



Appeal Decision

Hearing Held on 30 November 2021

Site visit made on 29 (unaccompanied) and 30 (accompanied) November 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal Ref: APP/Y3615/W/20/3265828

Land at 92 & 94 Potters Lane, Send GU23 7AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Taylor of Belfield Homes Ltd and Towerview Guildford 2 Ltd against the decision of Guildford Borough Council.
 - The application Ref 20/P/00482, dated 10 March 2020, was refused by notice dated 7 August 2020.
 - The development proposed is demolition of 2 dwellings (92 and 94 Potters Lane) and the erection of 29 dwellings (12 affordable) including access, associated garages, parking, open space, play area and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the appeal, the appellant submitted a completed signed planning obligation by way of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 9 December 2021. This deals with contributions towards early years, primary and secondary education, affordable housing, the provision of open space and mitigation against adverse effects on protected habitats sites. I will discuss this in more detail later in this decision.
3. In its first reason for refusal, the Council found harm to the setting of the corridor of the River Wey and conflict with Policy D3 of the Guildford borough Local Plan: strategy and sites 2019 (LPSS) which is a heritage policy. The Council did not specify harm to a heritage asset. However, the Council officer's report stated that the proposal would cause some harm to the Wey and Godalming Navigations Conservation Area (WGNCA). This was set out as an area of disagreement in the agreed Statement of Common Ground. I have therefore proceeded to assess the appeal on this basis.
4. The Council's third reason for refusal concerned highway safety and whether the additional movements generated by the proposed development could be safely accommodated on the public highway and whether safe access into the site could be achieved. During the course of the appeal, the appellant proposed a scheme of traffic calming which was accepted by Surrey County Council as the local highway authority.

5. Prior to the hearing, the Council consulted on the traffic calming scheme. I am therefore satisfied that the Council and third parties have had an opportunity to comment upon the scheme and their interests would not be prejudiced in considering this aspect of the scheme as part of the appeal.
6. In view of the local highway authority's position, the Council confirmed that it would no longer object on highway safety grounds. However, the Council has stated that it strongly objects to the highways scheme in terms of its effect on the character and appearance of the area. Notwithstanding the position of both the local highways authority and the Council in respect of the effect of the scheme on users of the highway, I have specifically addressed these matters, taking into account representations from third parties.
7. Since the appeal was lodged, the Council has confirmed that its fourth and fifth reasons for refusal had been addressed. These were concerned with the effect of the proposed development on protected species and whether the scheme had incorporated measures to address climate change adaptation and a reduction in carbon emissions. I have proceeded on this basis.
8. Since the Council made its decision the Send Neighbourhood Plan (SNP) was 'made' on 19 May 2021. I therefore attach full weight to the SNP in my decision as it now forms a part of the development plan for the area.
9. On 14 January 2022 the Government published the Housing Delivery Test (HDT) Results for 2021. I wrote out to the parties for their views on this. I have taken their comments into account in my decision.

Main Issues

10. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including its effect on the setting of the corridor of the River Wey;
- whether the proposed development would preserve or enhance the character or appearance of the setting of the Wey and Godalming Navigations Conservation Area;
- the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to outlook and overbearing effect on Numbers 96 and 108 Potters Lane, and noise and disturbance on Number 90 Potters Lane;
- whether the proposed development would provide satisfactory living conditions for future occupants of Plots 21-29, with regard to the overbearing impact from adjacent development, noise and disturbance;
- the effect of the proposed development on highway safety;
- the effect of the proposed development on the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA); and
- whether the proposal would secure required contributions to affordable housing and infrastructure provision.

