Broadwater Park Golf Club, Meadow, Godalming, Surrey GU7 3BU**



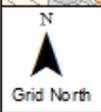
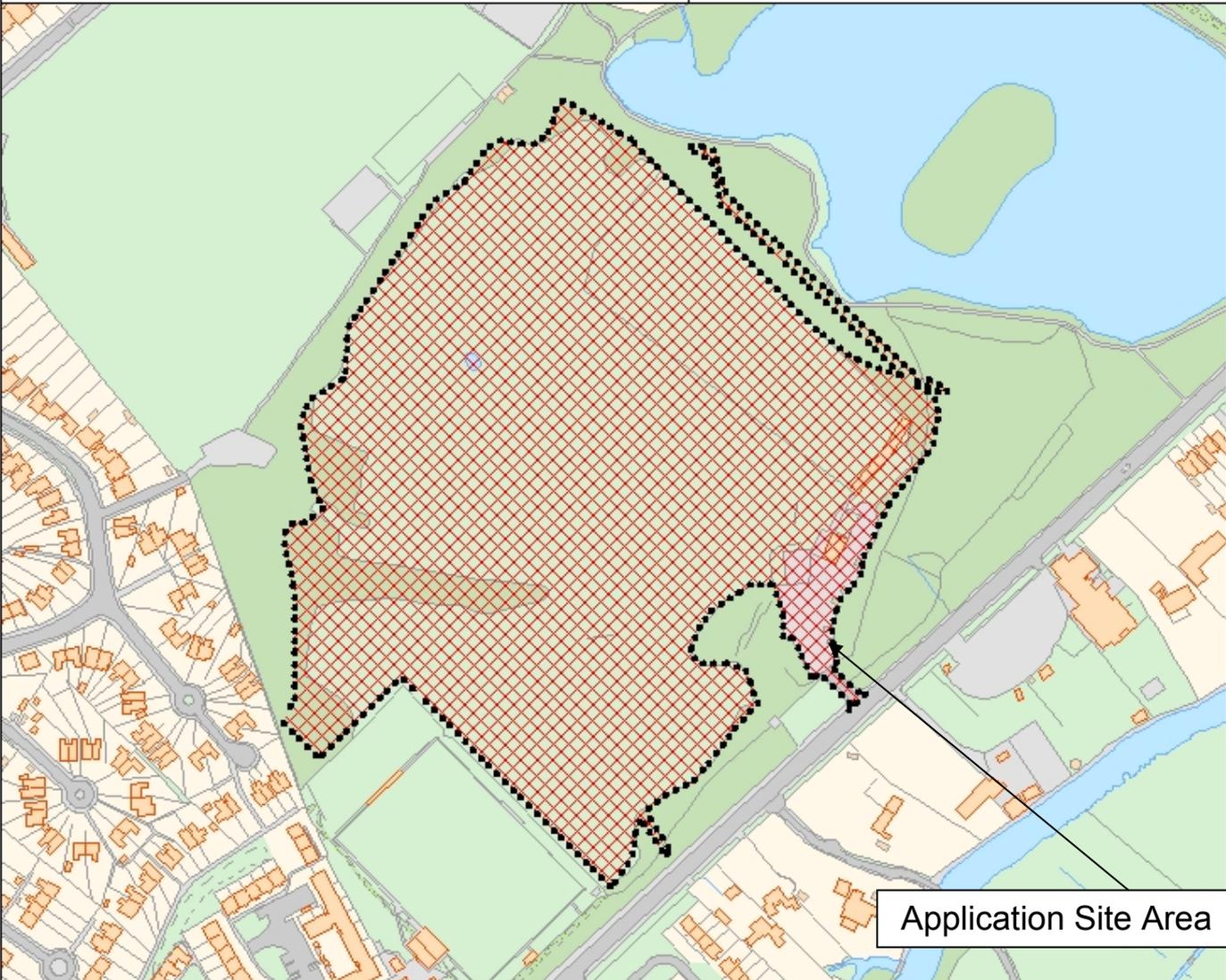
Capping of historic 8ha landfill; remodelling and enhancement of existing driving range and 9-hole par 3 golf course with associated ecological and public access improvements; provision of new 490m2 driving range building, adventure golf facility, practice putting green, 17 additional car parking spaces and rainwater harvesting scheme; involving the use of 342,578 tonnes (214,111m³) of inert waste material and 70 HGV trips (140 HGV movements) per working day over a period of 18-24 months.

Application numbers:
WA/2018/0097

Electoral divisions:
Godalming North

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Note: This plan is for indicative purposes only



Ref No:
SCC Ref 2017/0172



Scale: **1:3330**
Printed on: 04/02/2019

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2018 Aerial Photos

Aerial 1 : Broadwater Park Golf Club, Godalming



2018 Aerial Photos

Aerial 2 : Broadwater Park Golf Club, Godalming



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Figure 1 : Existing Vehicular Access



Figure 2 : Existing Car Park and Club House



Figure 3 : Existing Driving Range Building



Figure 4 : Existing Driving Range Outfield and Netting





Figure 5 : Example of Uneven Settlement and Protruding Waste



Figure 6 : Example of Uneven Settlement and Protruding Waste



Figure 7 : Example of Uneven Settlement and Protruding Waste



Figure 8 : Example of Uneven Settlement and Protruding Waste



2018/02/21 16:15

Figure 9 - Example of Uneven Settlement and Protruding Waste



Figure 10 - Example of Uneven Settlement and Protruding Waste



Figure 11 : Example of Uneven Settlement and Protruding Waste



Figure 12 : Example of Uneven Settlement and Protruding Waste



Figure 13 : Example of Uneven Settlement and Protruding Waste





Figure 14 : Example of Uneven Settlement and Protruding Waste





Figure 15 : Example of Uneven Settlement and Protruding Waste



Figure 16 : Example of Uneven Settlement and Protruding Waste





Figure 17 : Existing Site Plan



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- Key:**
- Out Of Play Roughs
 - Existing Tees
 - Existing Tree Blocks
 - Existing Greens
 - Existing Playlines
 - Existing Boundary Vegetation (Red Dot indicates Surveyed Tree)
 - Existing Range Outfield & Fairways
 - Existing Contours (1.0m intervals)
 - Application Site Boundary

DRAWN BY: David Weller DATE: 05/10/2017 JOB NO.: 03191 Rev 3 SCALE: 1:1000 & A1	APPROVED BY: Bruce Weller PROJ. NO.: 091 DOC. Controlling Site Plan PREP. BY: David Weller	PROJECT: Broadwater Golf Club	PLAN: Existing Site Survey
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Weller Designs Ltd Golf Course Architects
 40000 West House, Bridge Road West 25 Farnham, Surrey, GU10 2JQ
 Tel: 01252 202027 Fax: 01252 202028
 www.wellerdesigns.co.uk

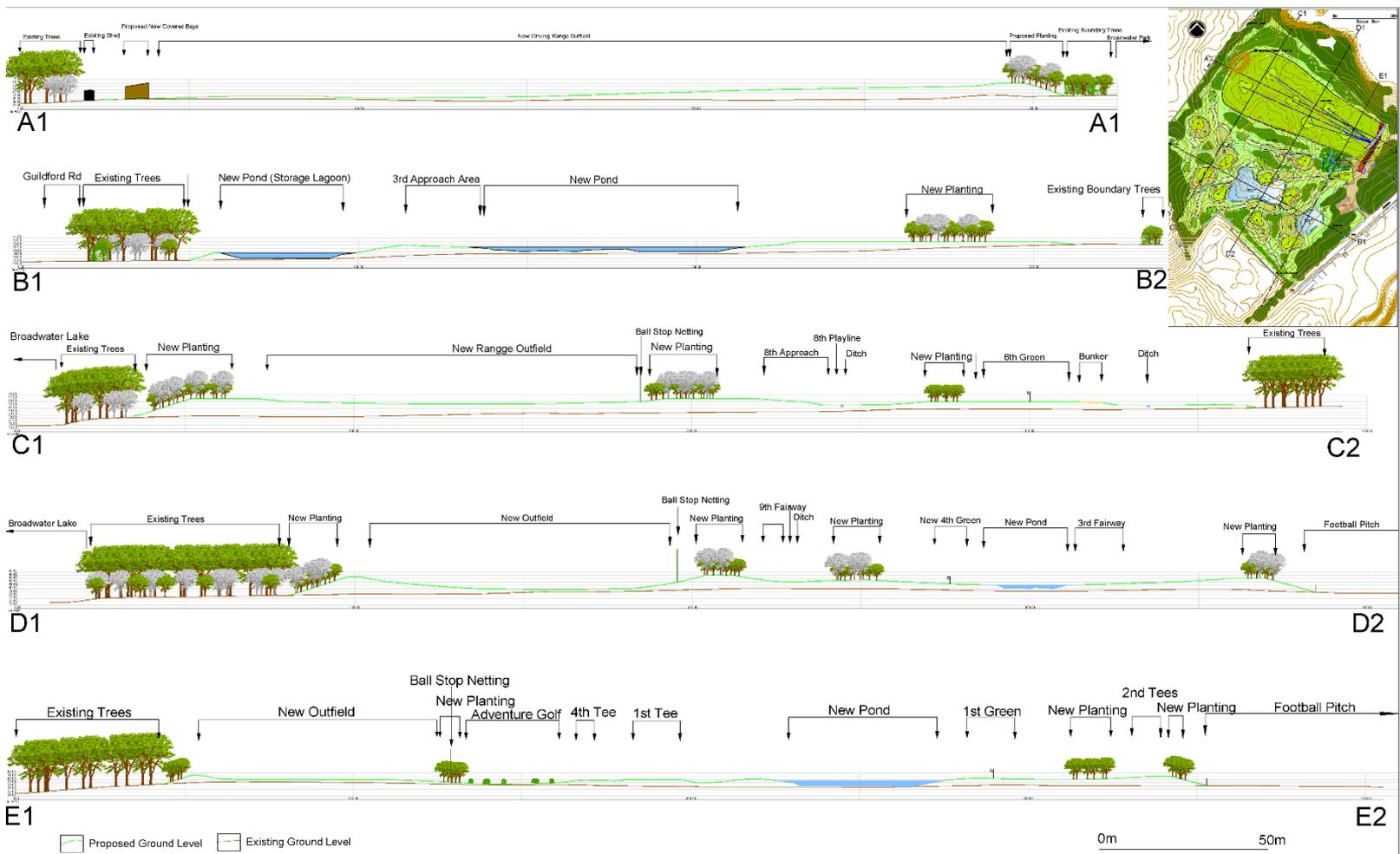




Figure 19 : Cross Sections



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DESIGN BY: David Weller	APPROVED BY: Bruce Weller
DRAWN: 02/04/2014	PROJECT: Broadwater Golf Club
SCALE: 1:500 @ A1	PLAN: Cross Sections

Broadwater Golf Club
Cross Sections

Weller Designs Ltd Golf Course Architects
 Kings Hill House, Kings Hill, West St, Farnham, Surrey, GU10 2DU
 Tel: +44 (0)1252 722197 Email: golf@wellerdesigns.com
 Web Site: www.wellerdesigns.com

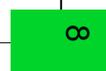




Figure 20 : Rainwater Harvesting

- Key:**
- Existing Tree Blocks
 - Existing Major and Minor Contours (0.20m intervals)
 - New Out Of Play Roughs / Wildflowers Areas
 - New Fairways
 - New Greens
 - New Semi Rough
 - New Tees
 - New Playlines
 - New Range Outfield
 - Proposed Contours (1m intervals)
 - New Bunkers
 - New Ponds
 - New Ditch
 - New Permissive Footpath

Water Harvesting Cycle

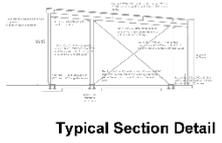
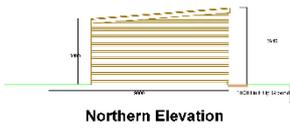
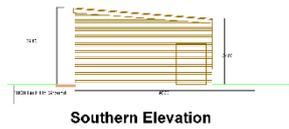
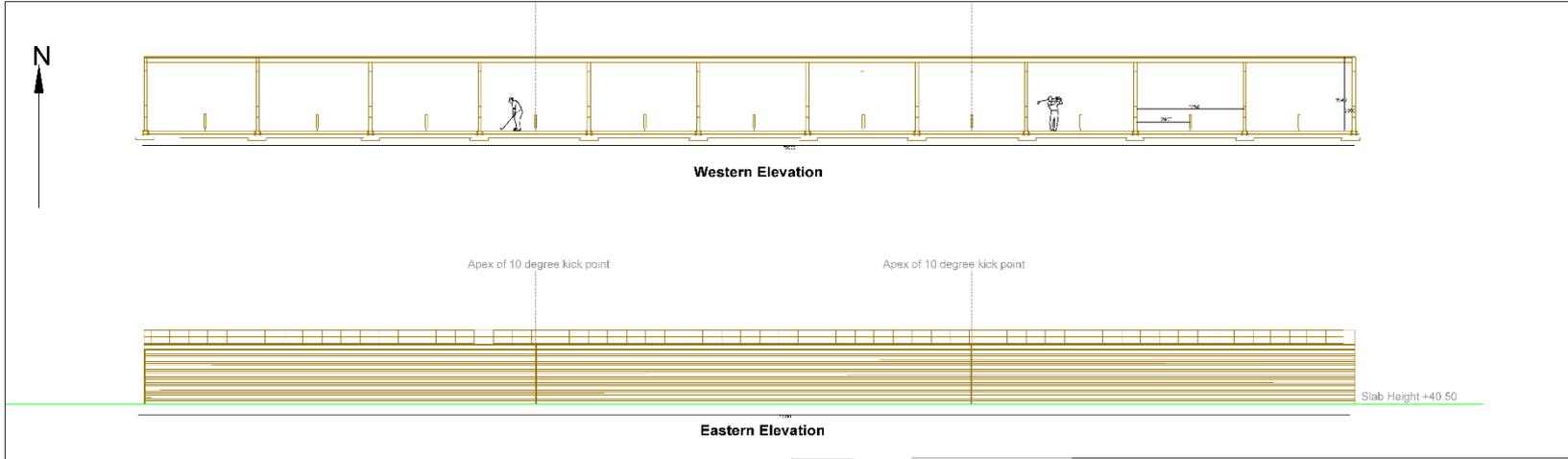
Excess runoff from the water harvesting scheme primarily from the range outfield in the winter months will be directed under gravity and through a network of drainage pipes to the water feature located near the 1st hole. In the summer months, when irrigation water is needed, it will increase the playing area and will be added to the existing water storage tank nearby from where irrigation water will be sub-solled to the golf course.

- Key To Water Harvesting Scheme:**
- P2 Proposed Irrigation Lagoon
 - Existing Irrigation Tank
 - Proposed direction of runoff via a sloped pipe and open culchies
 - Flowing Pump
 - Transfer of excess runoff during extreme rainfall event

DRAWN BY: David Waller DATE: 29/2/2017 DRA. No: 0116 Rev. 3 Scale: 1 : 200 @ A4	APPROVED BY: Bruce Waller PROJ. NO: 011 PROJ. NAME: Rainwater Harvesting Plan DATE: 15/02/2017	PROJECT Broadwater Golf Club	PLAN Rainwater Harvesting Plan	Weller Designs Ltd Golf Course Architects 10/10A BIRCHFIELD ROAD, BIRCHFIELD, BIRMINGHAM, B37 7YU 0121 753 7537 Email: gca@wellerdesigns.com Web Site: www.wellerdesigns.com
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Photo 21 : Driving Range Building

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DRAWN BY: David Metzer DATE: 05/10/2017 SIGN. NO.: 81126 Rev. 0 Scale: 1:250 @ A1	APPROVED BY: Bruce Metzer PKILL: M1 011 THE COVERED BAYS BUILDING BROADWATER GOLF CLUB	PROJECT: Broadwater Golf Club	PLAN: Covered Bays Building	REVISIONS:	 Weller Designs Ltd Golf Course Architects 20/25A New Road, Broadwood, West St, Farnham, Surrey, GU14 7JH 01256 8888 78227 Email: info@wellerdesigns.co.uk Web: www.wellerdesigns.co.uk
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TO: PLANNING & REGULATORY COMMITTEE

BY: HEAD OF LEGAL & DEMOCRATIC SERVICES

DISTRICT (S): REIGATE & BANSTEAD

ELECTORAL DIVISION:
HORLEY WEST,
SALFORDS & SIDLOW
Kay Hammond

PURPOSE: FOR DECISION

**APPLICATION FOR VILLAGE GREEN STATUS-
LAND AT THE GREEN, LANDEN PARK, HORLEY**

SUMMARY REPORT

The committee is asked to consider whether or not to register the land the subject of this application as a Village Green.

Application for Village Green status by Adrian Woolsey, Philippa Parry, Tina Constanti and Lynda Muggeridge dated 15 January 2017 relating to land at Landen Park, Horley.

The County Council is the Commons Registration Authority under the Commons Registration Act 1965 and the Commons Act 2006 which administers the Registers of Common Land and Town or Village Greens. Under Section 15 of the 2006 Act the County Council is able to register new land as a Town or Village Green on application.

The recommendation is to ACCEPT the application.

APPLICATION DETAILS

Applicants

Adrian Woolsey, Philippa Parry, Tina Constanti and Lynda Muggeridge

Land

Land at Landen Park, Horley

Date of Application

No 1878: 15 January 2017.

ILLUSTRATIVE MATERIAL

Annexe A: Plan of Land submitted with application

Annexe B: Inspector's report dated 11 December 2018

Annexe C: Appendices to Inspector's report including Neighbourhood plan App/1

BACKGROUND

1. On 17 January 2017 Surrey County Council received an application for a new village green for the Land known as The Green, Landen Park in Horley (the Land). The application was made on the basis that *a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years*. The application was accompanied by 12 witness statements in support of the application and a survey of 82 households where 77 responses showed support.
2. The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 sets out the process to be followed by any applicant seeking to register a new town or village green and the process to be followed by the Commons Registration Authority. Following changes to the law, under the Growth and Infrastructure Act 2013, the Registration Authority has to establish whether an application is valid under section 15C of the Commons Act 2006 before the application can be considered.
3. A public notice was placed in the local press on 25 May 2017 with an objection period running from 25 May 2017 until 6 July 2017. The application was placed on public deposit at Reigate & Banstead Borough Council offices and Horley Library.
4. An objection to the application was received from Shoosmiths Solicitors on behalf of Sterling Homes Ltd the owners of the application Land (the Objectors). It was not clear from the evidence provided with the application whether the Land met the criteria for registration. Legal opinion was sought and a view was taken that an independent investigation be conducted in the form of a non-statutory public inquiry. This was to enable the County Council, as Commons Registration Authority, to discharge its statutory duty.
5. A non-statutory public inquiry was held on 19 to 20 November 2018. The Inspector submitted his report to the Commons Registration Officer on 11 December 2018. (Annexe B).
6. The Commons Registration Officer is therefore now placing this matter before members for consideration.