Reasons

Character and appearance

11. The appeal site is a roughly L-shaped plot of approximately 1.2 hectares located within the settlement boundary of Send. It includes Numbers 92 and 94 Potters Lane (Nos 92 and 94), No 92 being located at the front of the site within the linear development along Potters Lane. No 94 is a detached house with an extensive garden, positioned behind the Potters Lane housing. This is enclosed by a high timber fence, partially set behind a vegetated bund which provides some screening of it in views towards the site from a public footpath to the south and the River Wey Navigation to the west. This footpath connects Potters Lane to the towpath along the River.
12. The site is enclosed by domestic gardens to the north and east and a large agricultural barn is located directly adjacent to part of the site's western boundary. To the south and west, the site is surrounded by open countryside. The land slopes down towards the River Wey Navigation, becoming significantly more rural and increasingly tranquil as one moves towards the river. This contributes to the rural setting of both the village and the river.
13. Potters Lane is characterised by varied properties in terms of designs, ages and sizes. Many of those on the western side of the road have long rear gardens backing onto open land and the garden of No 94. With limited street lighting and a pavement along one side only, Potters Lane has an informal appearance. This gives it a semi-rural character, reinforced by glimpses between development to the undeveloped land beyond.
14. The proposed development would extend the built form beyond the established line of development along Potters Lane. The development would be set out as a cul-de-sac in a combination of terraces, semi-detached and detached properties. This layout and form of development, with relatively small gardens and arranged around an access road would have a suburban character and appearance, would be at odds with the linear pattern of development along Potters Lane. Although it would not be visually prominent from Potters Lane, it would nevertheless appear as a discordant element and completely out of character with the village itself and the open and rural character beyond the built form.
15. The density of development, whilst not dissimilar to some of the development further north towards the centre of the village, would significantly intensify the amount of development on the rural edge of the village. This would have an urbanising effect which would form a hard edge to the village where one does not currently exist. As such it would not support the transition from the built-up area to the open countryside. This would be harmful to the rural setting of the village.
16. There are examples of other cul-de-sac forms of development off Potters Lane which lie between the river and the road, including Worsfold Close and the development at Number 54 Potters Lane (No 54). Unlike the appeal site, these developments lie closer to the village centre where surrounding development is more close-knit. They are not directly comparable to the appeal scheme which lies in a much more rural and location.

17. The development would be orientated and focussed around a central access road with just one of the proposed houses, Plot 1, having a relationship with the linear development along Potters Lane. The scheme would not integrate within the village being tucked away on its edge. Whilst it would arguably create its own character, it would not relate well to existing development, and as such would make a limited contribution to a sense of place.
18. The scheme proposes a number of traffic calming measures along Potters Lane which would include a series of build outs, reflective posts, high friction surfacing, additional signage and a section of double yellow lines. These would significantly increase the amount of highway features along the road which would have an urbanising effect to the detriment of the semi-rural character of Potters Lane.
19. The appeal site lies within the Corridor of the River Wey, which is an area identified as having a special character, due amongst other things to its visual and historical interest. The rural landscape between the built up area along Potters Lane and the river form an important part of its setting and the appeal site, due to its largely undeveloped character, makes a positive contribution to this.
20. The proposal would extend the built form westwards towards the River and into its open and undeveloped setting. In existing views from both the footpath to the south and the riverbank to the west, the agricultural barn is clearly visible. The proposed development would be both taller and in a slightly elevated position relative to this barn and would therefore be much more visually prominent.
21. It is proposed that the houses would be set in from the site boundaries behind generous gardens to reduce their visual impact on the rural setting. However, due to the amount of development proposed and its layout, the two-storey buildings would be visible above the site boundary, particularly in views from the west where the separation from the boundary would be more limited. This would appear to intrude into the rural setting of the river corridor, harming its tranquillity and rural character. I appreciate that landscaping to the site could provide some screening, however this would not be tall enough to effectively screen the height of buildings proposed and would be more open during winter months. Landscaping would not therefore mitigate the harmful effects of the scheme.
22. The appellants' submitted Landscape & Visual Statement 2020 concluded that the proposed development would, overall, have a minor effect on some landscape features and the character of the area which would be localised and reduced over time as proposed trees and vegetation mature on the site. Whilst these conclusions are noted, I do not agree that the proposal would result in a minor effect for the reasons I have set out above.
23. In coming to this view, I am mindful of the findings of the Inspector in the recently dismissed appeal¹ for four dwellings in the rear garden of the adjacent property, 90 Potters Lane (No 90). The western boundaries of Nos 90 and 92 are broadly aligned and the westerly extent of development would have been similar in both schemes. The previous Inspector concluded that the development would be evident from the surrounding land both within and

¹ APP/Y3615/W/19/3240812

outside the designated Corridor and would be greatly unsympathetic to local character including the landscape setting. In view of the similarity between these sites and their local context, I find that a similar or greater degree of harm would arise in this case, as the site is more exposed to the river than No 90.