CONSULTATIONS AND PUBLICITY

Borough/District Council

Reigate & Banstead Borough Council No objection

Consultees (Statutory and Non Statutory)

The Open Spaces Society: No views received

Local Residents – adjoining properties: No views received

Horley Town Council Letter in support of application

Rights of Way	No comments
Estates Planning & Management	No views received
County Highways Authority – Highways Information Team	No views received

Summary of publicity undertaken

- Documents placed on public deposit at local council offices and local library.
-

FINANCIAL IMPLICATIONS

- The cost of advertising has already been incurred.
-

ENVIRONMENTAL IMPLICATIONS

- If the Land is registered as a village green it will be subject to the same statutory protection as other village greens and local people will have a guaranteed legal right to indulge in sports and pastimes over it on a permanent basis. Registration is irrevocable and so the Land must be kept free from development or other encroachments.
-

HUMAN RIGHTS IMPLICATIONS

- Public Authorities are required to act, as far as possible, compatibly with the European Convention on Human Rights, now enforceable in English Courts by way of the Human Rights Act 1998. The officer's view is that this proposal will have no adverse impact on public amenity and has no human rights implications.
-

ANALYSIS AND COMMENTARY

- Surrey County Council is the Commons Registration Authority under the Commons Registration Act 1965 and the Commons Act 2006 which administers the Registers of Common Land and Town or Village Greens. Before the Commons Registration Authority is an application (№ 1878) made by Adrian Woolsey, Philippa Parry, Tina Constanti and Lynda Muggerridge, under the Commons Act 2006, to have Land at The Green, Landen Park, Horley, registered as a town or village green (TVG). The Land is identified on the plan appended to the application (Annexe A).
- The freehold owners, Sterling Homes Ltd, oppose the application.
- To succeed, the Applicant has to prove on the balance of probabilities (*i.e.*, more than a 50% probability) that a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes (LSP) on the Land for a period of at least 20 years.
- The facts were thoroughly tested with evidence at a public inquiry. The Inspector's report contained the following conclusions: -

1. *Significant number*

It seems to me to be plain and obvious that the oral and other evidence advanced in support of the application to register was more than adequate to demonstrate a sufficiency of use for these purposes. It has already been indicated that the term 'significant' for the purposes of section 15(2) of the CA 2006 does not mean considerable or substantial. What matters is that the number of people using the land has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation rather than occasional use by individuals as trespassers. In my view, this test has been satisfied on the facts of this case. The evidence relied on (which comes from 47% of the total number of households) constitutes, in my view, a significant sample and is more than large enough to demonstrate to a reasonable landowner that a right is being asserted by local inhabitants over his land.

2. *Qualifying neighbourhood*

It is my view that the applicants have made out their case on the neighbourhood issue. I am content that the claimed neighbourhood shown on App/1(Appendix C) is justified on the evidence for the reasons given (see paras 147 to 160 in the Inspector's report). I also take the view that it does not matter that there may be instances where qualifying use occurs by residents living outside this area which, as I find, is only likely to occur on an occasional basis and does not detract from the fact that the predominant use of the green is by those living within the claimed neighbourhood.

3. *'lawful sports and pastimes'*

I am satisfied that those using the green do so for qualifying purposes. I find that the main use is children's play and walking, with or without dogs. It is also clear that the green is a meeting place for local residents and I have no doubt that these activities justify registration. The nature of the claimed use was never questioned by the objector.

4. *'As of right'*

The issue under this head focuses on the objector's contention that an implied licence may be drawn from a combination of the following factors: (a) from the representations which would have been made by Gough Cooper's sales staff to prospective purchasers that public open space on the estate was earmarked for the use of residents; and (b) the fact that open spaces were laid out for use by residents as part of the original planning approval for such development. It will be recalled that the objector speaks of the implied licence being 'communicated through the historical transfers and plans for the development of the estate'.

With one exception, I have no doubt that the use relied on by the applicants was 'as of right' and not 'by right'. The latter only arises, in my view, in the case of the pavement crossing the green. This is not disputed.

It is probable that it was a condition of the material planning permission that the developer should make provision for the open spaces identified on the approved plans and that this included the green. Nor do I doubt either that those living in the claimed neighbourhood will have rightly assumed that the green was available for their use for the purposes of informal recreation. However, it seems to me that the

objector is nowhere near the starting gate in establishing that the conduct of the landowner in tolerating unhindered use of the green since the mid-1970s gave rise to an implied licence.

It seems to me that the provision of open space in the mid-1970s did not amount to overt conduct on the part of the landowner (such as might arise, for instance, by making a charge for admission or asserting his title by the occasional closure of the land to all-comers) which was intended to be understood by residents that they were being conferred with a permission to do something which would otherwise be an act of trespass. The case founded on the seller's purported representations comes nowhere near the test for an implied licence and, in any case, affects only that small handful of first-time purchasers. Further, the mere laying out of the green as an open space (no doubt pursuant to a planning condition) was no more than the provision of a facility for residents and their visitors which the landowner would be unable to withdraw if it formed part of the original planning permission (which I suspect it did). The fact is that until 2016 the objector and Gough Cooper stood by and acquiesced in the use of the green by residents and cared very little, if anything, about it as the local authority were managing it until 2015 when, with the advent of budgetary cuts and/or when the local authority realised that it did not actually own the green, objector realised that it needed to take stock of its position as landowner.

5. 20 years use ending at the time of the application

The main issue under this head (as I understand it) is that the objector is saying that after the local authority stopped cutting the grass in 2015 (Mrs Parry said this occurred in the Spring of that year whereas Mr Woolsey recalls that the grass was last mown in early 2015) areas of the green deteriorated and became less accessible for ordinary recreational use, such that registration would not be justified on the basis that the whole of the green was not in qualifying use for the whole of the 20 year period ending in January 2017 when the application to register was made. The objector is, I think, also saying that although the local authority stopped cutting the grass its management of the green was in decline anyway after 2012.

My findings on this issue are as follows.

- There is no evidence that, prior to 2012, the green was not being properly managed by the local authority.
- I find that both sides of the green were available for use by residents for LSP up to the making of the application to register in January 2017 and that qualifying use took place throughout the whole of the 20 year period up to the making of the application.
- I also find that the growth of the shrubs in the southern area in the period 2008-2016 did not mean that these areas should not be registered; in other words, that time would not have been interrupted in relation to such land. This is because I find that these shrubs ... were integral to the enjoyment of the whole of the green until their removal in October 2016. In other words, we are dealing with what was cultivated land which formed part of the function and attractiveness of the green on its southern side.
- My findings about the use of the green (on both sides) are assisted by what I saw for myself on my accompanied view. The northern area is still usable land for LSP, as is most of the southern area near to where it backs on to the rear of houses in Westleas. The remainder of the southern area is somewhat tussocky and not a particularly attractive destination for LSP but would still be perfectly usable by dog walkers.

6. Conclusion

Accordingly, it is my opinion that the applicants have, with one exception, established all that is necessary to be established under section 15(2) of the CA 2006 to justify registration of the green as a TVG.

The exception involves the omission of the pavement between Landen Park and Arne Grove falling within the area edged green on the plan at App/1.

Although highway land is not precluded by law from being registrable, qualifying use for TVG purposes on such land is markedly constrained by the right of the public to use such land as a highway. This arises from *DPP v Jones* [1999] 2 WLR 625 which held that the public may lawfully do anything reasonable on the highway which does not interfere with the public's right of passage.

What this means is that any highway use of the pavement must be discounted since it is not qualifying use and because the pavement is unlikely to have been used for LSP (or at least to any material extent) the registration of such land is not justified.

CONCLUSIONS AND RECOMMENDATION

15. Village Green status is acquired over land where a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years. The evidence provided with this application, and the subsequent investigations, show that this criteria has been met.
16. Therefore, Officers recommend that, with the omission of the pavement between Landen Park and Arne Grove, the application to register the Land be accepted and the remainder of the area edged green should be registered as a new town/village green for the reasons explained in detail in the Inspector's report dated 11 December 2018.

CONTACT

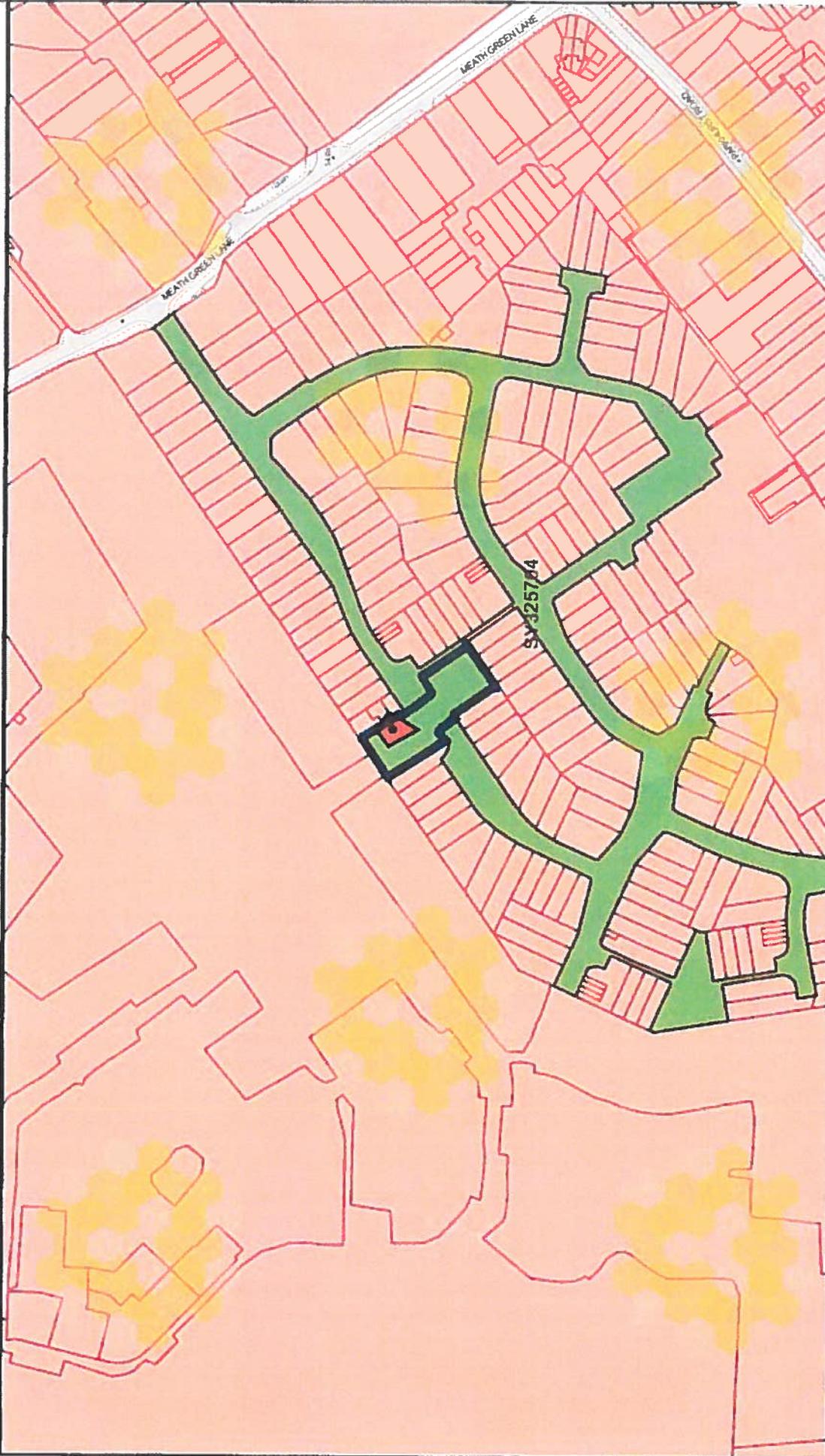
HELEN GILBERT, COMMONS REGISTRATION OFFICER.

TEL. NO.

020 8541 8935

BACKGROUND PAPERS

All documents quoted in the report.



0 10 20 30 40 50 60 70 80 100m

Map scale 1:2500

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SURREY COUNTY COUNCIL

COMMONS ACT 2006

IN THE MATTER OF AN APPLICATION TO REGISTER LAND KNOWN AS 'THE GREEN' AT LANDEN PARK, HORLEY, SURREY AS A NEW TOWN OR VILLAGE GREEN

Application number: 1878

INSPECTOR'S REPORT

Introduction

1. I am instructed by Surrey County Council ('SCC'), acting in their capacity as commons registration authority under Part 1 of the Commons Act 2006 ('CA 2006'), which is the responsible authority for determining applications to register land as a new town or village green ('TVG') under section 15 of the CA 2006 (as amended).
2. I was instructed by SCC to hold a non-statutory public inquiry to enquire into the facts behind the application and to apply the relevant law to those facts in order that I might provide SCC's Planning and Regulatory Committee with a report containing my recommendation on whether the application to register should be allowed or refused.
3. Accordingly, I gave directions for the holding of a public inquiry (including in relation to the disclosure and procedure of the inquiry) which was held over two days at the Town Hall in Reigate on 19-20 November 2018.

4. Participants at the inquiry

(a) The applicants for registration were Adrian Woolsey, Mrs Philippa Parry, Mrs Tina Constanti and Mrs Lynda Muggeridge. Mr Woolsey (who described himself as 'Lead Applicant' and who also executed the statutory declaration in support of the application) ran the case for the applicants (all of whom gave oral evidence) at the inquiry. He assumed this role even though he and his family had moved away from the area in February 2018.

(b) The only objector was Sterling Homes Ltd ('the objector') in whose name the application land (to which I will refer as 'the green') is registered, having been transferred to this company by Gough Cooper & Company Ltd ('Gough Cooper') (the original developer) in 2006. The objector was represented by Stuart Lyell at the inquiry who called no oral evidence. I understand that since the 1980s the objector and Gough Cooper have been associated companies within the Allied London Group of companies. Mr Lyell (who was assisted at the inquiry by Olivia King, a trainee solicitor employed by Shoosmiths LLP) is a director of the holding company.

I am indebted to these parties for their assistance and conscientious submissions. I am also grateful for the administrative support provided by Helen Gilbert on behalf of the registration authority.

Legal framework

5. Section 15(2) of the CA 2006 enables any person to apply to register land as a TVG in a case where -

(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

(b) they continue to do so at the time of the application.

6. One then has to look at the various elements of the statute all of which have to be made out to justify registration.

‘a significant number’

7. ‘Significant’ does not mean considerable or substantial. What matters is that the number of people using the land has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation rather than occasional use by individuals as trespassers (*R v Staffordshire County Council, ex parte McAlpine Homes Ltd* [2002] EWHC 76 at [64] (Admin) (Sullivan J)). In most cases, the fact that recreational use is more than trivial or sporadic will be sufficient to put a landowner on notice that a right is being asserted by local inhabitants over his land (*Leeds Group Plc v Leeds City Council* [2010] EWCA Civ 1438 at [31] (Sullivan LJ) and *R (Allway) v Oxfordshire CC* [2016] EWHC 2677 (Admin) where the court found that an inspector had properly concluded that the starting point had to be whether the recreational use relied was such as to suggest to the reasonable landowner the exercise of a right to indulge in lawful sports and pastimes across the whole of his land – in other words, the starting point has to be what a reasonable landowner would think).

‘of the inhabitants of any locality’

8. The term ‘locality’ is taken to mean a single administrative district or an area within legally significant boundaries. Village green rights have to be asserted by reference to a particular locality and would include an electoral ward. In this case, the locality relied on is Horley West Ward to which, rightly in my view, no exception is taken by the objector as a qualifying locality. It may be added that the objector says that in the 2011 Census this Ward contained 3,134 households.

‘or of any neighbourhood within a locality’

9. I need to deal with the law on ‘neighbourhood’ with some care as the existence of a neighbourhood is an issue for decision on this application.
10. The expression ‘neighbourhood within a locality’ need not be a recognised administrative unit. For instance, it has been said that a housing estate can be a neighbourhood for these purposes (*Cheltenham Builders Ltd v South Gloucestershire District Council* [2003] EWHC 2803 (Admin) at [85] (Sullivan

J)). However, a neighbourhood cannot be any area drawn on a plan where all the applicants witnesses happen to live. In *Paddico (267) Ltd v Kirklees Metropolitan Borough Council* [2011] EWHC 1606 (Ch) at [97] Vos J said that ‘the term “neighbourhood” ‘is to be understood as being a cohesive area and must be capable of meaningful description in some way’. It has been emphasised recently in *R (NHS Property Services Ltd) v Surrey County Council* [2016] EWHC 1715 (Admin) at [116] (Gilbart J) that the cohesion of a neighbourhood is essentially a matter of impression and is not something which can be assessed by using some recognised technique. The Court of Appeal agreed ([2018] EWCA Civ 721 at [103]-[109] (Lindblom LJ)), holding that whether a claimed neighbourhood has a sufficient degree of ‘cohesiveness’ was a matter of impression which allows ample scope for differences of opinion. In other words, the analysis is not one which involves the application of any specific criteria or the application of any recognised method of assessment.

‘have indulged as of right’

11. The traditional formulation of the requirement that user must be ‘as of right’ is that the user must be without force, secrecy or permission (the so-called tripartite test which, should any of these elements arise, will preclude registration). The rationale behind ‘as of right’ is acquiescence. The landowner must be in a position to know that a right is being asserted and he must acquiesce in the assertion of the right. In other words, he must not resist or permit the use. The nature of the inquiry is the use itself and how it would, assessed objectively, have appeared to the landowner. One first has to examine the use relied upon and then, once the use had passed the threshold of being of sufficient quantity and suitable quality, to assess whether any of the elements of the tripartite test applied, judging these questions objectively from how the use would have appeared to the landowner.
12. The issue of ‘force’ does not just mean physical force. Use is by force if it involves climbing or breaking down fences or gates or if it is contentious or under protest. Nothing of the kind arises in this instance, nor has the use in

this case been by stealth as the owner would clearly have been aware of its use by the public.

13. The issue of 'permission' is material in this instance. Permission can be express e.g. by erecting notices which in terms grant temporary permission to local people to use the land. It can also be implied (and the objector is relying on implied permission) but not by mere inaction in the face of known use (*R (Beresford) v Sunderland City Council* [2004] 1 AC 889 at [5]). What is required is some overt act on the part of the landowner (*Beresford* at [6], [7] (Lord Bingham) and [75] to [81] (Lord Walker)). Even if the use in question is encouraged by the landowner, it will still not amount to an implied licence (*Beresford* at [7], [60] (Lord Rodger) and [85] (Lord Walker)) where the acts relied on involved mowing grass and providing seating accommodation around part of the perimeter of an open space used for ball games and other lawful pastimes). The foregoing reasoning has been applied recently in the Court of Appeal in *TW Logistics Ltd v Essex County Council* [2018] EWCA Civ 2172 at [87] (Lewison LJ).
14. There is a further 'as of right' issue on this application which concerns the use of the pavement (at either end of which are concrete bollards and, at one end, a waste bin) which divides the green into two separate areas of open space which I shall hereafter refer to separately, and in the interests of convenience, as 'the northern area' (which lies between 23 Arne Grove and 44 Landen Park) and 'the southern area' (which lies directly opposite the homes of Mrs Credgington-Jones at 23 Landen Park and her neighbour Mrs Parry at 25 Landen Park). I shall return to this later but, suffice to say, the pavement is a publicly maintainable highway connecting the cul-de-sacs of Landen Way and Arne Grove and was the subject of an adoption agreement made between Gough Cooper and SCC in 1976. It follows that as the public's use of this pavement is necessarily 'by right' and not 'as of right', user of this strip of made up land will, in my view, not qualify for registration. The applicants raised no objection to this outcome at the start of the inquiry.

‘in lawful sports and pastimes’

15. The expression ‘lawful sports and pastimes’ (‘LSP’) form a composite expression which includes informal recreation such as walking, with or without dogs, and children’s play.

‘on the land’

16. The expression ‘on the land’ does not mean that the registration authority has to look for evidence that every square foot of the land has been used. Rather the registration authority needs to be satisfied that, for all practical purposes, it can sensibly be said that the whole of the land had been used for LSP for the relevant period.

‘ ... for at least 20 years ..’

17. The relevant period in this case is 17 January 1997 to 17 January 2017 (i.e. the date when the application to register was acknowledged by the registration authority).

Procedural issues

18. The regulations which deal with the making and disposal of applications by registration authorities outside the pilot areas make no mention of the machinery for considering the application where there are objections. In particular no provision is made for an oral hearing. A practice has, however, arisen whereby an expert in the field is instructed by the registration authority to hold a non-statutory inquiry and to provide an advisory report and recommendation on how it should deal with the application.
19. In *Regina (Whitmey) v Commons Commissioners* [2004] EWCA Civ 951 Waller L.J suggested at [62] that where there is a serious dispute, the procedure of ‘conducting a non-statutory public inquiry through an independent expert should be followed almost invariably.’ However, the registration authority is not empowered by statute to hold a hearing and make findings which are binding on the parties. There is no power to take evidence on oath or to require the disclosure of documents or to make orders as to

costs. However, the registration authority must act impartially and fairly and with an open mind.

20. The only question for the registration authority is whether the statutory conditions for registration are satisfied. In its determination there is no scope for the application of any administrative discretion or any balancing of competing interests. In other words, it is irrelevant that it may be a good thing to register the application land as a TVG on account of the fact that it has been long enjoyed by locals as a public open space of which there may be an acute shortage in the area.
21. The onus lies on the applicant for registration and there is no reason why the standard of proof should not be the usual civil standard of proof on the balance of probabilities.
22. The procedure in this instance is governed by the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007.
23. The prescribed procedure is very simple: (a) anyone can apply; (b) unless the registration authority rejects the application on the basis that it is not 'duly made', it proceeds to publicise the application inviting objections; (c) anyone can submit a statement in objection to the application; and (d) the registration authority then proceeds to consider the application and any objections and decides whether to grant or to reject the application.
24. It is clearly no trivial matter for a landowner to have land registered as a TVG and all the elements required to establish a new green must be 'properly and strictly proved' (*R v Suffolk CC ex p Steed* (1996) 75 P&CR 102 at p.111 (Pill LJ) and approved in *Beresford* at [2] (Lord Bingham)).

Consequences of registration

25. Registration gives rise to rights for the relevant inhabitants to indulge in LSP on the application land.
26. Upon registration the land becomes subject to (a) s.12 of the Inclosure Act 1857, and (b) s.29 of the Commons Act 1876.

27. Under s.12 of the Inclosure Act 1857 it is an offence for any person to cause damage to a green or to impede 'the use or enjoyment thereof as a place for exercise and recreation.'
28. Under s.29 of the Commons Act 1876 it is deemed to be a public nuisance (and an offence under the 1857 Act) to encroach or build upon or to enclose a green. This extends to causing any 'disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green.'
29. Under both Acts development is therefore prevented.

Description of the application land and neighbourhood

30. I visited the green after the inquiry on what was a very cold, damp and overcast winter's afternoon. I was accompanied by two of the applicants (Mr Woolsey and Mrs Constanti) and by Mr Lyell and Ms King on behalf of the objector.
31. The plan at Appendix 1 ('App/1') shows the green edged in green with the pavement clearly shown thereon separating the two areas of open space which the parties agreed extended to approximately one-third of an acre. The area edged red on App/1 is the claimed neighbourhood. The same plan will be found at A/1.4 in the applicants' bundle. Mr Woolsey told me in opening that the claimed neighbourhood contains 163 dwellings on an estate (the Landen Park estate) that extends to some 350-400 dwellings.
32. It also assists if reference is made to the plan attached to the foregoing adoption agreement (1976) at O/23 on which both areas of grassed open space are clearly marked POS thereby indicating that these areas were intended to be amenity areas for those living in this part of the Landen Park estate which was developed in phases in the mid-1970s. Similar extracts from the developer's masterplan (showing the same designation POS) appear elsewhere in the applicants' evidence at A/42 and A/70. The plan at A/42 is a copy of the original transfer plan to Mrs Burrin's predecessor at what is now 1 Downe Close (then plot 178). The plan at A/70 is the same in relation to 14 Westleas (Foy) (originally plot 149). In addition, Mrs Constanti produced the

seller's brochure of the Landen Park development which had been given to her parents on their purchase of 21 Landen Drive in 1974 (although it could well have been a little later than this in view of the date of the adoption agreement at A/17 (10 August 1976) although I doubt whether anything turns on this) and it too contains the same masterplan and includes the area which later became Chaffinch Way (which lies outside the claimed neighbourhood) which was developed, again in the mid-1970s, by a local housing association (the Family Housing Association) (see plan at A/4.2A showing that the originally intended layout was only partially implemented in practice). The seller's brochure produced by Mrs Constanti was an older edition as I observe that the local authority is referred to as Dorking and Horley RDC which later became Reigate and Banstead Borough Council (to whom I shall refer herein as 'the local authority') following local government re-organisation in 1974.

33. Since the inquiry Mr Lyell helpfully sent me copies of plans comprising (a) developer masterplans for the whole of the Landen Park estate, and (b) an outline of what later became known as the Chaffinch Way / Wither Dale development. I have placed these additional plans at the back of tab/6 in the objector's bundle. I will return to these plans (which I have also attached at Appendix 2 ('App/2')) when I deal with neighbourhood.
34. The green is generally flat and unenclosed and is readily available for LSP by local residents. Both sides of the green are rectangular in shape and of roughly equal size. Since the completion of the development (presumably at or around the time of the adoption agreement with SCC in August 1976) the grass on the green was cut by the local authority. However, this stopped in 2015 since when the green has not been actively managed.
35. The northern area faces the new Westvale Park development where I was told some 1,500 new homes are in the course of being built. There is a fairly robust post and wire fence running along the northern area separating such land from the adjoining development site. The northern area has a grass and weed ground cover which is relatively short and is well-suited for short walks, with or without dogs, and children's play. I also observed that some limited grass cutting had taken place on either side by the adjoining owners. There

are also four or five trees on this side and an adventurous child might well be able to climb one or even two of them. The applicants' bundle includes photos of children playing on the northern area (A/48-50) which were taken in the summers of 2013, 2014 and 2015. There is another photo of Mrs Parry's daughter at A/53 (lower half) showing what the northern area would have looked like in what I was told would have been April or May 2016 by which time regular grass-cutting had ended. The photo taken of the northern area in 2013 (A/48) is also interesting as it shows, in the background, the large clumps of shrubs on the southern area which were removed by the objector in 2016, having, as I was told, been planted there in 2008. Also within the applicants' bundle are pictures of the Woolsey children playing in the snow within the northern area in the winter of 2010.

36. In the case of the southern area the ground cover is perhaps more tussocky and uneven in the northern part, nearer the footpath, and the former location, within this area, of the shrubs removed in 2016 are quite evident. There are mature trees (one or two of which are eminently climbable by older children) at the southern end, close to the panel fencing at the back of properties in Westleas. It seems plain that the ground has been flattened in this area which I have no doubt is because informal recreation mainly takes place at this end of the southern area. I should have thought that around half of the southern area is rougher than elsewhere where there are clumps of weeds which I suspect have grown out of the bare soil left by the removal of the shrubs in 2016. At any rate, there is nothing to prevent dogs running all around this area which was maintained by the local authority until 2015. My impression from what I saw of this southern area is that although informal use is liable to be heavier at one end (i.e. towards the southern end), the remainder is nonetheless integral to the enjoyment of the whole area by those who use such land or parts of it for, I suspect, mainly dog-walking. I think one can infer from the photo at A/48 that this area, when the shrubs were growing there, was an attractive area and well used for LSP. This is certainly consistent with the oral evidence.
37. I now turn to the claimed neighbourhood shown within the red lines on App/1. It would help, I think, if one took this plan and compared it with the plans sent

to me by Mr Lyell after the inquiry which I have added at App/2. The applicants' neighbourhood coincides approximately with the red line shown on the first of the two layout drawings in App/2 under reference number 4697/2 which, with the area edged blue on the same drawing, comprised the Gough Cooper development of what was market housing consisting of detached and semi-detached dwellings of varying styles. The blue area has within it a triangular-shaped open space marked POS (also running along the sides of a footpath) which I visited and which appeared to be regularly maintained and is no doubt an important amenity for residents living in this part of the estate. I think the applicants were right to place this open space and the land beyond it to the south (comprising Wither Dale and the closes off this road) outside the claimed neighbourhood. For one thing, it has to be accessed via a footpath running south and is located approximately 30m away from Chesters at its nearest point. In other words, it has, I think, only a limited physical connection with the claimed neighbourhood. It also seemed to me that this particular open space is more likely to be used mainly by people living outside the claimed neighbourhood.

38. The red line at the northern end of Wither Dale is more problematic as, at first blush, it seems quite random. Clearly there has to be a boundary but should it fall at the rear of the properties fronting onto Chesters? These streets were built at the same time and the houses in each are of a similar style (at least in the upper part of Wither Dale – running south towards Parkhurst Road there is a mix of market and affordable housing styles). Mr Woolsey said that he had to put the boundary somewhere. What he has done is to place only those properties with a frontage onto Chesters in the claimed neighbourhood which is not unreasonable seeing as the applicants' witnesses lived within these boundaries. I also think that Wither Dale should not be within the claimed neighbourhood anyway. This being the case, it is not unreasonable, I think, for the neighbourhood boundary to run in a more or less straight line across the road a short way back from Wither Dale's junction with Chesters as the intention is that it should run as a continuation line along the of the rear boundaries of the properties fronting onto the latter.

39. The claimed neighbourhood also excludes the development in Chaffinch Way, Wither Dale, Goldcrest Close, Bullfinch Close and Charm Close. Chaffinch Way (along with the streets to the south of Charm Close) was originally developed by a local housing association and is a higher density development comprising a number of (mainly) terraces with on-street parking bays. One can see the intended layout on the second plan in App/2 (under reference number A9.158) which bears the date 24 July 1975, which phase of the overall development is almost certain to post-date the completion of the claimed neighbourhood and which excludes Goldcrest Close and Bullfinch Close which were doubtless built later, both of which streets appear to have been planned as affordable housing. It seemed obvious to me that Chaffinch Way and the foregoing three closes have been rightly excluded from the claimed neighbourhood with which they have little in the way of physical connection. Moreover, other than in the case of Charm Close, the housing styles and layout within these streets are also markedly different to the market housing found within the claimed neighbourhood.
40. In the gap between Willow Brean and Chaffinch Way there is a third open space which I think is slightly smaller than the green. This open space is located a short distance along the footpath at the end of Down Close and the entry into the open space obviously opens into a different vicinity to that in which the green is located. I was, for instance, struck by the enclosure of this open space by fencing and a high hedgerow and its separation from the adjoining development within Down Close.
41. Elsewhere the claimed neighbourhood rightly ends, I think, at the rear of the older housing fronting onto Parkhurst Road or Meath Green Lane or in the newer development in the backland areas behind such housing (mainly off Meath Green Lane). On the face of it, the inclusion of dwellings on the eastern side of Willow Brean to the south of its junction with Westleas, including the whole of Dene Close, is open to question. However, I can see why this area was included seeing as it is an integral part of the remainder of the market housing elsewhere within the claimed neighbourhood. The only complaint which may be made is that it is too far away from the green but the applicants do have witnesses within this small area and I think it may have been

incongruous to have excluded it. It seems to me that the applicants were very probably right to end the claimed neighbourhood on this side at the southern end of the Willow Brean cul-de-sac where it adjoins the open space at the end of Chaffinch Way.

42. The Landen Park estate has two points of entry. The first is off Parkhurst Road via Wither Dale and the second is off Meath Green Lane via Landen Park. The estate is somewhat self-contained and the housing styles principally differ depending on whether it was planned market or affordable housing which is chiefly in Chaffinch Way. The streets themselves are all inter-connecting and it has clearly been difficult for the applicants to identify a cohesive neighbourhood within the estate. It was also obvious that open space provision within this estate is limited and any loss of green space is bound to be acutely felt. The recreation ground at Vicarage Lane is also over a mile away and has to be accessed via busy roads and is clearly not a practical location for informal recreation for those living on the estate, particularly for small children.

The material history of the AL

43. It is not the function of the registration authority to go looking for evidence. Its duty is to deal with the application to register on the basis of the evidence with which it is presented. In my directions (at para.12) I indicated that it would assist the inquiry if the objector was in a position to produce relevant conveyancing and planning documents along with any other records of decision-taking or management of the land. In the event, the objector initially produced only the adoption agreement entered into in 1976 between Gough Cooper and SCC, in its capacity as highway authority, in the exercise of its powers under section 40 of the Highways Act 1959 (since replaced by section 36 of the 1980 Act) the effect of which was to make the roads and paths identified in the agreement highways maintainable at public expense, and thus the responsibility of SCC once these works had been completed to the satisfaction of SCC. A copy of the adoption agreement had been kept on file at the Land Registry under the objector's title number SY325704. As indicated, Mr Lyell has also produced the two estate layout plans at App/2. He

has also provided additional information in further written submissions which I received on 6 December 2018 which I will come to later.

44. For their part, the applicants have produced office copies of the objector's registered title within which the green and the other two open spaces already mentioned, along with other grassed areas within the estate, are shown to be vested, in particular the sizable area of grass on the northern side of Arne Grove. The objector's office copies show that it was registered as proprietor in 2006. They also note a number of adoption agreements affecting estate roads and paths. The local electricity board also has rights over the yellow strip shown marked on the objector's filed plan which abuts the flank wall of Mr Nye's property at 44 Landen Park.
45. The objector has put in no evidence but its objection statement at tab/1 of its bundle contains at para 30 on p.7 the information that by 1974 'Horley had progressed to form a continuous built up area which included the properties on the northern side of Parkhurst Road and the western edge of Meath Green Lane'. It continues at p.8 that the green 'is located on an estate arrangement typical of 1970s masterplanning and architecture. The original estate was permitted in the mid-1970s under the local authority's planning application reference 74/0757 as a mixed housing association (originally the Family Housing Association) and market housing development.'
46. I was presented with no planning document, nor could I find anything either under the above planning reference on the local authority's planning website. When I looked further into this online it was explained that scanned files and documents are only available from September 2006. Prior to this date it was said that copies of decision notices and appeal decisions were available online back to 1974. All other documents were said to be available to view at the Town hall in Reigate. It will also be recalled from para.32 above that Mrs Constanti produced the seller's brochure given to her parents on their purchase of 21 Landen Drive in 1974 and it contained a reference to the fact that the local authority was Dorking and Horley RDC which changed after local government re-organisation in 1974. We also have of course (a) the Transfer dated 29 June 1976 to Mrs Burrin's predecessor at 1 Downe Close

(Plot 178) (A/41); (b) the (undated) Transfer to Mrs Webb at 16 Westleas (A/68) (Mrs Webb moved into No.16 in September 1976 'before the entire development was completed'); and (c) the again undated Transfer to the Foys' predecessor at 14 Westleas.

47. I observe that under the Transfer (cl.7) in the case of 1 Downe Close the seller covenanted to complete the estate roads and footpaths upon which the plot abutted to the specifications of the relevant authority at which stage Gough Cooper's liability for such roads etc. would cease. So it was that on 10 August 1976 Gough Cooper entered into an adoption agreement with SCC in which the appended plan, being based on the developer's masterplan for the area, clearly identified the green as 'POS'. It is very probable that open space provision would have been the subject of a suitable planning condition although I was presented with no evidence of this in the form of an issued consent (nor, for that matter, is there any evidence of any planning agreement in relation to the use of such land). In the case of the green, what occurred in practice was that the local authority maintained such land by regular mowing which ceased in 2015 and which has not been resumed by the objector since this time although I gather that the local authority is still cutting the grass elsewhere despite not being the owner of such land.
48. The objector has taken no steps to maintain the green and cannot be forced to do so unless it becomes (in effect) an eyesore such that the local authority considered it necessary to resort to their power to require the land to be cleaned up under the Town and Country Planning Act 1990, section 215.
49. Clearly the green belongs to the objector who, as I say, cannot be forced to maintain it against its wishes so it can continue to be used by local inhabitants for LSP. On the other hand, it may be supposed that as Gough Cooper laid out the green as amenity open space (no doubt because they were presumably required to do this by virtue of a planning condition to this effect) they and their successors would have taken steps to ensure that the grass was regularly mown thus encouraging public use of this important amenity.

50. The position seems to be as set out below.

(a) The Landen Park estate would have been fully developed during the mid-1970s, quite possibly by around the end of 1976, if not a little later than this as I observe from the adoption agreement entered into in August 1976 that the material roadworks (including associated drainage and other services) were required to be completed within a period of three months of the agreement or by such later date as was agreed. The process (which it is reasonable to assume was duly complied with) would have resulted in the issue of a certificate of completion and which was thereafter intended to be followed by a period of six months at the end of which SCC was required to do (and no doubt did do) whatever was necessary for securing that the road and paths became maintainable at public expense (this is all set out in cl.2 of the adoption agreement).