24. I have been referred to a recently approved scheme for ten residential units at 22A Send Barns Lane². This site shared a number of similarities with the appeal site, including that it had been recently removed from the Green Belt and designated as part of the inset boundary of Send and it also proposed cul-de-sac development behind existing linear development. In that case, the Council found the scheme would respect the edge of the village character and existing density and patterns of development. However, the context of that site differed from the appeal site and proposal, being positioned off a main road and extending in line with adjacent development that appears to form part of the neighbouring primary school. It was also in an entirely different setting compared to the rural landscape within which the appeal site lies. The proposals are not therefore directly comparable.
25. I conclude that the proposed development would significantly harm the character and appearance of the area, including the setting of the corridor of the River Wey. It would therefore conflict with Policy D1 of the LPSS and Saved Policies G5 and G11 of the Guildford Borough Local Plan 2003 (LP) which together require new development to be a high quality of design that responds to distinctive local character, reinforces patterns of development and protects public views; and allows for development within the Corridor of the River Wey where it protects or improves its special character including views both within and from it.
26. It would also not accord with the National Planning Policy Framework (the Framework) which seeks development that is sympathetic to local character and establishes or maintains a sense of place. It would also not accord with the National Design Guide which amongst other things supports well-designed places which enhance their surroundings.
27. Although not referred to in the Council's decision notice, in its statement of case the Council identified conflict with Policies Send 1 and 4 of the SNP. These policies together seek a high quality design that conserves and enhances the environmental assets and local distinctiveness of Send; reflects the character and settlement pattern of the surrounding area; protects its countryside setting; and, in relation to Potters Lane, should reflect its rural and unspoilt character. I find that there would be conflict with these policies.

Wey and Godalming Navigations Conservation Area

28. The River Wey Navigation forms part of the WGNCA, the boundary of which extends a short distance either side of the waterway and lies to the west of the appeal site. The boundary of the WGNCA is indicated to be around 100 metres from the appeal site's western boundary. The appeal site is located within its setting.
29. The National Trust owns and manages the River Way & Godalming Navigations. Its published *Planning Guidance for development next to the River Wey &*

² Council Ref 19/P/01577

Godalming Navigations recognises that The Navigations form a visually important open corridor which passes through a variety of landscapes, both rural and urban. It sets out that the Navigation, within the vicinity of the appeal site, is recognised as having a strong rural character interrupted only by the village of Send at Cartbridge.

30. The National Trust's planning guidance is not an adopted supplementary planning document and the extent to which it has been subject to public consultation is not clear. Nevertheless, it provides relevant information about the significance of the conservation area and how development may affect it. In seeking to protect and enhance the special historic and landscape character of the Navigations and their setting, it accords with the aims of conserving and enhancing the historic environment as set out within both national and local policy. It is therefore relevant to the appeal proposal.
31. For the purposes of this appeal, the significance of the WGNCA is its rural character and the visual openness of the area as undeveloped countryside which has not been historically developed and which separates the settlement and built-up area of Send from the River. This contributes to its visual setting. Whilst the appeal site is enclosed by timber fencing, this is largely screened by the vegetated bund when viewed from the conservation area. It therefore makes a positive contribution to the setting through the absence of any significant or prominent development.
32. It is evident from historical maps that the appeal site has historically been separate from the adjacent field which lies between it and the river itself although what form that separation took is not known. It has been argued that this sets the site apart from the River Wey corridor. However, I disagree as it seems to me that since the site is relatively close to and visible from the river and its associated conservation area it is reasonable that it is included within its setting.
33. There is a distinctive change in character as one walks along the towpath of The Navigations with a rural landscape setting along the section of path to the south and west of the appeal site with an absence of development and open fields. Further north, there is an increased sense of enclosure formed by the domestic hedges and formal walls and fencing to properties backing onto the towpath, with an increased amount of development as one approaches the Send Road bridge. This section of the towpath contrasts with that further south to which the appeal site contributes to.
34. I have set out in some detail above how the proposed development would be visible from the river and would detract from its special character. It would be visible in views both from and, to a lesser extent, towards the WGNCA and it would fail to preserve or enhance its rural character and appearance. It would therefore harm its significance. The harm the proposal would cause to the significance of the conservation area would be moderate and less than substantial.
35. Paragraph 199 of the Framework advises that great weight should be given to the asset's conservation. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.