(b) The green was laid out, again sometime in the mid-1970s, by Gough Cooper as amenity open space for use by local residents who have used such land for LSP without interruption and without objection or permission of the owner from time to time.

(c) Although under no obligation to do so as it did not own such land, the grass on the green was until 2015 mown by the local authority. Thereafter the objector has deliberately refrained from cutting the grass (and is under no duty to do so against its wishes short of the green becoming an eyesore and damaging to local amenity) although the applicants' witnesses assert that the green continues to be used for LSP although not as intensively as it was before.

Applicants' evidence

Oral evidence

Kay Hammond

51. Mrs Hammond has since 1997 been the county councillor for Horley West, Salfords and Sidlow. Her statement will be found at A/4.12. She supports the application and is familiar with the green from her visits to the estate when

delivering leaflets or newsletters or lending her support to local political groups. She conceded that as she was not a local resident she was unfamiliar with the day-to-day activities taking place on the green. She thought that she would visit the area around twice a year or more often in every fourth year when canvassing at election time. It struck her that the Landen Park estate was distinct from the areas outside it. She said that 'as you drive into Landen Park there is a distinct feel of housing changes'.

52. Mrs Hammond also told the inquiry that in around 2007/8 she was contacted by residents when youngsters were making a nuisance of themselves by kicking balls at the garage of 14 Arne Grove which is next door to the green on its southern side. In 2008 (and in consultation with the community safety team and officers responsible for green space employed by the local authority who actually organised such work) Mrs Hammond used some of her member's allowance to pay for the planting of three or four shrubs in the southern area of the green which can be partly seen in the background to the photo at A/48. The aim of this was not only to enhance the area but also to limit space for over-exuberant ball games (in fact the local authority put up a sign saying 'No Ball Games').
53. Mrs Hammond told the inquiry that when, in 2015, the local authority stopped maintaining the green, she and representatives of the Gatwick Greenspace Partnership (which is funded through SCC and various local authorities – Mrs Hammond is in fact on the committee of this body) met on site with a number of residents (around 20) in order to discuss the future upkeep of the green. This led eventually to the objector being approached with a view to the maintenance of the shrubs planted in 2008 (which I think by then were becoming quite large and in need of proper maintenance). The objector's response to this was to remove these shrubs altogether leaving, I gather, bare earth. It is Mrs Hammond's view that the objector should take responsibility for the green. Previously, she had merely assumed that the green belonged to the local authority. Mrs Hammond was a conscientious and helpful witness although, even as she recognised, she was in no real position to help with such day-to-day use as may have been taking place on the green over the years.

Lynda Muggeridge (one of the four applicants)

54. Mrs Muggeridge's brief statement will be found at A/4.6. She has lived at 19 Arne Grove (only a few yards away from the green) since 1977. She says that her own and other children grew up playing on the green (her children are now aged 43 and 42). She also mentions the Queen's Silver Jubilee celebrations taking place on and around the land in 1977. Her grandchildren come to stay and they have learned to ride their starter bikes on the green. When it came to neighbourhood she described the area shown on App/1 as 'my area' and where her friends live. She said that the green was well-used ('children always out there') but has now been left to 'rack and ruin' since the local authority stopped cutting the land in (as she said) 2016 although she made the point that children and walkers, with or without dogs, have not stopped using the land even though the grass is longer than it was, and it could be as long as 3 feet in places. She was, however, clearly disappointed that no one was looking after the land.
55. She accepted in cross-examination that 'other people' from what she called the 'Housing Association area' used the land.
56. Mrs Muggeridge was also a helpful and conscientious witness. Her evidence on recreational use was compelling.

Peter Nye

57. Mr Nye lives next door to the northern area of the green at 44 Landen Park. His short statement is at A/4.7. Mr Nye and his family (his four children range in age from 20-29) moved to Landen Park in 1997. The open space next to his home was a big attraction. His own and other children played there (on both sides) when they were much younger. All his children learned to ride their bikes on the green. He speaks of 'a community among the children here, going to school and playing together in the open space'. He also mentions that when they extended the rear of their home the local planning authority told him that the land alongside their home 'would never be built on' although there had been a previous failed application to develop the land.

58. In his oral evidence Mr Nye said that dog walking on the land was 'more than occasional'. He also said that 'we've sat out there on a number of occasions' although he accepted that their use of the land is less than what it had been when his children were younger. Like Mrs Muggeridge, he accepted that even after grass cutting stopped dog-walking continued and that children still play on both sides although the grass is longer on the southern side.
59. Mr Nye was another helpful and genuine witness able to give strong evidence on recreational use.

Tina Constanti (one of the four applicants)

60. Mrs Constanti lives at 21 Landen Park which is close to the southern area of the green. Her statement is at A/4.2. Her parents, she and her sister moved to 1 Landen Park (where her mother, Mrs Grace Lower, still lives and which is the first house off the junction with Meath Green Lane – they were one of the first families to move in – I have read Mrs Lower's statement at A/5.13) in, as she recalls, 1974 although it might have been a little later than this although it matters not as she was clearly there with her family right at the start. She recalls that Gough Cooper used the green as a site to store building materials before it was laid out as open space upon completion of the development which occupied the site of what had formerly been Landen Farm.
61. After leaving home Mrs Constanti eventually returned to live at No.1 with her children in 1998 before moving to No.21 in 2000 (her children were born in 1990 and 1993). She says in her statement that the green (which she says is known locally as 'The Green') is a safe place for local children to play on and do all manner of things such as riding their bikes, climbing trees, playing football, cricket or tennis, running around or generally using it as a meeting place. She says that in recent years she has also seen joggers using the land which is also a good location for smaller wildlife. She says that several residents use it for walking dogs, as she and her sister did when they were living at No.1.
62. Mrs Constanti also says that the green has over the years been a venue for many local and national celebrations and street parties such as royal

weddings, jubilees, the millennium and sporting events. She says the green is an 'integral part of the Landen Park community, bringing people together, having a laugh and a chat'. She says that it is 'vital to residents'. In her oral evidence she said that the green had 'a community feel' and had been an 'integral part of the community for over 40 years'. She says it is close to home for residents and safe for children of all ages to meet up or play on as there are no major roads to cross to get there. She says that although until about three years ago the green was maintained by local authority, residents also used to help to keep it tidy and did jobs like tree pruning or removing dead branches. She accepts that there is less activity on the green when the grass is overgrown.

63. In cross-examination she accepted that in recent times she has not used the green as extensively as she did before. She said that she stopped walking her mother's dog there in around 2008. The impression one gets from her evidence is that other than meeting her neighbours for an occasional chat on the green, her own use after stopping walking her mother's dog on the land has probably been negligible although she has clearly observed others using the green for informal recreation.
64. Mrs Constanti enjoys living at Landen Park where she says there is a real community spirit. She also agreed that the area edged red on App/1 is the relevant neighbourhood and in her oral evidence she identified all the streets by name. She also recalls the removal of the shrubs in around 2016 leaving bare earth.
65. Mrs Constanti was another helpful and conscientious witness. Her evidence on recreational use on the green over the years was very compelling.

Mark Tasker

66. Mr Tasker lives a short distance from the green at 6 Arne Grove where he and his wife have lived since 1977 (when he says that the area was, as he put it, still 'a building site'). His statement is at A/4.9. He thinks that the green would have been laid out as open space by '1980 to 1982' or 'by the mid-1980s' at the latest. He says that his two daughters (born in 1980 and 1982) spent

many hours playing on the green with their friends. He also says that when grass was being cut the green was available for use throughout the year. He says that you could ride your bike on the land which was 'like a public open playground'.

67. Mr Tasker said that his children had friends in Chesters and Downe Close and he and his wife were happy for them to play on the AL. His grandchildren are aged 3 and 5 and he is unable to play with them on the land in the same way as his children did. He thinks that dog walking has increased with the neighbouring development. He says that the older children use the green to climb trees and play games although less so in the Winter. However, he says that the green is still of use as an open space even though the grass is no longer being cut. Mr Tasker said that he himself no longer uses the land. Of some importance to the applicants' case, he did say in re-examination that over the last two years (i.e. since regular grass-cutting stopped) children were still regularly playing on the green.
68. Mr Tasker was also a helpful and genuine witness.

Sarah Woolsey

69. Until February 2018, Mrs Woolsey lived with her husband and their two children at 23 Arne Grove which is next door to the northern area of the green. Her lengthy statement is at A/4.10.
70. The Woolsey's moved to 23 Arne Grove in 2008. She says in her statement that they realised very quickly that the green was important to local residents and as their children grew up they played on it in safety with other local children and it became very much an extension to their garden (their back gate opened onto it). She also mentions that they rode their bikes on it as well as picnicking and climbing trees. She says that they loved to play games such as hide and seek, hiding behind the shrubs in the southern area before they were removed, and generally jumping around on the leaves in the autumn. There were also Easter egg hunts with visitors whilst parents looked on.
71. Mrs Woolsey mentions the trek (she said it was around a half a mile away) which they would have to make if they wanted to visit their local recreation

ground (at Vicarage Lane) where she says there are no toilets whereas the green is a large open space for children to play on. An older child told her once that they did not like to go to the recreation ground as they felt intimidation there and thought that they might get into trouble.

72. Mrs Woolsey also says that even after the local authority stopped cutting the grass children continued to use the green. She mentions that residents did try to cut the grass and maintain the area.
73. On site I was shown by Mr Woolsey where one of the trees on the northern area encroached onto their property. Mrs Woolsey says that her husband and his brother cut off the offending branch or branches to make the tree safe.
74. Mrs Woolsey considers the green to have been something of a social hub which they miss. She says they have friendships which have been strengthened through their use of the green. She also thinks that the community have come together in the village green process. She says that most, if not all, residents, were under the impression that the green would never be built upon and would remain as open space.
75. In her oral evidence she confirmed her support for the claimed neighbourhood which she considered to have been her 'community' although she accepted that 'people' from Chaffinch Way had used the AL.
76. Mrs Woolsey was also a compelling witness and her statement was very strong and credible in its support of the case for registration.

Sue Credgington-Jones

77. Mrs Credgington-Jones lives with her husband at 23 Landen Park which has a frontage on the southern area of the green. Her statement is at A/4.3. She has lived at this address since moving there 25 years ago (1993?). The property attracted them as it overlooked open space on which their children played and, on one occasion, witnessed the presence of hedgehogs. She says that the green is also a place for meeting people, especially as they own a dog, which she says builds 'a sense of community with your neighbours'.

78. In her oral evidence Mrs Credgington-Jones said that not a lot of children enjoy the land now as the grass is too long. She says that it is mainly the older children who will come onto the land in their wellingtons 'and muck about there'. This occurs at weekends and less often during the week in term time. She made the point that whilst they had lived at No.23 'it's where the children are expected to be', meaning (as I understand it) that this is an open space on which the children are supposed to play. She also sees dog walkers 'quite a bit' using the land, by which, I think, she means the area in front of her house.
79. Mrs Credgington-Jones also says that she rang the local authority and spoke to them about the state of the grass on the green (this would have been after cutting ceased in 2016) only to be told by a Mr Drayton that they did not own the green and had nothing to do with it. Having ascertained who did own it she spoke to a Mr Neil Warren who came to see her. She recalls that he told her (in what seems to have been a brief meeting) that (as she put it) 'you could get four houses here' (I think he may have been referring to the southern area in front of her home) which, she says, shocked her. She also asked Mr Warren whether the objector would maintain the grass and he replied that it would 'cost him money'. The meeting seems to have ended at that point.
80. Mrs Credgington-Jones says that the green (and I think she refers mainly to the southern area) has had 'a lot of use' but it no longer looks 'as nice' as it appeared on the top photo on A/53 which shows Mrs Parry's daughter (and Mrs Parry lives next door) sitting in the longish grass amidst the dandelions and buttercups on the southern area on a sunny day in the Spring of 2016. In re-examination, Mrs Credgington-Jones said that use of the green (meaning, I believe, the area in front of her home) has not stopped since 2015 although children and dog-walkers now have to dress appropriately and wear suitable footwear. She is aware of what is happening in front of her home as she can see people through her curtains walking with their dogs through the grass and around the green. Her front door also faced the land. In other words, she says that use of the green in front of her home has not stopped. She also mentioned that she has a new puppy and that she walks it on the green every

day. When asked about her own use of the green since 2003 (which I think principally involves dog-walking on the land in front of her home) she said that it could be as often as three or four times a day unless it was raining.

81. Mrs Credgington-Jones was another strong witness whose evidence I also accept. She was, I thought, particularly credible in relation to such use as has taken place on the land in front of her home since grass cutting stopped.

Diane Martin

82. Mrs Martin moved to 3 Arne Drive in around 2011. Her statement is at A/4.4. She lives close to the junction with Chesters. She says that when she bought her home one of its attractions was the green. She has grandchildren (aged 14, 12 and 3) who stay with her once a month and for several days in the holidays when they play on the open space. She says that she meets people there who live outside the claimed neighbourhood. She frequently sees people walking their dogs there. She says that she does not see as many people on the green as she used to. She walks her son's dogs on the green once a month (or less often) when they are with her. She said that once mowing stopped it has become a less attractive destination and is now mainly, as she put it, a meeting place or place to walk a dog. When asked about the position in January 2017 (i.e. when the application was made) she says that the land was being used more often. The position now is that, viewed from her home, she sees people on the green some two or three times a week. It is particularly busy when the children are on their way home from the school (which on my plan is described as a County Middle School) which is located at Greenfields Road on the NE side of Meath Green Lane.
83. Mrs Martin was also a genuine witness and gave credible evidence when it came to recent user. Admittedly she lives further away from the green but she is using it herself from time to time and she also observes other people doing so, with or without dogs. Having seen the green and being aware of the school's location, it seems highly likely that a number of children would indeed be milling around on the green on their way home after school, particularly in the drier, warmer weather.

Philippa Parry

- 84 Mrs Parry (one of the four applicants) has lived at 25 Landen Park with her family since November 2014. Mrs Parry lives next door to Mrs Credington-Jones and her home overlooks the southern area. Her initial statement is at A/4.8 and her second statement is at A/4.8A-C. Her two daughters are aged 6 and 3.
85. Her children regularly play on the green and she produced the photos of her child playing on both sides (A/53) which were said to have been taken in around April/May 2016. Mrs Parry says that in moving to her home she and her husband were attracted by the green right in front of their home. She says she regularly stops for chats with her neighbours and other local residents around the green 'so we see it as an important focal point for our community'.
86. Mrs Parry says that during the summer months the land 'provides a runway for the local children to run, play, scoot and cycle together and climb trees'. She also says that there is 'a real sense of community, and the quiet ends of the cul-de-sacs in Landen Park and Arne Grove and the green provide a safe space for children to meet up'. As her home overlooks the green Mrs Parry says that she sees residents walking on and around the land 'at all times of the day and night'. Dogs also walk on and off the leash and she knows many of the dog owners by sight, some of whom she knows live outside the claimed neighbourhood.
87. Mrs Parry accepted that the recent condition of the green has had an impact on activity taking place on the land although it is still being used regularly by dog walkers whom she sees on the land. The children also play on the land more often in the summer. She seemed sure that the local authority stopped mowing the grass in the Spring of 2015. Her husband resorted to mowing the strip in front of their own home and she saw others do likewise outside their homes although no one has the equipment to a proper job over a greater area.
88. She recalls the shrubs being removed from the southern area in October 2016. It appears that she remonstrated with one of the contractors engaged in

such work 'begging him to stop' but without success. She also got into contact with a firm she named as 'Pelham Homes' asking them to stop such work but again with no success. Mr Lyell informed the inquiry that Neil Warren (to whom Mrs Parry spoke) acts as a consultant to Pelham Homes Ltd which he said was another company within the Allied London Group of companies. Mrs Parry added that Mr Warren did not tell her that she was not allowed to use the green. She also deals at length with the nature and wildlife which is a feature of the green. She particularly mentions the birdlife, hedgehogs and bats. She applied (unsuccessfully) to the borough council to have a Tree Protection Order imposed on the trees on the green.

89. Mrs Parry was also a genuine and conscientious witness whose evidence I accept.

Adrian Woolsey

90. Mr Woolsey was the lead applicant even though, since February 2018, he and his family have ceased to live at 23 Arne Grove into which property he and his wife had moved in 2008. Mr Woolsey gave written and oral evidence to the inquiry. Mr Woolsey not only provided the inquiry (a) with his own statement at A/44 but he also (b) handed in a transcript of his opening statement at the start of the inquiry (A/3.4-3.10) (c) gave oral evidence towards the end of the inquiry, and (d) provided written closing submissions in support of the application to register (these followed the submissions of Mr Lyell). In this part of my report I will be dealing with Mr Woolsey's written and oral evidence.
91. Mr Woolsey and his wife were attracted by the fact that land next to their home was public open space which they thought belonged to the local authority as they were maintaining the land and had also planted shrubs in the southern area shortly after he and his wife purchased No.23. In common with his wife, he mentions the gate at the rear of their property which opens directly onto the green next to their home and the fact that their three children and their friends regularly played on the green. His children learned to ride their bikes on the green. Mr Woolsey mentions tree climbing, running around the land, ball games, Easter egg hunts and picnics on sunny days. All were enjoyed there by he and his family. He says that in addition to the use of the

green by he and his family (and he must surely be referring only or mainly to their use of the northern area), he has also seen others using the green for such recreation as is described above together with use by other children playing with his children and dog walkers. Mr Woolsey also helpfully produced photos of his children on the green next to their home playing and cycling in 2010, 2013, 2014 and 2015 (late Spring) (see A/46-50).

92. In his oral evidence Mr Woolsey said that when they extended their home in 2008 they erected a scaffold on the green, having been told by the local authority that the green did not belong to them although he assumed that they were responsible for maintaining it. He said that local residents used the green, referring, as I understood him, to the land on both sides on the footpath. He says he understood that the green was there to be used by the residents 'as of right' for recreation as it had been laid out for that purpose.
93. Mr Woolsey said that the grass was last mown by the local authority in early 2015 and that the green (and I think he was probably referring to the land outside his home) was still usable to the end of 2015 (and he refers to the photo at A/50).
94. He also dealt at length with the claimed neighbourhood which, he says, is where all those who responded to the survey which was carried out in January 2017 lived (the survey details will be found at A/23-40). He says that the applicants chose to canvass support within such area. He says that posters were placed on trees on both sides of the green giving a contact email address and the names of the three other applicants and their addresses, and local residents were invited to get in touch to lend their support to the campaign to register the green. No one got in touch with Mr Woolsey who lived outside the claimed neighbourhood, nor did any canvassing of the opinions of others take place outside the boundaries of such area. The red line on the plan at App/1 followed the survey. The applicants settled on the claimed neighbourhood as the results of the survey showed that those who responded to the survey and who used the green lived exclusively within such area. Mr Woolsey also emphasised what he described as the 'wrap around effect of the roads'.