36. The appeal scheme would deliver 29 houses in an accessible location. Of these, 12 would be affordable housing units, provided in an area where there is a significant affordability crisis. The proposal would be designed to deliver at least a 20 per cent reduction in carbon emissions and some ecological enhancements on the site. In addition to these social and environmental benefits, the scheme would deliver a number of economic benefits including local construction jobs, additional local spending and monetary benefits through Council tax receipts. The provision of open space and contributions to infrastructure would address the needs arising from the development and would be a neutral factor in the balance.
37. These are public benefits of the scheme which in combination carry moderate weight in the balance. However, these benefits do not outweigh the less than substantial harm to the heritage asset which I have identified and to which I attach considerable importance and great weight.
38. I acknowledge that in its assessment of the planning application the Council did not undertake the balancing exercise required under the Framework. However, this is a procedural matter and does not alter my findings in regards to the merits of the case.
39. I note that the effect of development on the heritage asset was not raised in respect of the planning application at No 54 which is physically closer to the WGNCA. I have not been provided with the full details of that case and the circumstances around this. However, I observed that the site at No 54 is located closer to existing, albeit loose, development which extends to the towpath. In this respect, whilst the development certainly falls within the setting of the WGNCA, its context is not of open land extending to the river and is different to that of the appeal site. For this reason, I do not find the schemes comparable.
40. I conclude that the proposed development would not preserve or enhance the character or appearance of the setting of the WGNCA. It would therefore conflict with Policy D3 of the LPSS which requires development to enhance the special interest, character and significance of the heritage asset and its setting and make a positive contribution to local character. It would also not comply with Saved Policy G11 of the LP which seek to protect or improve the historic interest of the WGNCA. It would also conflict with Policy Send 1 of the SNP which requires a high quality and sustainable design that conserves and enhances its heritage and environmental assets including the WGNCA and its setting.

Living conditions – existing occupiers

41. The appeal site lies behind the gardens to Numbers 96 to 112 Potters Lane from which it is separated by a boundary fence, hedging and other vegetation. These gardens are indicated to have a depth of just under 40 metres. The proposed layout indicates that Plots 5 and 14 would flank onto the rear gardens of Numbers 96 and 108 respectively. They would be set in from these garden boundaries by 3 and 6 metres respectively. Both houses would be two-storeys.
42. Whilst the proposed houses would be taller than the existing chalet bungalow on the site and closer to the garden boundaries of Nos 96 and 108, there would nevertheless be a significant separation in excess of 40 metres between the flank walls of the proposed houses and the rear elevations of the existing. As

such, whilst due to their height they would be more prominent in comparison to the existing development on the site, they would be set sufficiently far from the garden boundary and any rear facing windows to not give rise to an unacceptable loss of outlook with both properties retaining a reasonably open aspect. They would also not have an overbearing impact on occupants of these properties when using their rear gardens due to their set in from the boundary.

43. The scheme proposes the formation of a Local Area of Play (LAP) which is a small area of open space designed for younger children as an area of play close to where they live. This would be positioned towards the north of the site close to the garden boundary to No 90.
44. The Fields in Trust guidance³ recommends a buffer zone of 5 metre minimum providing a separation distance between the 'activity' zone which should be a minimum of 100 square metres and the nearest property containing a dwelling. The scheme would achieve this minimum separation.
45. However, the LAP is part of a wider area of open space that would directly abut the rear garden of No 90. It would be a focal point within the development, serving 29 dwellings and whilst it would be aimed at younger children, there would be nothing to stop other people from congregating there for recreational purposes. This could give rise to noise and disturbance to occupiers of No 90 who could reasonably expect a degree of peace and quiet at the rear of their property.
46. Whilst I find that the layout of the scheme would not harm the living conditions of occupants of Nos 96 or 108 through any overbearing impact or effect on outlook. I do find that the proposed development would adversely affect the living conditions of occupants of No 90 through noise and disturbance. It would therefore conflict with Policy G1(3) of the LP and Policy D1 of the LPSS which together seek a high quality design and to protect the amenities of occupants from unneighbourly development in terms of noise. It would also conflict with the Framework which requires development to provide a high standard of amenity for existing users.

Living conditions – future occupiers

47. The agricultural barn directly west of the appeal site was granted permission on appeal⁴ with an unrestricted agricultural use, other than a requirement for its removal should the agricultural use of the building cease. At the time of the appeal, its stated use was for goats whilst kidding, the whole herd during extreme weather, for storage of feed, hay, straw and agricultural machinery along with a workshop to service that machinery.
48. In allowing the appeal, the Inspector considered the relationship between this building and the nearest residential occupiers both along Potters Lane and at No 94. The Inspector concluded that the separation provided by the garden and the planted field boundary would ensure their outlook was not materially affected.
49. The appeal scheme proposes a layout whereby there would be a very limited separation between the barn and the block of flats within Plots 24 to 29 as well as the shared garden serving these which would be directly behind the barn. It

³ Fields in Trust, Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard

⁴ APP/Y3615/A/14/2222847

would also extend along part of the garden boundary to Plot 21. Whilst no windows would directly face the barn, it would nevertheless be clearly visible from the rear facing windows in Plots 21 to 29 from which it would appear as an overbearing structure. The height of the barn and its proximity to these dwellings and their outdoor space, particularly for Plots 21 and 24 to 29, would appear overbearing and would enclose the garden space. This would reduce outlook from this area which would not provide satisfactory living accommodation for future occupants of these flats.

50. The barn is at times used for the keeping of livestock and there is no restriction on its use for agricultural purposes. This would be likely to give rise to some noise and general disturbance at times. Due to the close proximity of the aforementioned plots and their gardens, directly adjacent to the barn, there would likely be some adverse impact on the living conditions of future occupants.
51. I conclude that the proposed development would not provide satisfactory living conditions for future occupants of Plots 21 to 29, with regard to the overbearing impact from adjacent development, noise and disturbance. It would therefore conflict with Policy G1(3) of the LP and Policy D1 of the LPSS which together seek a high quality design and to protect the amenities of occupants from unneighbourly development in terms of noise. It would also conflict with the Framework which requires development to provide a high standard of amenity for future users.

Highway safety

52. The proposed development would require a visibility splay of 2.4 metres by 43 metres in accordance with Manual for Streets 2. Due to the presence of a protected highway tree within the verge to the north of the proposed access, the required visibility splay to the north could not be provided. The proposed highway scheme sought to enable a reduced visibility splay to the north by reducing traffic speeds along Potters Lane. This would be through traffic calming scheme involving the construction of a series of kerb build outs along Potter Lane and a priority give way arrangement immediately to the north of the site access.
53. A number of local residents have objected to the scheme on highway safety grounds due to the nature and volume of traffic that can pass along Potters Lane. This includes tractors and vehicles pulling trailers. There are also concerns that the kerb build outs would prevent occupants from safely entering and exiting their properties, particularly if towing a trailer or caravan.
54. The proposed traffic calming scheme has been subject to a Stage 1 Road Safety Audit (RSA). The Statement of Common Ground (Highways) (Highways SoCG) drawn up by the local highway authority and the appellant states that a Stage 2 RSA had been carried out. This was refuted by the appellant at the Hearing.
55. I have been provided with a copy of the Stage 1 RSA which highlighted a number of issues. A design response indicated that reflective bollards, signage, hatching/carriageway markings and friction surfacing may be provided. I have addressed these matters from a character and appearance point of view in my reasoning above.