95. In cross-examination Mr Woolsey was asked (as it was put) why he had not knocked on doors in other areas. His answer was that before they conducted their survey they had an idea of those whom they believed would be supportive of the application to register. Although Mr Woolsey accepted that friends of his daughter living in Chaffinch Way also used the green, at the time when App/1 came into being the applicants were unsure that they would find additional users outside such area.
96. Mr Woolsey also said that the claimed neighbourhood also fitted in with the geography of the area (which I took to be a reference to the road layout within the claimed neighbourhood and the need to exclude the surrounding areas). He said that in drawing up the boundaries of the claimed neighbourhood he 'had to draw the line somewhere' and that it would 'be arbitrary to a point; but my line fits in with the legislation'.
97. Mr Woolsey was asked about the boundary at the junction of Wither Dale and Chesters. He was asked why he had not included No.2 Wither Dale and he said that his wife knew the occupants of this property but they had not come forward to support the application to register. The thrust of Mr Lyell's questioning was that the boundary at this point was arbitrarily drawn and that, as a result, other users of the green had potentially been excluded from the claimed neighbourhood. Mr Woolsey's answer to this was that the boundaries of the claimed neighbourhood were borne out after the 'gathering of evidence' and that 'ultimately I had to draw a line somewhere'. He said that he had not set out to exclude users living outside the claimed area. Mr Woolsey considered (and this is my note) that his (boundary) line 'is a reasonable line and is reflective of the use of the land and my neighbourhood'. Mr Woolsey was also a conscientious and genuine witness whose evidence I accept.

Written evidence

98. Behind A/tab/5 there are the applicants' written statements. There are in fact a total of 19 statements coming from 26 witnesses (including Danielle Smith who used to live in the area) of whom 11 have lived in the claimed neighbourhood for over 20 years (namely Daniel, Denny, Knott, Lower, Robinson (x2), Scott (x2), Silence, Webb and Brown) and one has been there

for 19 years (Smith). These witnesses come from Arne Grove, Westleas, Landen Park and Willow Brean.

99. The evidence of these witnesses is entirely consistent with the oral evidence, namely that the green is regularly used for recreation by children (mainly the smaller children) and others, including dog walkers, and is an important amenity and focal point for recreation within this small community, particularly to those who live in Arne Grove and Landen Park. In his email to Mr Woolsey dated 9/11/2018, Shane Jones noted that in the last year the green had become 'neglected' and 'therefore there has been a subsequent decline in the use of the space'.

Other evidence

100. The applicants have produced a helpful spread sheet in which the evidence of those who have given oral and written evidence is broken down under these headings: Period of Green Use; Personal and Family Use of Green; and Noted Others Use of Green. This schedule is at A/3.1 but I have also introduced it at Appendix 3 ('App/3') for ease of reference to those reading this report. The spread sheet discloses that 8 witnesses were using the green in the 1970s, 9 in the 1980s, 16 in the 1990s, 17 in the 2000's and 25 in the 2010's. In short, 8 witnesses have been using the green since the 1970s.
101. The local MP and the borough councillor for Horley West support the application to register (A/tab/6), as does the local authority (RA/B1) and town council (RA/B2).
102. On two days in January 2017 Mr Woolsey and Mrs Parry (aided by other residents) canvassed residents in 82 households in Landen Park, Arne Grove, Chesters, Westleas and Willow Brean asking whether residents used the green. If they had they were asked to complete a survey. Of the 82 homes visited those living at 77 households completed the survey document (evidently there were 3 non-green users and 2 homes where there was an unwillingness to complete the survey). The explanatory document and survey returns are at A/23 to 40. I have studied this material which is also consistent with the oral evidence and written statements. The survey returns are

informative and information given includes ticks in the boxes against various types of personal use and of use witnessed of others on the green. The survey does not purport to include information about the green from all residents living in the foregoing streets. Clearly there are a number of gaps on the forms where people were not at home to complete the survey forms when Mr Woolsey and his companions called (although as indicated, the occupiers of two dwellings did not want to become involved).

103. Mr Woolsey's closing submissions include:

(a) a refusal notice dated 30 August 1984 showing that Gough Cooper failed to obtain planning permission to erect two detached houses with garages on land adjacent to 44 Landen Park (this property is now occupied by Mr Nye who lives next door to the northern area of the green). The reasons for such refusal are expressed on the notice as follows:

1. The proposal would result in the loss of a valuable area of open space which performs a valuable function in providing a visual break and its loss would be detrimental to the amenities of this well laid out residential estate.
2. The proposal, if allowed, would form an undesirable precedent for further similar developments on the remaining areas of open space within this estate.

(b) An image of the green taken from *Google earth* which is dated September 2012 which I have included at Appendix 4 ('App/4') which I am sure will be of interest to members. One can obviously see that the grass is mown and that the green is more attractive than it is at the moment. The shrubs on the southern side which were removed by the objector in 2016 were clearly integral to the attractiveness of the green.

Objector's evidence

104. The objector presented no evidence to rebut the evidence of the applicants' witnesses. However, Mr Lyell did produce the two extracts from the masterplans at App/2 along with a batch of email exchanges between Mrs Credgington-Jones (who lives opposite the southern area) and officers responsible for managing open spaces at the borough council in the period 2012-2015.

105. In May 2012 Mrs Credgington-Jones wrote complaining about the length of the grass and was promised an early mowing. In 2013 she asked for the shrubs to be weeded and tidied up and was again assured that this would be done. In May 2014 she sent a reminder to the local authority to cut the grass which she said was about a foot tall and an eyesore. She also mentioned that one resident was using part of the green land to store materials and was concerned that the condition of the green was such that local residents might be tempted to use it 'as a rubbish dump'. In September 2014 she again complained that the green was not being cut and that there were now two residents who were dumping green waste on the land which she said was making the green look like a tip. The correspondence shows that the local authority probably acted on these requests.
106. On 8 June 2015 Mrs Credgington-Jones wrote to Emanuel Flecken, the local authority's Parks and Countryside Manager, complaining again about the length of the grass (it was apparently 2 feet high in areas) and the volume of weeds. Complaint was also made about a resident who had still not removed two containers dumped in the corner of the green. The response to this email also came on 8 June 2015. Mr Flecken stated as follows:
- We have checked ownership of the land and it is still in the hands of Sterling Homes Limited. For maintenance on the green you will need to speak with them.
- In her email to Mr Flecken dated 25 June 2015 Mrs Credgington-Jones stated:
- From our perspective the green is now completely unkempt with grass and weeds 3 ft. high. This is a terrible eyesore. The green is not very big and there is little traffic around the green during the working day and I am asking if you could please arrange for the grass to be cut as has been done by yourselves for the last 21 years to our knowledge ...
107. The above correspondence shows (a) that after May 2012 the borough council were occasionally being reminded to mow the grass, and (b) that grass cutting and other routine maintenance by the authority would have almost certainly ceased by June 2015 although the contents of Mrs Credgington-Jones's email dated 25 June 2015 does suggest that the grass

may not been cut at all in 2015 (although there are witnesses who say that the grass was cut for the last time sometime in early 2015).

The applicants' closing submissions

108. I have inserted Mr Woolsey's (very thorough) submissions behind tab/8 in the applicants' bundle.
109. Mr Woolsey went through the various elements which satisfy the definition of a TVG. He rightly points out that the identity of the locality, the boundaries of the green and the range of activities which have taken place on the green which are not contentious issues.
110. Mr Woolsey accepts that the pavement crossing the green would have to be excluded from any registration. However, the objector is not suggesting that local residents are using the whole of the green solely or mainly as a crossing point between Landen Park and Arne Grove and that this is how it would have appeared to the reasonable landowner.
111. Mr Woolsey deals with the issue of qualifying use for the whole of the qualifying period of 20 years ending with the application in January 2017. This is important as the objector says that qualifying use ceased (or at least ceased to any material extent) once the green was no longer being maintained by the local authority after 2015 (it will be recalled that contractors removed the shrubs – the site being cleared to earth – in October 2016 as a response to requests by local residents to maintain the green). Mr Woolsey asserts that the evidence demonstrates that qualifying use for LSP continued until the date of the application despite the absence of regular grass cutting after 2015. In other words, that the condition of the green did not preclude access by local inhabitants for LSP.
112. In para.29 Mr Woolsey states that the overgrown areas mentioned during the inquiry were the planted bed areas (in 2008) which were in response to some anti-social behaviour in the mid-2000's and which were used by residents and their children for games of hide and seek. He estimates that such beds amounted to in the region of between 2.5% to no more than 5% of the available space on the green.

113. Mr Woolsey denies the objector's assertion that recreational use was permissive as a consequence of the POS designation (or 'casual annotation' as he puts it) on the Gough Cooper masterplan or other layout of the estate generated by the developers. Nor, he says, is there any documentary or other evidence tending to show that the owner gave its consent to the public's use of the green (I take it that this is what Mr Woolsey means by the expression 'dedication agreement' which one usually associates with the grant of public rights of way). Nor does it follow, he says (in effect), that the green would only have been maintained with the formal concurrence of the landowner from time to time. Mr Woolsey says that there is no evidence of this and it is, in any case, mere supposition. He also says that the premise of an implied licence is inconsistent with the failed planning application mentioned in para.103(a) above and, as I am told, with the more recent failed application (in 2017) to develop the same land by the erection of four semi-detached dwellings thereon). Nor he says, for that matter, is a licence to be inferred from the mere fact that some residents have in their evidence adverted to the fact that the green (along with other green spaces on the estate) was specifically made available for use by residents for recreational purposes. Consistently with this the objector has taken no steps to control the use of the green. By way of example, it was the local authority that maintained it over the years and who also erected the 'No Ball Games' sign and (with the assistance of a county councillor) brought about the planting of shrubs on the green. It was also the residents who brought pressure to bear on the local authority to mow the grass (some of whom took to mowing parts of the green themselves) and who applied for a Tree Preservation Order. In light of this, Mr Woolsey says in paras.48 and 50 that it was the residents who looked to protect the green as if they owned it : in other words (as he puts it), their use was 'as of right with no one having given them permission to use the space'.
114. Neighbourhood: Mr Woolsey reviews the evidence, much as I have done. He refers to the plans produced by Mr Lyell at App/2 and distinguishes the areas earmarked for market development and affordable housing where the housing styles are markedly different (Mr Woolsey touches on this in para.60). He says at para.57(b) that the estate 'has two distinct halves built into its very

formation'. He notes that area edged blue on the second plan benefits from open space on its doorstep and is a further distinguishing feature to the area edged red.

115. Mr Woolsey says that the roads within the claimed neighbourhood form a natural 'arc' around the green. He also mentions the other two open spaces outside the claimed neighbourhood serving different neighbourhoods.
116. Reference is also made to the closeness of the local community as illustrated by the turn out of residents on the occasion when Mrs Hammond visited the site of the green in 2016 to discuss options following the cessation of the local authority's commitment to continue maintaining the green. Mr Woolsey says in para.62 that 'This demonstrates that a clear community has been built with strong emotional connections around the Green.'
117. Mr Woolsey deals with the point raised by the objector that people outside the claimed neighbourhood also use the green. He does not dispute this but suggests that this is not unlikely as the area is public open space. However, he says that the predominant use is by those living within the claimed neighbourhood. He incidentally notes that the children who live in Chaffinch Way who played on the green (mentioned by Mrs Woolsey in her oral evidence) played with children who lived in the claimed neighbourhood, including with this children.
118. Mr Woolsey emphasises that the support of those living within the claimed neighbourhood to the application and their collective opposition to development taking place on the green by an absent landowner is another cohesive feature underscoring the chosen neighbourhood.
119. At paras.70 and 71 Mr Woolsey deals with the rationale for the selected boundaries of the claimed neighbourhood. He says in effect (a) that a different neighbourhood exists at the southern end of Willow Brean as this is where the affordable housing begins in Chaffinch Way; (b) witnesses came forward from Willow Brean but not from Chaffinch Way or indeed outside the red line boundaries; (c) Chesters falls within the neighbourhood, hence the line running along the rear of properties within this street where support exists for

registration; (d) further down Wither Dale market housing changes to affordable housing which is within a short distance of another open space on the western side of the estate which I visited; and (e) the properties (including backland development) fronting Meath Green Lane are of a different age and style and from which no one came forward to support the application.

120. Mr Woolsey notes that the January 2017 survey did not result in the choice of neighbourhood which he says was defined prior to such survey. He says that the actual scope of the survey was constrained by the time available to those who helped with the survey.
121. Mr Woolsey also makes specific responses to points raised in the objector's closing submissions and it would be preferable if I dealt with these points when dealing with the objector's submissions. Mr Woolsey contends that the claimed neighbourhood 'is clear, unambiguous and fits the requirements of the legislative test' (para.76).
122. Sufficiency of use: Mr Woolsey says that of the 163 dwellings in the claimed neighbourhood evidence comes from 77 households (oral and written) supporting the application. He thinks that the 77 households include 'well over 150 people' (para.83) which is sufficient to justify registration. He goes on to say that within the claimed neighbourhood there are, as it is put, 163 households from which it follows that evidence has been gathered from over 47% of such households.
123. In conclusion, it is submitted that all elements of the application have been made out and that the green should be registered (that is, with the exception of the footpath which crosses it).

Objector's closing submissions

124. I am reminded that all the elements necessary to justify registration have to be specifically proved by the applicants. The objector claims that it is entitled to object on the following grounds:
- (a) the extent of the claimed neighbourhood (and it is not disputed that Horley West Ward is a qualifying locality (see area plan at O/tab3));

- (b) sufficiency of use has not been made out;
 - (c) the pavement crossing the green is not registrable in law;
 - (d) use has been 'by right' and not 'as of right';
 - (e) 20 years of use has not been established for the requisite period.
125. Neighbourhood: the objector does not accept that the claimed neighbourhood is sufficiently cohesive in the way represented by Vos J in *Paddico (267) Ltd v Kirklees Metropolitan Borough Council* [2011] EWHC 1606 (Ch) at [97] who said that 'the term "neighbourhood" 'is to be understood as being a cohesive area and must be capable of meaningful description in some way'.
126. The objector's complaint is that the claimed neighbourhood comprises only part of a much wider residential estate. I think the objector misstates the applicants' case by saying that it did this because the wider estate (which is said to number around 400 dwellings) included social housing which contrasts with the 'different housing type to the market housing provided in the Gough Cooper phase of the development' (para17).
127. What the objector says is within the claimed neighbourhood all the properties vary in style, size and material finish and that properties elsewhere 'are not considered to be distinguishable in terms of their overall style and finish from the design of the properties included within the "neighbourhood"' (paras.18(a) and (b)). The objector goes on to say that the finish of the properties not included within the claimed neighbourhood are of very similar quality, material and colour to the properties included within the claimed neighbourhood. Some of the properties outside the claimed neighbourhood not only share the same open spaces as those within the claimed neighbourhood but are also immediately adjacent to those included in the claimed neighbourhood, such as those properties in Chaffinch Way which are located adjacent to those in Willow Bream and abutting the open space at the southern end of Down Close (paras.18(c) and (d)). The objector also complains that although built within the same phase of the development, properties within Wither Dale and Charm Close have also been excluded from the claimed neighbourhood

(para.18(e)). It is also claimed that the roads running through the estate 'link all properties to the two main points of access into the estate' (para.18(f)).

128. As indicated in para.121 above, Mr Woolsey makes a number of points in relation to the foregoing objections to the claimed neighbourhood in para.18 of the objector's submissions. I set these out in full (they are made in para.72 of Mr Woolsey's submissions).

a. The Objector clearly has no local knowledge, and as would have been evident from the site visit, this is simply not the case. There are of course variations now nearly 40 years after the estate was started to be constructed but this is true of any built area which has been built over several decades. The key is that the styles inside and outside of the Neighbourhood are clear from the original estate plan;

b. This again highlights the Objector's lack of local knowledge. As the Inspector can see from our earlier submissions, we contend there are clear differences,

c. This again highlights the Objector's lack of local knowledge. As the Inspector can see from our earlier submissions, we contend there are clear differences.

d. The reasons for the distinction of what is part of the Neighbourhood and what is not is clear and set out. That the Objector would like it to be something different to undermine the application does not make that the case.

e. There is clear case law that provides that use of a Town and Village Green can be by people outside of the defined Neighbourhood. The Objector does no more than point out that a limited number of people outside of the Neighbourhood could also use the Green and ignores the fact that directly to the north of Wither Dale and East of Charm Close is another area of open space that was part of the estate design and is available for these properties to use at least as easily as The Green.

f. The roads were constructed for the wider development but looking at a map clearly shows that the two exit points create an East/West split with the mid-point on the roads being the point where Chesters meets Wither Dale. This again ties in with the Neighbourhood line we have drawn across this point (although again to be clear is not the primarily reason we draw the line here.) The development, however, was in two parts and clearly differentiates the neighbourhoods in those areas.

g. Even at 400 properties, nearly 20% of such an area have provided evidence. This is, without question a significant number.

129. The objector's complaint is that the applicants have merely 'sought to artificially construct a neighbourhood for the purposes of the Application' (para.19). They rely on the dictum of HHJ Behrens in *Leeds Group Plc v Leeds City Council* [2010] EWHC 810 who said that a 'neighbourhood would normally be an area where people might reasonably regard themselves as living in the same portion or district of a town'.

130. The objector contends that the entire estate comprises what is, in truth, the correct neighbourhood in this case and is supported by the fact that there was

evidence that some people using the green lived outside the claimed neighbourhood (this is a reference to some children living in Chaffinch Way on which Mrs Woolsey gave evidence). The objector says that the applicants should have widened the reach of their survey to include other areas (such as Chaffinch Way) as, if they had, the boundaries of their neighbourhood would have been extended.