56. The Stage 1 RSA was based upon a swept path analysis for estate cars. It set out that it was not clear if vehicles wishing to enter or exit properties directly adjacent to the proposed traffic calming features who may be towing caravans or trailers would be able to enter private driveways without striking the kerbs of the proposed traffic calming features. A swept path analysis for an estate car towing a caravan was subsequently submitted.
57. The swept path analysis indicates that it would be feasible for cars towing a caravan or trailer to enter the properties. However, the available space to do this would be tight because of the proposed build outs. This would make manoeuvring into and out of private drives more difficult. The swept-path analysis indicates that the vehicles would need to enter the opposing lane of traffic in order to perform the required reversing manoeuvres.
58. I have no evidence of whether this currently occurs but it seems to me that this could increase the risk of conflict between road users. It would also be likely to cause some inconvenience to occupants of the affected properties. I do, however, appreciate that the traffic calming could be designed as over-run areas rather than kerb build-outs which could mitigate this. In this regard, there is likely a design solution to overcome the harms that may arise.
59. Number 85 Potters Lane (No 85) lies almost opposite the proposed access to the site. The swept path analysis indicates that a vehicle towing a caravan or trailer accessing No 85 would have to enter the opposite carriageway in order to both enter and exit the property. This would be directly in front of the access serving 28 of the proposed properties and within the 'keep clear' box at the southern end of the priority give way arrangement.
60. The combination of the increased use of the access to the appeal, the queuing of traffic arising from the prioritisation, albeit likely to be modest in number, and the relationship of this with the manoeuvrability space to provide access to No 85, would, in my view, give rise to potential conflict between road users and would be likely to adversely affect the free flow of traffic on the highway. The degree of this harm would depend how frequently such vehicles would be entering or exiting the site.
61. I appreciate that the local highway authority has stated that, subject to the traffic calming scheme being secured, they have no objection. However, the local highway authority considered that this has been subject to a Stage 2 RSA which it has not. The submitted Highways SoCG does not provide sufficient clarity that matters relating to access to existing properties have been fully considered. The local highway authority was not in attendance at the Hearing and I was unable therefore to clarify these matters. In the absence of this, I am not satisfied that this arrangement would not increase the risk of conflict and that it would not therefore adversely affect highway safety.
62. The proposed traffic calming would result in a slowing down of traffic, with vehicles having to stop to enable others to pass. Concerns have been raised about increased traffic noise and pollution arising from this. However, this needs to be balanced against traffic travelling along the road at a faster speed. I do not find that there would be a material difference in terms of noise and pollution between the two scenarios.
63. Northbound vehicles waiting at the stop line within the prioritisation scheme could potentially obstruct visibility, for vehicles travelling south, of vehicles

emerging from private driveways or the appeal site itself. However, it seems to me that drivers would be anticipating this given the nature of the street and number of properties with driveways. In view of this and the slower speeds they would be travelling, the risk of conflict arising from this would be relatively low.

64. The proposed traffic calming features would reduce the amount of on street parking available along Potters Lane. At the time of my site visit, I observed that on street parking along this section of Potters Lane was light and there was plenty of space. Properties also benefit from their own off-street parking. Whilst the installation of the traffic calming measures would reduce the availability of parking space along the lane, I have nothing before me to suggest that this would cause an unacceptable impact on parking locally.
65. I conclude that the proposed development would increase the risk of conflict between users of the highway. It would therefore adversely affect highway safety. It would therefore conflict with Policy ID3 of the LPSS which requires new development to provide suitable access to make it acceptable, including mitigation to maintain the safe operation of the local road networks. It would also conflict with the Framework which requires safe and suitable access to the site and for development to be refused if it would have an unacceptable impact on highway safety. The Surrey Local Transport Plan does not form part of the development plan. I have not been made aware of any specific conflict with it.

Habitats Sites

66. The appeal site lies within the 400 metres and 5 kilometres buffer zone of the TBHSPA. This is protected as a European Site of Nature Conservation Importance and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site.
67. The Council has determined that additional residential may adversely impact the protected habitats sites due to increased recreational pressures. In order to avoid adverse impacts from the proposal, mitigation is required in the form of contributions to Strategic Access Management and Monitoring and the provision of Suitable Alternative Natural Greenspace.
68. The appellant has accepted the need to provide these contributions and the submitted legal agreement would appear to secure this. The Council has indicated that this would address this reason for refusal. Notwithstanding the Council's findings in respect of this, as the competent authority, I would be required to carry out an appropriate assessment of the effect of the proposed development. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.