131. The objector also makes reference (see paras.26-28) to (a) the importance of promoting neighbourhood centres in para.91(a) of the revised National Planning Policy Framework, and (b) emerging Local Plan policies which identify (and emphasise the importance of) Local Centres (see policies map at O/tab4). The point of all this, as I understand it, is to attack the credibility of the claimed neighbourhood on account of the absence of facilities within it serving the day-to-day needs of the local community (such as shops, community halls or community information boards or similar suggesting that the claimed neighbourhood is a distinct community in its own right).
132. The objector appears to doubt whether there are, in fact, any distinct neighbourhoods within Horley (para.34) including even the Landen Park estate (para.36). I understand the objector to be saying that even if one assumed a neighbourhood of a town to be 'organised around a neighbourhood centre' (para.38) then this would, in Horley's case, indicate a qualifying neighbourhood 'comprising most of the Horley West District Ward of around 3,100 households'. Accordingly, the objector submits (para.39) that the claimed neighbourhood is not a qualifying neighbourhood for TVG purposes.
133. Sufficiency of use: the objector contends that with the failure of the claimed neighbourhood the applicants cannot succeed under this head (para.43).
134. Use 'as of right': the objector's case is that an implied permission arises (and of course, if it did, it would preclude use 'as of right') as it was made known to residents by 'The developers' sales staff' (para.48) that public open space on the estate was designated for use by the residents, such that the 'overt act requirement has been satisfied'. The objector goes on to cite from evidence in which witnesses stated to the effect that they knew that open spaces on the

estate were available for use by residents. What follows is, firstly, the evidence relied on by the objector in support of its case at paras.49-53 and, secondly, following on from such evidence, the applicants' rebuttal evidence at para.44.

Objector

49. P. Parry, in her oral evidence, confirmed that the public open space had been created for residents to use.
50. G. Lower, in her witness statement at 5.13, submitted that inter alia the developer's sales office staff promoted "the green open spaces specifically designed for use by the residents".
51. J. Scott, in her witness statement at 5.16, submitted that the provision of a number of public open spaces were used by residents and maintained by the Council.
52. B. Webb, in her witness statement in 5.19, submitted that "the development was designed as an open plan estate with green spaces to enjoy and to provide safe areas for children to play".
53. Finally, V. and M. Wheatcroft, in their witness statement at 5.22, stated that they had "always assumed that this was a public open space as this was the original plan".

Applicants

- a. Philippa Parry is quoted as confirming the space had been created for residents to use. This is in relation to her wider evidence that The Green had always been available to her and her family and the other residents to use. By her own evidence she is talking of a period dating back to her and her family moving into Landen Park in 2014. She is speaking of the fact that The Green existed at this time and not of the process that brought The Green into existence some 30 plus years prior to this date.
- b. Mrs Lower is quoted from her written statement saying "green open spaces were specifically designed for use by the residents." Mrs Lower was unable to attend and give context to her statement due to her advanced years and current health issues but her Daughter Tina Constanti was able to give oral evidence. Taking this evidence in the round this conversation is little more than a side note that happened in the early 1970's. The evidence provided showed that there was never any follow up to what would have been a sales pitch to Mrs Lower and her family. They would have needed

to take this with the scepticism that any sales pitch would entail as it would never provide any binding right going forward. In addition the sales booklet that was introduced by Mrs Constanti as exhibit 4.2a is from the original sales literature presented to Mrs Lower. If all that was said by the sales team is to be taken as providing a right to rely on then the subsequent change in the estate plan and design, as also shown by the additional maps the objector introduces in their closing argument, would also create an expectation that the estate would be built as shown in the exhibit 4.2a and this clearly is not the case.

- c. Mrs Scott is quoted as “the provision of a number of public open spaces and maintained by the council.” Firstly this is actually a truncation of her statement with a section in between talking of the fact there were a number of public open spaces and the fact they were used by her Children and Grand Children to play. Again the provision statement relates to the sales pitch to her as an original resident of Willow Brean in 1975 so should be treated with the scepticism any sales pitch would entail. In addition it is clear Mrs Scott and family have used The Green since then without challenge and without the belief that they needed permission to do so.
 - d. Mrs Webb is quoted as saying “the development was designed as an open plan estate with green space to enjoy and provide safe areas for children to play.” The first point is that quote is preceded by “I understood” showing there was clearly no formal agreement she was speaking about and any impression has come from a conversation to her, most likely in her process to purchase the property and sales maps she had at the time. The overall context here is she has been sold a plan and an impression is not sufficient to create a right implied or otherwise.
 - e. Mr & Mrs Wheatcroft are quoted as “always assumed that this was public open space as this was the original plan.” As clearly stated there is no actual overt act mentioned to create a right to use the land and this is one line out of a one page statement that talks about substantial and long term use of The Green since her family first moved onto the estate back in the 1970’s.
135. In further support of the case on the existence of an implied licence the objector relies on the fact that public open spaces were laid out by the developer on the estate (which the objector says at para.63 would have been part of the original planning application and approved plans – for which there is no direct evidence) which were subsequently actively managed by the borough council for public recreation (including the provision of signage by the

authority in relation to the green). In para.65 the objector also speaks of the implied licence or permission being 'communicated through the historical transfers and plans for the development of the estate'. The objector goes as far as saying that the local authority would not have maintained the land (para.56) 'had there not been a clear right from the developers for residents to use it as open space and an obligation on the Council to maintain it at their expense', for which, I might add, there is no evidence as the inquiry was presented with no records about this (which I gather are no longer available in the archives of the local authority).

136. The objector also says that the pavement crossing the green does not qualify for registration as, following its adoption as a publicly maintainable highway in August 1976, the use by local inhabitants of such land is by virtue of their public right of passage. I understand the objector to be saying that any use of the green which is in the nature of highway use should be disregarded.
137. Finally, the objector disputes that qualifying use continued for the full period of 20 years to the time of the application in January 2017. The objector relies on the evidence that user declined once the local authority finally ceased to mow the grass in 2015. The objector says that it went back further than this. They say that user declined since at least 2012 'when the local authority reduced the frequency of its maintenance of the land' in support of which the objector relies on the email exchanges between Mrs Credgington-Jones and officers responsible for managing open spaces at the local authority in the period 2012-2015.
- 138 The objector also argues that the whole of the green has not in fact been used for the requisite period. I understand the objector's case to be that once:
- (a) shrubs were planted in 2008 to deter ball games, and
 - (b) after the borough council stopped cutting the grass in 2015,
- areas of the green became progressively inaccessible for any meaningful recreational use, and this was particularly true in the case of the southern area.

139. In further submissions received on 6 December 2018 (now behind O/tab/1) the objector asserts a number of points in response to the applicants' closing submissions, the key elements of which are set out below.

(a) It is suggested that Mr Lyell had offered to give oral evidence but this opportunity had not been taken up by Mr Woolsey, nor, he asserts, was he been pressed by me to give such evidence before submitting a closing statement. As I indicated at the inquiry, it is not the duty of the registration authority to assist parties in the presentation or formulation of their cases.

(b) Although this did not appear in my own note of the evidence, it is suggested by Mr Woolsey that on his visit to the green in 2015 Mr Warren (who we were informed by Mr Lyell was acting as a consultant for Pelham Holdings Ltd) said words to the effect that the objector had forgotten that it owned the green. Mr Lyell makes the point that acting as a consultant for Pelham Holdings Ltd Mr Warren 'was not in a position to have a full understanding of all the property owned by the objector'. This is not an unreasonable proposition although I do not see that anything turns on this.

(c) Mr Lyell helpfully sets out the lengths to which the objector sought to obtain planning information from the local authority. The steps taken and their results are identified in appendix 1 to the submissions. It is to be noted:

(i) the local authority stated that the original planning permission was under reference 74/757 and was dated (and there is a typo here) 8 November 1974 (?);

(ii) no decision notice or application could be found for reference 74/757;

(iii) plans were provided relating to the affordable housing element under application reference 75/0557 (the drawings stamped 'approved' and referred to under reference 75/0557 included the annotation 'POS' over the green);

(iv) a decision notice and plans were provided for the planning reference 75/0557 where the application was evidently an amendment to an earlier consent under reference 72/678 (although a request was made for the documents under this reference the local authority stated that it did not match

the address of the previous applications although no plans existed within the archive).

(v) Mr Lyell disputes that he ever asserted that there was some form of dedication agreement. He does though say that 'some sort of agreement' would have existed with the developer which would have entailed the green being maintained by the local authority 'for forty years, without which they would have had no reason or internal authority to expend money on maintenance'. Mr Lyell goes on to say that the objector owns other parcels of land which are or have been the subject of maintenance by local authorities some of which have ended owing to budget cuts. He says that such agreements were common practice between local authorities and landowners. Despite this the objector produces no such agreement with the local authority in this instance.

Discussion

140. I propose to deal with the matter under the following heads:

- (a) is the application supported by 'a significant number' of the inhabitants of the claimed neighbourhood?
- (b) is the claimed neighbourhood a qualifying neighbourhood in law?
- (c) have those inhabitants indulged in LSP on the green?
- (d) did they do so 'as of right'?
- (e) did they do so for a period of at least 20 years ending at the time of the application?

Significant number

141. The evidence is that the claimed neighbourhood contains 163 dwellings and that evidence in oral or written form in support of the application came from 77 households (or 47% of the total number of households). Mr Woolsey thought this might include well over 150 people and would be sufficient to justify registration.

142. The applicants adduced oral evidence from 9 witnesses (I have excluded Mrs Hammond for these purposes) of whom 5 (and I am including Mrs Constanti who went to live as a child in Landen Park in 1974 and who returned to No.1 in 1998 before moving to No.21 in 2000) have lived within the claimed neighbourhood for at least 20 years (by the time of the application in January 2017).
143. In addition, the applicants rely on 19 written statements coming from 26 witnesses (including Danielle Smith who used to live in the area) of whom 11 have lived in the claimed neighbourhood for over 20 years and one has been there for 19 years (these witnesses come from Arne Grove, Westleas, Landen Park and Willow Brean).
144. Next, we have the results of the survey carried out in January 2017. A total of 82 households were canvassed for support in Landen Park, Arne Grove, Chesters, Westleas and Willow Brean (Down Close and Dene Close were excluded). Of the 82 homes visited those living at 77 households completed the survey document in a manner consistent with the oral evidence and written statements.
145. Finally, the applicants also laid out their evidence of use in the helpful spreadsheet at A/3.1 and at App/4. As already indicated, the spreadsheet discloses that 8 witnesses were using the green in the 1970s (and continue to do so), 9 in the 1980s, 16 in the 1990s, 17 in the 2000's and 25 in the 2010's.
146. It seems to me to be plain and obvious that the oral and other evidence advanced in support of the application to register was more than adequate to demonstrate a sufficiency of use for these purposes. It has already been indicated that the term 'significant' for the purposes of section 15(2) of the CA 2006 does not mean considerable or substantial. What matters is that the number of people using the land has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation rather than occasional use by individuals as trespassers. In my view, this test has been satisfied on the facts of this case. The evidence relied on (which comes from 47% of the total number of households) constitutes, in my view, a significant sample and is more than large enough to demonstrate

to a reasonable landowner that a right is being asserted by local inhabitants over his land.

Qualifying neighbourhood

147. The question (and it is one of considerable importance on this application) is whether the red line boundary shown on App/1 comprises a 'neighbourhood' within the meaning of section 15(2) of the CA 2006, it now being accepted by the objector that Horley West Ward would be a qualifying 'locality' within which such neighbourhood is to be found.
148. I have not only visited the area but have also studied, at some length, the available street imagery on *Google earth*. I am satisfied that I am as familiar as I need to be with the claimed neighbourhood to be able to deal with this issue which, in this instance, is by no means straightforward. This is not uncommon in urban areas where determining where one neighbourhood ends and another begins in areas (usually with interconnecting streets) which often have no name (which I accept is not a necessary requirement but if there is historical cohesiveness in respect of an area, one might expect it to have acquired some form of collective description). In this instance, the applicants opt not for the whole of the Landen Estate but only for that part of it (which, at a glance, could be roughly two-thirds of it, or perhaps even slightly less than this) which they maintain has the requisite level of cohesiveness which distinguishes it from the surrounding areas.
149. I also bear in mind that when Parliament amended the CA 2006 to permit registrations to take place by reference to 'a neighbourhood within a locality' it intended to make it easier to register TVGs, and did so by allowing them to be registered by reference to a concept that was not precise either as to definition or as to boundary (*Oxfordshire County Council v Oxford City Council* [2006] 2 AC 764, per Lord Hoffmann at [27]).
150. Although in *Paddico (267) Ltd v Kirklees Metropolitan Borough Council* [2011] EWHC 1606 (Ch) at [97] Vos J said that 'the term "neighbourhood" means a cohesive area which must be capable of meaningful description in some way', it has been said recently in the Court of Appeal (*R (NHS Property Services*

Ltd) v Surrey County Council [2018] EWCA Civ 721 at [103]-[109] (Lindblom LJ)), that whether a claimed neighbourhood has a sufficient degree of 'cohesiveness' was a matter of impression which allows ample scope for differences of opinion. In other words, the analysis is not one which involves the application of any specific criteria or the application of any recognised method of assessment.

151. What the applicants have done is to say that their neighbourhood is best represented by the plan at App/1. Clearly such area is not only physically proximate to the green but is also where all the applicants' witnesses live. They also say that areas outside the claimed neighbourhood have their own areas of open space. However, it is not suggested by the applicants that no one living outside their neighbourhood is using the green. Indeed, Mrs Woolsey and Mrs Muggeridge conceded that people outside the claimed neighbourhood were using the green which I do not doubt includes children living in Chaffinch Way or elsewhere on the estate (no doubt whilst on their way home from the local primary or middle school located on the other side of Meath Green Lane close to the entrance with Landen park). What is being said by the applicants, however, is that the green is being used predominantly by those living within the claimed neighbourhood which is exactly what one might have expected. There must be some force in this in that the presence of posters on trees on both sides of the green inviting local residents to come forward to support the campaign for registration did not draw any or any active support from residents living outside the claimed neighbourhood.
152. Curiously, the actual choice of neighbourhood pre-dated the January 2017 survey. The scope of such survey was apparently constrained by the time available to those who carried it out. At any rate, the App/1 plan appears to have come into existence only after such survey was carried out which I think reinforced the view already taken by the applicants that they were right in their choice of neighbourhood.
153. I do not attach great weight to the fact that the claimed neighbourhood comprises market housing whereas other areas outside it include mainly higher-density affordable housing where the housing type is markedly

different. Clearly market housing exists outside the claimed neighbourhood. What does strike me as important, however, is the impression I obtained from the oral evidence that there seems to be what I would describe as a strong sense of community within the claimed neighbourhood of which the green is an integral part. I think this has been amply demonstrated, not only by these proceedings and the support which it has received from a large number of local residents living within the claimed neighbourhood, but also by the strong feelings which have been aroused over the years when it comes to the wellbeing of the green as a place where local residents and their children are able to recreate in safety. I think Mrs Parry put it very well when she said this:

During the summer months the land 'provides a runway for the local children to run, play, scoot and cycle together and climb trees'. She also says that there is 'a real sense of community, and the quiet ends of the cul-de-sacs in Landen Park and Arne Grove and the green provide a safe space for children to meet up'.

Similarly, Mrs Constanti said that the green was an

Integral part of the Landen Park community, bringing people together, having a laugh and a chat and was vital to residents.

Similar sentiments were expressed by other witnesses such as Mrs Muggeridge and Mr Tasker. Mrs Woolsey thought that the community had come together in the village green process. Mrs Parry said that she regularly stops for chats with her neighbours and other local residents around the green

.. so we see it as an important focal point for our community.

154. We have also have:

(a) the intervention of Mrs Hammond in 2008 which led to support within the community for planting shrubs within the southern area of the green both to improve its appearance and to prevent over-exuberant ball games being played thereon by, I think, mainly older children;

(b) the efforts of Mrs Credgington-Jones (believing that she was acting in the best interests of the community) in (i) bringing pressure to bear on the local authority in the period 2012-15 to actively manage the green; (ii) in her efforts to get the objector to maintain the land and cut the grass in 2016; and

(iii) in her failed attempt to stop contractors from removing the shrubs in the southern area of the green in October 2016;

(c) the intervention of Mrs Hammond, again in October 2016, when she met around 20 local residents on the green to discuss its future upkeep which ultimately led to the objector being approached with a view to the maintenance of the shrubs planted in 2008 which, as it turned out, only hastened their removal by the objector;

(d) the unsuccessful attempt by Mrs Parry to get a Tree Protection Order registered against trees on the green;

(e) the fact that some adjoining owners took to mowing parts of the green after 2015 even though they lacked proper mowing equipment for such a task; and

(f) the evidence of Mrs Muggeridge and Mrs Constanti of community events taking place on the green.

155. I consider that the boundaries of the claimed neighbourhood are reasonably coherent and have not been randomly chosen. I have already covered this but, put shortly, it is admittedly true that the claimed neighbourhood comprises most of the development carried out by Gough Cooper in the mid-1970s which was market housing consisting of detached and semi-detached dwellings of varying styles. The area edged in blue on the first of the layout plans in App/2 is, as I find, rightly excluded by the applicants from their neighbourhood since it has its own open space which I am sure is an important amenity for residents living in this part of the estate. As previously indicated, I think it reasonable that this open space and the land beyond it to the south and east (comprising Wither Dale and the closes off this road) should fall outside the claimed neighbourhood as I take the view that it has only a limited physical connection with the claimed neighbourhood.

156. I readily accept that the boundary at the northern end of Wither Dale is problematic. However, my view is that it is reasonable that it should fall at the rear of the properties fronting onto Chesters. What the applicants have done is to place only those properties with a frontage onto Chesters in the claimed

neighbourhood seeing as their witnesses live within these boundaries. I also think it reasonable that Wither Dale should not be within the claimed neighbourhood anyway as it is neither sufficiently proximate to the green, nor do any of the applicants witnesses live within this street. If anyone living in Wither Dale had been regularly using the green then they are likely to have seen the notices on the trees on both sides of the green encouraging support for the application to register and it is, I think, clearly material that no one in Wither Dale came forward to support the application. The same applies to the absence of active support in the case of the residents living in other streets outside the claimed neighbourhood.