Provision of infrastructure and affordable housing

69. The submitted legal agreement secures required contributions to infrastructure and affordable housing. The Council has confirmed that subject to the completion of the legal agreement this reason for refusal will have been addressed. The submitted planning obligation makes this provision. I am satisfied that this reason for refusal has been met.

Other Matters

70. It is common ground between the parties that the Council can demonstrate a five year supply of deliverable housing sites. The appellant has drawn my attention to the Council's delivery of housing as set out in the published HDTs which for 2018 and 2019 both fell below 85%. However, more recently the Council has performed better with delivery at 90% in 2020 and 144% in 2021.
71. The provision of housing through the appeal site would make a contribution to the overall supply of housing including the windfall allowance which accounts for a reasonable portion of the supply. Notwithstanding this, the Council has a five year housing land supply and the tilted balance as advocated under paragraph 11 of the Framework would not apply in this case.
72. The West Surrey Strategic Housing Market Assessment (October 2015) confirms that the affordable housing need in Guildford borough equates to 455 dwellings per annum. Affordability within the Borough is higher than the national average and there is therefore a significant affordability need. The appeal scheme, in providing 12 units, would make a small contribution to the overall annual requirement and meeting this need. This carries moderate weight in favour of the scheme. However, it would not outweigh the harms that I have identified.

Conclusion

73. The appeal site lies within the designated inset boundary of Send and there is no in principle objection to housing it this location. However, I have found that the proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Heather Sargent	Counsel, Landmark Chambers
Ms Rhiannon Jones	Principal Planner, Neame Sutton Ltd
Mr David Neame	Director, Neame Sutton Ltd
Mr Colin Pullan	Head of Masterplanning and Urban Design, Lambert Smith Hampton
Mr Steve Parsons	Director, Vision Transport Planning
Mr Ben Taylor	Appellant and Managing Director, Belfield Homes

FOR THE LOCAL PLANNING AUTHORITY:

Mr Conor Fegan	Counsel, Frances Taylor Building
Ms Hannah Yates	Principal Planner
Mr Paul Fineberg	Architect/Design Adviser
Ms Louise Blaxall	Conservation & Design Team Leader

INTERESTED PARTIES:

Mr Robert Ludlam	Local resident
Mr Keith Cogan	Local resident
Mr Gary Sharp	Local resident
Mr Patrick Oven	Send Parish Council
Mr Kevin Lang	Director, Lanmor Consulting

HEARING DOCUMENTS

- HD1 Drawing 19-J2884-29
- HD2 Drawing 19-J2884-30
- HD3 Appeal Decision – Land to rear of 5 Send Barns Lane (APP/Y3615/W/21/3267871)
- HD4 Guildford Borough Council Annual Monitoring Report 1 April 2020- 31 March 2021 (Published August 2021)
- HD5 Wording of condition relating to levels

POST-HEARING DOCUMENTS

- PH1 Email correspondence dated 8/12/21 from appellant updating on progress in finalising planning obligation
- PH2 Copy of letter dated 24 July 2020 from Vision Transport Planning
- PH3 Drawing 19044-005 Rev A Swept Path Analysis Estate Car Sheets 1-5
- PH4 Drawing 19044-006 Swept Path Analysis Using Estate Car & Caravan Sheets 1-5
- PH5 Drawing 19044-007 Swept Path Analysis using a Large Car
- PH6 Email (in 3 parts) dated 15/12/2021 enclosing completed section 106 agreement and
- PH7 Signed and dated Section 106 Agreement
- PH8 Copies of email correspondence dated 17/12/21 between parties relating to section 106 agreement confirming validity of the date of one of the signatures
- PH9 Email dated 24/1/22 from the appellant confirming no change to position regarding the HDT
- PH10 Email dated 25/1/22 from the Council confirming no change to position regarding the HDT