157. The claimed neighbourhood omits Chaffinch Way, Wither Dale, Goldcrest Close, Bullfinch Close and Charm Close. Chaffinch Way and the streets to the south of Charm Close were originally developed by a local housing association and is a higher-density development comprising mainly terraces with on-street parking bays. This development followed the development of market housing by Gough Cooper. Chaffinch Way, Goldcrest Close, Bullfinch Close and Charm Close have, in my view, been rightly excluded from the claimed neighbourhood with which they have too tenuous a connection and, with the exception of Chaffinch Way, are all too far away from the green to form part of its immediate neighbourhood.
158. In the gap between Willow Brean and Chaffinch Way there is a third open space which is only a short distance along the footpath at the end of Downe Close. As previously indicated, it was my impression that the open space is located in a different vicinity to that in which the green is located.
159. Elsewhere the claimed neighbourhood rightly ends at the rear of the older housing fronting onto Parkhurst Road or Meath Green Lane or in the newer development in the backland areas behind such housing. I also consider it reasonable that dwellings on the eastern side of Willow Brean to the south of its junction with Westleas, including the whole of Dene Close, were included in the claimed neighbourhood. I have already indicated that this area is an integral part of the remainder of the market housing elsewhere within the claimed neighbourhood. The area is admittedly further away from the green

but there are a handful of witnesses within this small area. I think the applicants were right to end the claimed neighbourhood on this side at the southern end of the Willow Brean cul-de-sac where it adjoins the open space at the end of Chaffinch Way. Although there is evidence that people living in Chaffinch Way used the green my view is that such use is likely to be limited. It is, I think, more probable that those living beyond Down Close (and it will be mainly children and dog walkers) will resort to the open space separating Chaffinch Way and Willow Brean for informal recreation rather than walk up to the green although I dare say that this must happen from time to time and even if it does it would not be sufficient to do undermine the applicants' case on neighbourhood.

160. It is now, of course, possible for reliance to be placed by an applicant on a neighbourhood or neighbourhoods within a locality. See *Leeds Group Plc v Leeds City Council* [2010] EWCA Civ 1438 at [27] where Sullivan LJ said that it would be a 'manifest distortion' of Parliament's intentions to hold that, if the evidence demonstrates that the land performed a more valuable recreational function for the local inhabitants of two or more neighbourhoods rather than merely one neighbourhood, that that would be a bar to registration.
161. It is, therefore, my view that the applicants have made out their case on the neighbourhood issue. I am content that the claimed neighbourhood shown on App/1 is justified on the evidence for the reasons given. I also take the view that it does not matter that there may be instances where qualifying use occurs by residents living outside this area which, as I find, is only likely to occur on an occasional basis and does not detract from the fact that the predominant use of the green is by those living within the claimed neighbourhood.

Lawful sports and pastimes on the green

162. I am satisfied that those using the green do so for qualifying purposes. I find that the main use is children's play and walking, with or without dogs. It is also clear that the green is a meeting place for local residents and I have no doubt that these activities justify registration. The nature of the claimed use was never questioned by the objector.

As of right

163. The issue under this head focuses on the objector's contention that an implied licence may be drawn from a combination of the following factors: (a) from the representations which would have been made by Gough Cooper's sales staff to prospective purchasers that public open space on the estate was earmarked for the use of residents; and (b) the fact that open spaces were laid out for use by residents as part of the original planning approval for such development. It will be recalled that the objector speaks of the implied licence being 'communicated through the historical transfers and plans for the development of the estate'.
164. With one exception, I have no doubt that the use relied on by the applicants was 'as of right' and not 'by right'. The latter only arises, in my view, in the case of the pavement crossing the green. This is not disputed.
165. It is probable that it was a condition of the material planning permission that the developer should make provision for the open spaces identified on the approved plans and that this included the green. Nor do I doubt either that those living in the claimed neighbourhood will have rightly assumed that the green was available for their use for the purposes of informal recreation. However, it seems to me that the objector is nowhere near the starting gate in establishing that the conduct of the landowner in tolerating unhindered use of the green since the mid-1970s gave rise to an implied licence.
166. It seems to me that the provision of open space in the mid-1970s did not amount to overt conduct on the part of the landowner (such as might arise, for instance, by making a charge for admission or asserting his title by the occasional closure of the land to all-comers) which was intended to be understood by residents that they were being conferred with a permission to do something which would otherwise be an act of trespass. The case founded on the seller's purported representations comes nowhere near the test for an implied licence and, in any case, affects only that small handful of first-time purchasers. Further, the mere laying out of the green as an open space (no

doubt pursuant to a planning condition) was no more than the provision of a facility for residents and their visitors which the landowner would be unable to withdraw if it formed part of the original planning permission (which I suspect it did). The fact is that until 2016 the objector and Gough Cooper stood by and acquiesced in the use of the green by residents and cared very little, if anything, about it as the local authority were managing it until 2015 when, with the advent of budgetary cuts and/or when the local authority realised that it did not actually own the green, objector realised that it needed to take stock of its position as landowner.

20 years use ending at the time of the application

167. The main issue under this head (as I understand it) is that the objector is saying that after the local authority stopped cutting the grass in 2015 (Mrs Parry said this occurred in the Spring of that year whereas Mr Woolsey recalls that the grass was last mown in early 2015) areas of the green deteriorated and became less accessible for ordinary recreational use, such that registration would not be justified on the basis that the whole of the green was not in qualifying use for the whole of the 20 year period ending in January 2017 when the application to register was made. The objector is, I think, also saying that although the local authority stopped cutting the grass its management of the green was in decline anyway after 2012.
168. In my view, the objector's case also fails under this head. Whilst it is admittedly true that Mrs Credginton-Jones wrote to the local authority in May 2012 complaining about the length of the grass, and again in 2013 about the state of the shrubs and yet again in 2014 about the grass which she said was about a foot high and an eyesore, it seems probable that these requests were acted upon. It was again, of course, when she wrote to the local authority in June 2015 complaining once more about the length of the grass (when it was said to be about two foot high in some areas), that she was met with the contention that it was no longer the responsibility of the local authority.
169. My findings on this issue are as follows.

- (a) There is no evidence that, prior to 2012, the green was not being properly managed by the local authority.
- (b) The local authority had to be reminded in May 2012 by Mrs Credgington-Jones (whose home looks out over the southern area) that the grass needed cutting and it clearly must have been judging from the photo at App/4 which shows the green on both sides to be in a reasonable state of maintenance in September 2012.
- (c) In May 2013 Mrs Credgington-Jones complained to the local authority that the shrubs in the southern area needed to be weeded and tidied up from time to time. Such work was carried out although Mrs Credgington-Jones had been concerned that these beds were being neglected and were in need of weeding and general tidying up around the edges. The local authority wrote on 30 May 2013 saying that staff had been working on the beds that very day.
- (d) By May 2014 Mrs Credgington-Jones was complaining that the grass on the green was about a foot in length – she considered it to be an eyesore and was concerned that the look of the area encouraged ‘the school children/teenagers passing through to use the area as a rubbish dump’. Such work must, in all probability, have been carried out as the condition of the grass in the northern area in the photo at A/49 (showing Lily Woolsey on her bicycle) shows the grass to be short and the area looking very neat and tidy and it is, I think, unlikely that the southern area would have been in a materially worse state.
- (e) On 18 September 2014 Mrs Credgington-Jones wrote to the local authority complaining that the green had not been cut even though grass cutting had been taking place elsewhere in or near to the estate. She complained that the grass ‘is again high’. She also mentioned that two householders whose homes ‘back onto the grassed area’ were dumping garden waste on the green which she wanted stopped. I find that this request was, in all probability, acted upon as the email stream picked up again in June 2015.

(f) In her email dated 8 June 2015 Mrs Credgington-Jones again complains about the state of the grass which she said was 'about 60cm (2') high in some areas), (and) full of weeds'. There was also some fly-tipping of garden waste going on. This email was met by the email from the local authority on the same date in which Mrs Credgington-Jones was referred to the objector and that they could be of no further help.

(g) It is probable that the grass on the green was cut at some point in the early part of 2015 as the photo at A/50 (showing Sadie Woolsey with a friend stood by the tree on the northern area) shows such area to be well maintained and the grass was clearly cut short.

(h) By April/May 2016 the grass on neither side of the green was being cut but the two photos at A/53 (showing Mrs Parry's daughter playing on both sides of the green) discloses that the grass was probably less than a foot in length and would certainly have been accessible for children to play on (although not with their bicycles) and for walking with or without dogs.

(i) The application to register was made around 8 months later in January 2017. The evidence from the applicants' oral witnesses is that recreational use reduced once the local authority no longer cut the grass. I also find that there were periods of time between cutting between 2012-2015 when the grass was too long such that it meant that the green was less used but not so as to prevent qualifying use taking place on either side of the green. I also find that the condition of the green, though materially worse in the period April/May 2016-January 2017, would still have been available for LSP and indeed continued to be used by children (albeit with appropriate footwear), dog walkers or as meeting place (including by children on their way home from school) (see evidence of Mr Tasker, Mrs Woolsey, Mrs Credgington-Jones, Mrs Parry and Mrs Martin who thought that the green was being used more often in January 2017) although as a destination for LSP it would, as I find, have been less attractive than it had been before 2015.

(j) I find that both sides of the green were available for use by residents for LSP up to the making of the application to register in January 2017 and

that qualifying use took place throughout the whole of the 20 year period up to the making of the application.

(k) I also find that the growth of the shrubs in the southern area in the period 2008-2016 did not mean that these areas should not be registered; in other words, that time would not have been interrupted in relation to such land. This is because I find that these shrubs (which are shown very clearly on App/4) were integral to the enjoyment of the whole of the green until their removal in October 2016. In other words, we are dealing with what was cultivated land which formed part of the function and attractiveness of the green on its southern side.

(l) My findings about the use of the green (on both sides) are assisted by what I saw for myself on my accompanied view. The northern area is still usable land for LSP, as is most of the southern area near to where it backs on to the rear of houses in Westleas. The remainder of the southern area is somewhat tussocky and not a particularly attractive destination for LSP but would still be perfectly usable by dog walkers.

Conclusion

170. Accordingly, it is my opinion that the applicants have, with one exception, established all that is necessary to be established under section 15(2) of the CA 2006 to justify registration of the green as a TVG.
171. The exception involves the omission of the pavement between Landen Park and Arne Grove falling within the area edged green on the plan at App/1.
172. Although highway land is not precluded by law from being registrable, qualifying use for TVG purposes on such land is markedly constrained by the right of the public to use such land as a highway. This arises from *DPP v Jones* [1999] 2 WLR 625 which held that the public may lawfully do anything reasonable on the highway which does not interfere with the public's right of passage.
173. What this means is that any highway use of the pavement must be discounted since it is not qualifying use and because the pavement is unlikely to have

been used for LSP (or at least to any material extent) the registration of such land is not justified.

Recommendation

174. I recommend that with the omission of the pavement between Landen Park and Arne Grove which falls within the area edged green on the plan at App/1, the remainder of the area edged green should be registered as a TVG.

William Webster

3 Paper Buildings

Temple

Inspector

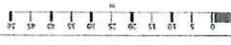
11 December 2018

Appendix 1



KEY

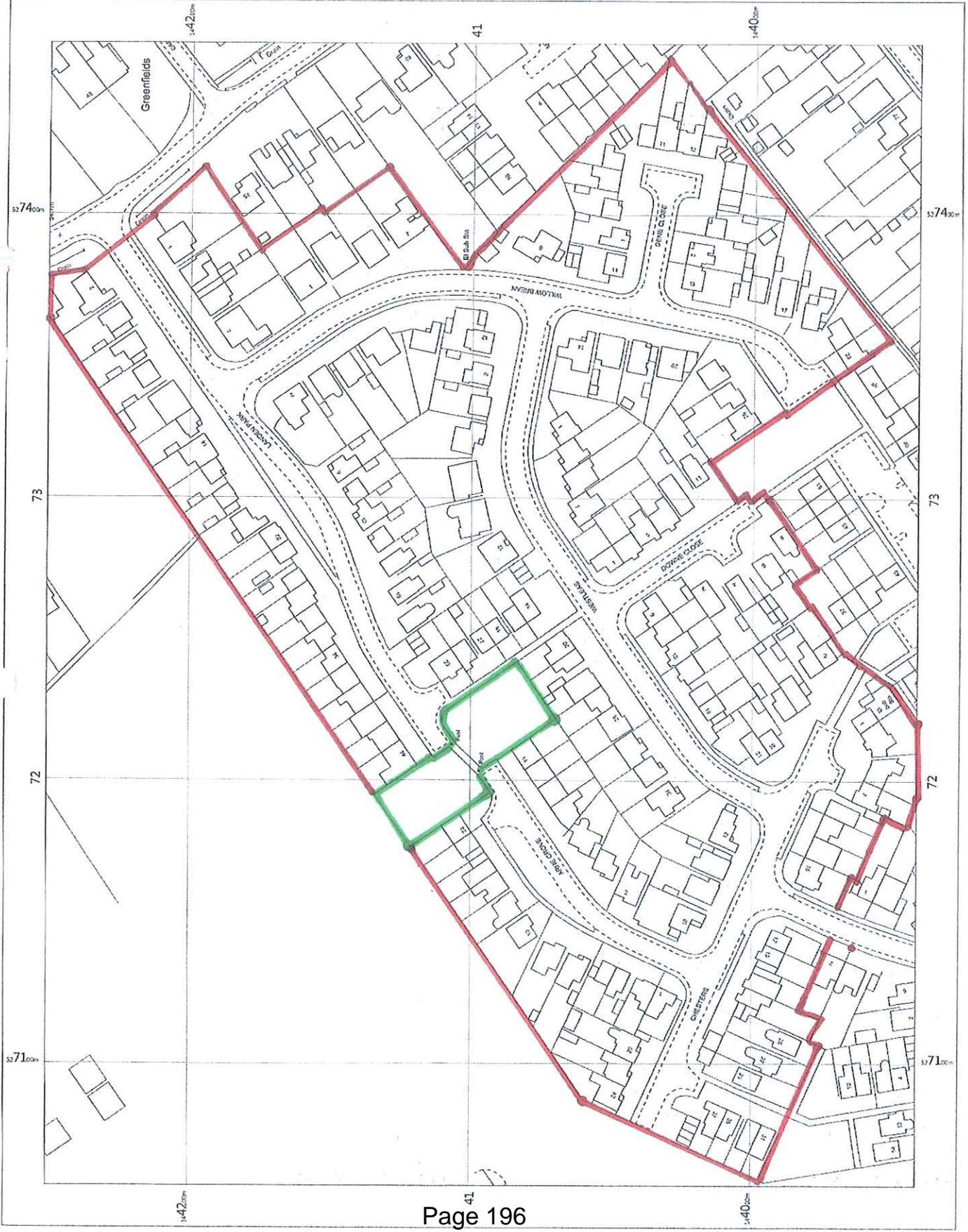
- Boundaries of the Green
- Neighbourhood



OS MasterMap 13/07/1000 scale
 Friday, November 2, 2018, 10:11
 CN-40751611
 www.centremapslive.co.uk
 1:1250 scale print at A3, Centre:
 527259 E 144096 N
 ©Crown Copyright, Ordnance Survey.
 Licence no. 100019950

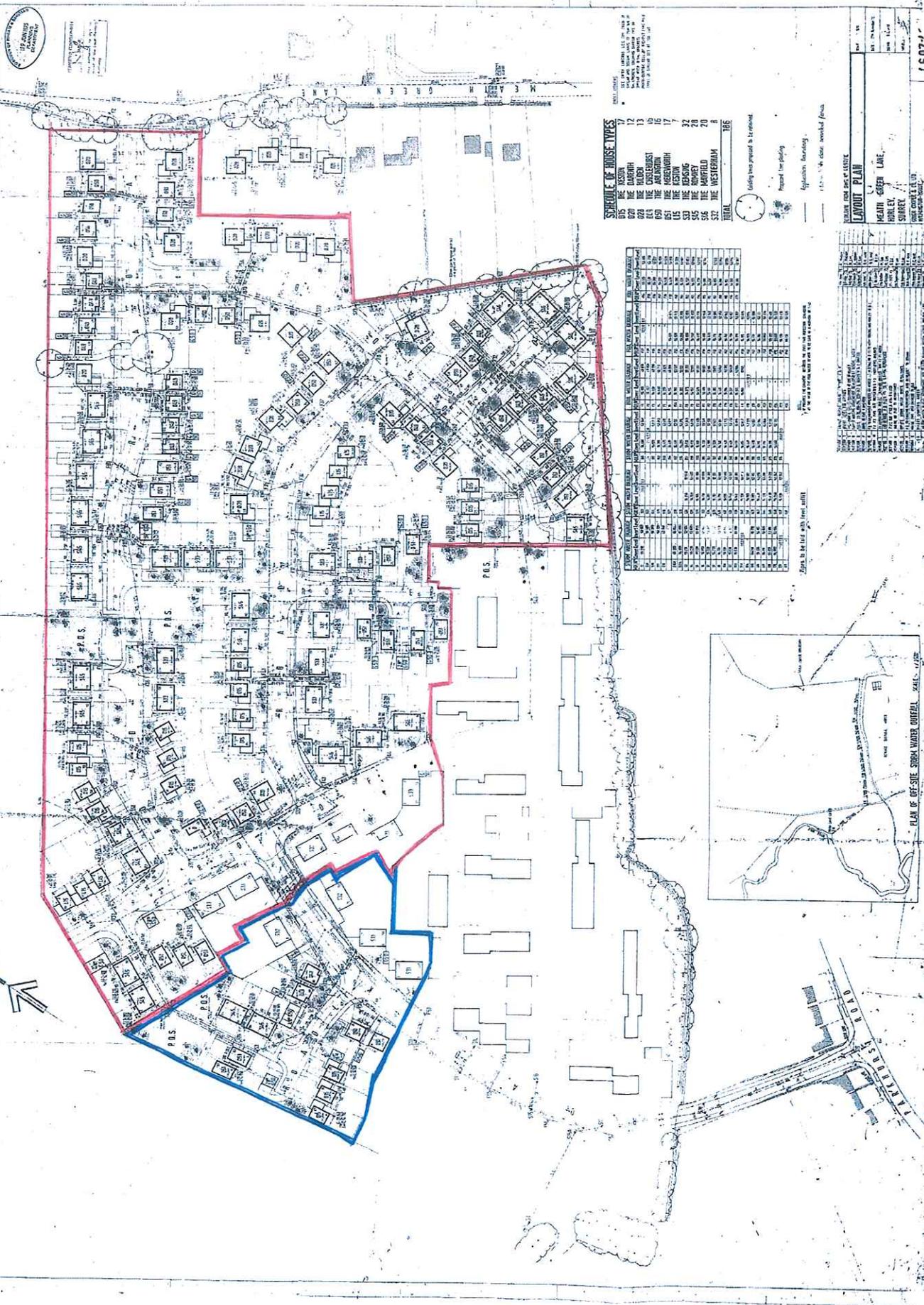


Village Green



Appendix 2

76875P 557 4697/2



SCHEDULE OF HOUSE TYPES

015 THE BOSTON	17
020 THE WOOD	12
024 THE OYSTER	10
028 THE ARLINGTON	16
031 THE ASHLEIGH	17
035 THE BOSTON	32
042 THE BOSTON	20
046 THE MARFIELD	20
052 THE WESTERHAM	8
TOTAL	165

PLAN OF OFF-SITE SEWER WATER OUTFALL

NO.	TYPE	DATE	BY	REVISION
1	PLAN	1/1/75	J.M.	ISSUED FOR TENDERS
2	PLAN	1/1/75	J.M.	REVISED TO SHOW SEWER MAINS
3	PLAN	1/1/75	J.M.	REVISED TO SHOW WATER MAINS
4	PLAN	1/1/75	J.M.	REVISED TO SHOW UTILITY MAINS
5	PLAN	1/1/75	J.M.	REVISED TO SHOW ROAD LAYOUT
6	PLAN	1/1/75	J.M.	REVISED TO SHOW LANDSCAPING
7	PLAN	1/1/75	J.M.	REVISED TO SHOW FENCE LAYOUT
8	PLAN	1/1/75	J.M.	REVISED TO SHOW LIGHTING
9	PLAN	1/1/75	J.M.	REVISED TO SHOW SIGNAGE
10	PLAN	1/1/75	J.M.	REVISED TO SHOW UTILITIES
11	PLAN	1/1/75	J.M.	REVISED TO SHOW FENCES
12	PLAN	1/1/75	J.M.	REVISED TO SHOW LIGHTING
13	PLAN	1/1/75	J.M.	REVISED TO SHOW SIGNAGE
14	PLAN	1/1/75	J.M.	REVISED TO SHOW UTILITIES
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96	PLAN	1/1/75	J.M.	REVISED TO SHOW LIGHTING
97	PLAN	1/1/75	J.M.	REVISED TO SHOW SIGNAGE
98	PLAN	1/1/75	J.M.	REVISED TO SHOW UTILITIES
99	PLAN	1/1/75	J.M.	REVISED TO SHOW FENCES
100	PLAN	1/1/75	J.M.	REVISED TO SHOW LIGHTING

LAYOUT PLAN

DATE	1/1/75
SCALE	1:100
DRAWN BY	J.M.
CHECKED BY	J.M.
APPROVED BY	J.M.
PROJECT NO.	76875P
SHEET NO.	1/1
TOTAL SHEETS	1/1
CLIENT	MR. J.M. SMITH
ADDRESS	123 MAIN ST, SYDNEY
PROJECT NAME	RESIDENTIAL DEVELOPMENT

4.6
A1
A2
A3
A4
A5
A6
A7
A8
A9
A10

Appendix 3

Witness Name	Supportive of Application	Period Of Green Use					Personal and Family Use of Green										Noted Others Use of Green										
		1970's	1980's	1990's	2000's	2010's	Children Playing	Riding Bikes / Scooters	Climbing Trees	Ball Games	Picnicking	Meeting Place	Socialising	Dog Walking	Experiench g Nature	Other Activities	Children Playing	Riding Bikes / Scooters	Climbing Trees	Ball Games	Picnicking	Meeting Place	Socialising	Dog Walking	Experiench g Nature	Other Activities	
Jayne Barrin	x		x	x	x	x	x	x																			
Tina Constant	x		x	x	x	x	x	x																			
Sarah Credington	x		x	x	x	x	x	x																			
Diane Martin	x																										
Lynda Muggidge	x		x	x	x	x	x	x																			
Peter Nye	x																										
Phillipa Parry	x																										
Martin Tusker	x		x	x	x	x	x	x																			
Sara Woolbey	x																										
Lynne Daniel	x		x	x	x	x	x	x																			
Janet Denny	x		x	x	x	x	x	x																			
Adam & Emma Frost-Gastin	x																										
Steven Furlong	x																										
Charles Graham*	x																										
Pippa Graham	x																										
Justin Hill	x																										
Deborah Knott	x		x	x	x	x	x	x																			
Daniel & Caroline	x																										
Grace Lower	x		x	x	x	x	x	x																			
Jane Robinson	x																										
Jillian & John Scott	x		x	x	x	x	x	x																			
Mike Silence	x																										
Danielle Smith	x																										
Beryl Webb	x		x	x	x	x	x	x																			
Victoria Wheatcroft	x		x	x	x	x	x	x																			
Green User Households Surveyed																											
Survey Summary (Number of Responses)	82	77	48	32	42	56	77	64	37	28	30	15	27	4	31	65	36	27	35	19	Not on survey Options	56	4	6			

Appendix 4

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TO: PLANNING & REGULATORY COMMITTEE

DATE: 20 March 2019

BY: PLANNING DEVELOPMENT CONTROL TEAM MANAGER

DISTRICT(S): ALL

REPORT AUTHOR:

Ian Gray,
Planning Enforcement Team
Leader, 020 8541 9423

PURPOSE: FOR INFORMATION

TITLE: ENFORCEMENT & MONITORING UPDATE REPORT

SUMMARY

This report covers the period from 1st March 2018 to 1st March 2019.

1.0 MONITORING OF AUTHORISED MINERAL & WASTE SITES

- 1.1 Site monitoring of consented sites is ongoing and our target of completing 100% of scheduled visits by Officers is being achieved, whilst continuing to maintain a proactive and helpful approach when advising operators of their options as and when planning breaches are identified.
- 1.2 The chargeable visits to mineral sites continue to bring positive benefits in identifying breaches and encouraging retrospective applications as appropriate. Whilst a similar approach is used with waste site operators, there is no requirement to supply copies of site visit reports and communications with those operators, whilst varying widely across the spectrum of those we deal with, is generally less productive.

2.0 ACTION AT AUTHORISED SITES

- 2.1 **Moorhouse Sandpits, Westerham Road, Westerham** – A Certificate of Lawful or Proposed Use of Development (CLOPUD) and a Certificate of Lawful Established Use or Development (CLEUD) for a new mortar plant was refused by SCC in February 2014. While the mortar plant has been removed, an Enforcement Notice (EN) was issued on 30th September 2014 that required the removal of a concrete surface, fencing, storage bays and other infrastructure formerly associated with a mortar plant. Appeals were lodged by the landowners against the EN, and the refusals of both the CLEUD and CLOPUD, and the cases were heard at a Public Inquiry at County Hall in November 2015, but both appeals were dismissed in February 2016.
- 2.2 Correction to former report on this site: Compliance had not been achieved as previously reported. Unfortunately, the Appeal decision requires that the operator and the CPA agree on what areas of hardstand are to be removed, which we could not do before, which was the very reason why an EN was issued in the first place. An EN has to be specific in what steps are required, with no ambiguity, but in this instance the Inspector's appeal decision created just that.

2.3 The CPA have written to the landowner/operator and their agent without response. This outstanding matter will continue to be pursued.

2.4 **First Place Skips, Epsom Chalk Pit, College Road, Epsom** - A retrospective application for a Materials Recycling Facility (MRF) was submitted retrospectively to address a material change of use on the area of lawful use, from waste transfer to materials recycling facility. The application was refused, no appeal made and for a while the use continued so enforcement action looked likely, but the unauthorised use has now ceased so the site will simply be regularly monitored as before.

3.0 ACTION AT UNAUTHORISED SITES

3.1 Complaints and the investigation of unauthorised waste development and breaches of planning control are given priority and continue to be dealt with in accordance with the Division's performance targets.

3.2 **Land east of Swift Lane, Bagshot** – Land east of Swift Lane, Bagshot – A County Court Injunction from 2007 bought an aforementioned deposit of waste to a close but the removal of some 26,000m³ of imported inert waste could not be secured as the operator was declared bankrupt. The same person has more recently purchased the land, felled a large number of mature trees, levelled the previously imported waste soils, created a hard surface and pitched a number of mobile homes on the land for private rental. In addition to this re-engineering of the land, a skip company used the site as its operational base and was undertaking some recovery of metals as well as burning wood waste. Furthermore, a timber building, brick walls with metal gates and a large metal open ended barn structure were erected.

3.3 Officers have advised and worked with both Surrey Heath Borough Council Officers, and Ivy Legal their appointed consultant, who is co-ordinating the taking of enforcement action. This resulted in three ENs with Stop Notices being issued, all of which were appealed. Further to Officers supplying statements to Ivy Legal, a High Court Injunction was obtained in June 2017 that reinforced the extant notices, meaning that a penal notice was possible if a breach was proven. Surrey Estates Department are also involved as a number of pitches at the traveller site have unauthorised extensions that need to be addressed. A Public Inquiry took place at Surrey Heath Borough Council's offices in mid-April 2018 and the appeals were dismissed.

3.4 SuH BC's Corporate Enforcement team have pursued PNM Skips and Tommy Lee Snr. for various breaches of the extant EN and will maintain pursuit of compliance into the future.

4.0 UPDATES ON SITES WHERE ENFORCEMENT ACTION WAS PREVIOUSLY TAKEN

4.1 **Land at Stoney Castle Ranges, Grange Road, Pirbright** – An EN was issued on 1st April 2015 requiring the cessation of waste import, deposit, storage and disposal by spreading or burning of inert and non-inert waste respectively and the removal of all imported waste from the land. The landowner lives in the Philippines. Despite his adult son having met Officers several times on site and asking many times, he has failed to supply an address for him. As a result only the son was served with a copy of the EN.

4.2 An appeal was submitted by the landowner's son who had confirmed his interest in the land to both Officers of the CPA & Environment Agency (EA), but further to his

submission of an additional letter, PINS subsequently deemed he did not have an interest in the land and the appeal was therefore rejected.

- 4.3 In the absence of an appeal, compliance with the extant EN was required by 9th January 2016, but compliance was not forthcoming. Despite difficulties faced with the registered landowner living abroad, it remains the CPA's intention to pursue a prosecution of his son who we have evidence of as being responsible for managing the site. An application to the Magistrates Court was made in December 2017 and an initial hearing at Guildford Magistrates Court was set for 7th February 2018 at which the defendant elected to be heard at the Crown Court. A case review took place at Guildford Crown Court on 6th March and a 1-hour hearing took place on 24th May 2018, to adjudicate as to whether or not the defendant was in fact in control of the site.
- 4.4 HHJ Black concluded that there was a case to be answered by Mr Daniel Hill against the charge of continuing the deposit of waste at the site in breach of the extant EN and a 5-day trial was scheduled to begin on 3rd December 2018. Additional evidence was submitted to the Court by 14th June 2018, with further evidence in respect of Mr Daniel Hill managing the site submitted as well. This is the first time the CPA has been involved in a crown court trial with the associated complexities of full evidence disclosure due to it being a criminal case.
- 4.5 Mr Daniel Hill was found guilty by majority verdict for non-compliance with the Enforcement Notice. We requested confiscation proceedings under POCA (Proceeds of Crime Act), the final hearing for which would take place alongside sentencing. We sought proceedings under POCA to allow an investigation of profits made as a result of the planning breaches and that was agreed to by HH Judge Black. As a result, investigations are being carried out by a specialist financial investigator and Mr Daniel Hill is required to disclose information to us in relation to this.
- 4.6 Mr Daniel Hill has appealed the decision of the Crown Court. We have responded to his grounds of appeal and that appeal will be considered by a different single Judge.
- 4.7 As such, a further update on the progress with this case will be given in the next report.
- 4.8 **Garth Farm, Newchapel Road, Lingfield** – An Enforcement Notice was issued on 1st April 2015 requiring the unauthorised use of the land for the import, deposit and disposal of mixed waste disposal and green waste disposal cease, with all imported waste to be removed. An appeal was lodged and a Local Inquiry was anticipated, but PINS advised that a Public Inquiry was to be arranged for July 2016 due to the need for evidence on oath by the principal appellant.
- 4.9 The appellant failed to turn up for the Public Inquiry in July 2016, with the subsequent excuse being that she had to attend hospital, but had failed to advise PINS and the CPA. In her absence, the Inspector decided that there were inconsistencies within the EN and accompanying plan that she could not correct and as such the CPA have unfortunately had to withdraw the EN and re-issue the documents. Difficulties with mixed uses at the site, comprising both District and County planning matters, have resulted in delays to the notice being re-issued and we are still awaiting a response from Officers at Tandridge District Council. The land continues to be pursued by a developer and if successful, this should result in clearance and future development of the site, but ongoing waste import and burning also mean that a further EN may be issued.

- 4.10 **Ridgeways Farm, Lonesome Lane, Reigate** – Following the issue of a PCN in December 2008 regarding unauthorised import, deposit, storage, processing and disposal of waste materials, a Certificate of Lawful Existing Use Development (CLEUD) application was subsequently submitted in October 2010, but refused in May 2011.
- 4.11 An Enforcement Notice was to be issued in February 2013, however the question of unauthorised ‘mixed uses’ arose which we believed undermined the CPA’s ability to enforce, due to the establishment of racking for storage of materials in relation to an authorised pre-existing use and the use of steel containers, scaffold and roofing sheets to create an additional covered storage area, screening of soils and partial infill of a pond. Following a meeting between Legal and Enforcement Officers from both SCC and R&B BC, it was initially agreed that R&B BC would address the unauthorised development due to the unauthorised uses being mixed. Unbeknown to the CPA, R&B BC had received an application to regularise the unauthorised racking which appeared to address that which caused the mixed use concerns. As a result it was intended that the CPA would issue an EN to address the remaining unauthorised waste related development in spring 2016.
- 4.12 The landowner had moved abroad and indicated he was having the land cleared of the unauthorised waste development, which continued to be monitored as clearance was anticipated by mid September 2016. However, clearance was not completed and the landowner appeared to have returned to the UK and allowed occupancy of the yard by a tenant who was undertaking waste recycling on the site. The landowner was advised by our solicitors that unless all waste operations ceased and the waste removed from site by 19th December 2016, an EN would be issued after consultation with R&B BC due to other non-waste related breaches. The landowners planning consultant advised that an appeal would be made in respect of any such enforcement action. Due to ongoing concerns about mixed uses at the site, which would have undermined the service of an Enforcement Notice, considerable delays arose for a number of reasons. Having reviewed the matter with Officers from Reigate & Banstead Borough Council, it was been agreed that since R&B BC Officers have confirmed their view that there are no breaches of district planning matters taking place, Surrey County Council would issue the Enforcement Notice and deal with the subsequent appeal. An Enforcement Notice was issued on 3rd January 2018 on both the landowner at his registered UK address and his planning consultant, as the landowner now lives in Thailand. An appeal was made and a Public Inquiry took place in February 2019.
- 4.13 The Public inquiry commenced on 12th February 2019. Unfortunately, following concerns raised by the Inspector and the appellant’s counsel in terms of both under enforcement relating to two uses that were LPA planning matters and ambiguity in terms of the Enforcement Notice that we issued, the County Planning Authority were advised by our counsel to withdraw the Enforcement Notice. Rather than risk the notice being quashed, or the Appeal being lost, the decision was subsequently made to withdraw the notice, obtain further counsel advice and then review the remaining enforcement options available with Reigate & Banstead Borough Council. Despite submissions against this, the Inspector has made an award of costs against the CPA. Evidence of costs produced by the appellant’s representative as a result of this will be carefully scrutinised for reasonableness prior to being agreed.

5.0 **Examples of successful negotiation and ongoing challenges include:**

5.1 **Highlands Farm, Portsmouth Road, Ripley** - : This agricultural land holding was reported as having been used by a former tenant for the importation and deposit of mixed inert waste materials (comprising soils, brick and hardcore) over areas of the site coupled with the periodic burning of imported mixed waste. The breach of planning control was addressed with the landowner and following protracted discussion and negotiations, the clearance of all deposited waste materials together with the tidying of the site was achieved without the need for formal action. The land has now been sold and it is understood the new landowner is in the processes of improving the general overall appearance of the land.

5.2 **Former Chalk Pit off Wanborough Hill, Wanborough** - A local waste contractor was found to be using this former small chalk quarry for the importation, deposit, stockpiling and processing of hard-core and chalk based materials with the permission of the landowner. It was subsequently documented by the contractor that the importation and processing activity was to screen out suitable materials for use in the repair of internal road and trackways around the land holding with the unusable material taken back off site. Officers advised that the land could not be used for this activity and that only materials fit for purpose (not requiring any treatment on site), could be used for such engineering repair works: subject to agreement with the local Planning Authority. Following discussions with the contractor this unauthorised activity ceased with all imported waste materials and machinery removed from the former chalk quarry.

5.3 **Land rear of 299 Connaught Road, Brookwood** - Complaints to the Local Environmental Health Department concerning regular fires on the land led to officers visiting the site to establish what was being burnt. It was found that the land was owned and in use by a building contracting company. Their main business was outlined as relating to emergency call out works to dwellings passed to them by insurance companies. This works occasionally generated varying waste materials that were brought back to the site. Such waste was either burnt on the land or bulked up and taken away by a local waste operator. Officers afforded the landowner a small window of time to clear and tidy the land without further recourse on the understanding that no repeat of the unauthorised waste development reoccurred. Subsequent site visits have not revealed any further unauthorised waste development.

6.0 **PRIVATELY OWNED LAND SUBJECT TO TRAVELER INCURSION AND WASTE DISPOSAL ON THE LAND**

6.1 **Land at Penton Hook, Chertsey Lane, Staines upon Thames** – A large volume of mixed non-inert waste was deposited by travellers in December 2017. This led to their eviction before Christmas and was followed by improved securement of the site access. The removal of 250T of waste by late July 2018 at a cost of £50K from the formerly restored inert waste landfill was undertaken by the Environment Agency, the landowner's tenant, and the land is now once again being allowed to regenerate naturally.

6.2 **Land at former San Domenico, Cobham A3** – The land has been cleared of imported waste and the site has subsequently been developed.

6.3 **Land north of Tesco, Leatherhead** – The unauthorised occupation and accompanying import, deposit and disposal of a considerable quantity of mixed waste took place in mid-December 2017 by an identified group of travellers has left a clean up operation of between £20 - £40K for the landowner to address. Mr Simon

Claridge, the son of the other two landowners ignored advice to improve the security of the site access, and the land was subsequently subject to a second traveler incursion of 2 days duration in late February. This resulted in further controlled waste being deposited with fires resulting in some of the waste on site being burnt.

- 6.4 An Enforcement Notice was issued requiring the land to be cleared of all imported waste by 1st August 2018. The Enforcement Notice was not complied with and having been advised that a successful prosecution for non-compliance at this stage was unlikely, an extended compliance period by 31st May 2019 has been given by the County Planning Authority and if not complied with by 1st June 2019, prosecution will be reconsidered.
- 6.5 In January and March, waste removal was started and progressed, with hardcore being removed, other waste being sorted and put into skips on site. Two or three additional visits will be scheduled in late March, April and possibly May 2019 to complete the clearance of the waste imported by the travellers from the land as required by our extant Enforcement Notice.

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BACKGROUND PAPERS: None
