
MAIN STATEMENT OF COMMON GROUND
BETWEEN THE APPELLANT AND MEDWAY COUNCIL

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APPEAL REFERENCE: **APP/A2280/W/21/3276221**

LPA APPLICATION REFERENCE: **MC/20/1478**

DATE OF INQUIRY: **28 September 2021 for 4 days**

SITE ADDRESS AND DESCRIPTION OF THE DEVELOPMENT:

Address: Land at Upnor Road, Upper Upnor, Medway (The Appeal Site).

Description of Development: *Erection of 72 No. residential dwellings including 18 x affordable housing and erection of Children’s Nursery (Use Class E(f)) associated car parking and infrastructure; new landscaping and public open spaces including new public rights of way and new bus stop; sustainable urban drainage system and associated earthworks and a new vehicular access from Upnor Road.*

APPELLANT: Esquire Developments Ltd

LOCAL PLANNING AUTHORITY: Medway Council

This Statement of Common Ground (SoCG) addresses the following areas:

- 1.0 Description of Appeal Site
- 2.0 Planning History of the Appeal Site
- 3.0 Development Plan
- 4.0 Relevance of Supplementary Planning Guidance
- 5.0 Possible Conditions
- 6.0 Draft Terms of any S106 Agreement
- 7.0 Areas of Agreement – General
- 8.0 Areas of Disagreement relating to Planning

There is a separate SoCG concerning landscape matters.

1.0 DESCRIPTION OF THE APPEAL SITE

- 1.1 The Site is located south of Upnor Road, Upper Upnor and adjacent to an existing residential development of Castle Street. The site is approximately 5.1ha in size and is irregular in shape and comprises two arable fields (separated by a centrally located ditch) presently used for agriculture.
- 1.2 Hedgerow vegetation defines the western and northern boundaries of the Site, while dense mature woodland defines the southern boundary. Existing residential dwellings on Castle Street and their associated rear boundary vegetation and boundary treatments define the north eastern extent of the Site.
- 1.3 There is currently an informal ungated access used by agricultural vehicles in the north west corner. The site slopes from east to west from 13.10m to 3.17m AOD in the northern part and 13.5m to 4.25m AOD in the southern part. The rear gardens of Castle Street are slightly elevated. A number of existing sewers run through the site leading to the nearby Whitewall Creek Sewage Treatment plant located 50m beyond the site's south-western boundary.
- 1.4 The site predominantly lies in Flood Zone 1 with a small area on the western lower part of the site being located in Flood Zones 2 and 3.
- 1.5 The Site is not located within or adjoined by a National Park or Area of Outstanding Natural Beauty (AONB). The site is within a locally designated landscape, the Hogmarsh Valley Area of Local Landscape Importance (ALLI). The ALLI is a valued landscape for the purposes of, and subject to, the policy set out in NPPF paragraph 174(a) (previously 170a) of the NPPF. There are no areas of ancient woodland within the Site (the closest area is Cookham Wood located approximately 1.4km to the north-east). The adjoining woodland to the south and east of the site is located within an area of a Special Scientific Interest (SSSI).
- 1.6 There are a number of nearby Public Rights of Way, namely;
- Public Right of Way (PRoW) RS122 is located to the south and south-west of the Site and passes through Tower Hill, connecting Castle Street with (PRoW) RS121 and Vanguard Way to the south.
 - The Saxon Shore Way/PRoW RS121 runs to the south and east of the Site and follows the northern bank of the River Medway to the north-east and east before deviating inland towards Frindsbury to the south-west.
 - PRoW RS327 lies to the west of the Site, which connects the Saxon Shore Way and Vanguard Way with Upnor Road.

- PRoW RS125 lies to the north of the Site, which connects Upnor Road with Wainscott Road.
 - PRoW RS136 which runs south and west of the site connecting Upnor riverside with Frindsbury Hill.
- 1.7 There are several cycle-routes within the surrounding area, including along Berwick Road to the west and along the southern bank of the River Medway to the east.
- 1.8 Upnor Conservation Area is located approximately 125m to the east of the Site at its nearest point. Frindsbury and Manor Farm Conservation Area is located approximately 350m to the west of the Site at its nearest point. The Site is not subject to any Tree Preservation Orders (TPO).
- 1.9 Located immediately beyond the western boundary lies a low area of land that contains the Hogmarsh stream which leads south to the River Medway. Beyond this area lies Upnor Road which leads south to the A289 Berwick Way leading to Strood, Chatham and the M2 or north to Lower Upnor and Upchat Road which leads to Four Elms Hill or Chattenden. Further on lies undulating agricultural land leading to the built-up edge of Strood (Wainscott) and includes Frindsbury Lawn Tennis Club and Cricket Club and Frog Island Pond, a small local nature reserve.
- 1.10 In addition, the field that lies to the north of Upnor Road, north-west of the Site, often accommodates a car boot sale (Planning consent MC/19/1847 allows for 18 sales in total in any one calendar year).
- 1.11 The Medway City Estate, an area of commercial and industrial development, lies approximately 400m to the south-west. The edge of these urban and suburban areas are defined by the A289 (Berwick Way and Medway Tunnel), which is a main road connecting Strood with Rochester to the east (on the opposite side of the River Medway) and Chattenden and Hoo to the north-east.
- 1.12 Dense woodland occupies areas of higher ground to the north and south which is a Site of Special Scientific Interest (SSSI). In addition, the Royal School of Military Engineering is located beyond intervening woodland vegetation to the south-east.
- 1.13 Upnor comprises a number of residential enclaves including Upper Upnor, Lower Upnor and Castle Street. The site lies outside any defined settlement boundary but immediately adjoins Castle Street.
- 1.14 Within Lower Upnor and Upper Upnor there are 4No Public Houses, Medway Yacht Club, Upnor Sailing Club, Pitmans Wharf and the Ordnance Yard which includes a number of local businesses. Upnor Castle located on the River Medway near Upper Upnor attracts a significant number of visitors each year.

- 1.15 The site is situated within close proximity to a number of services and facilities. This includes at around 800m as measured by straight line isochrones to 2No. Co-Op shops (Wainscott and Medway City Estate), Wainscott Primary School, McDonalds restaurant and Medway City Estate, Medway's largest employment area.
- 1.16 The nearest bus stop is approximately 300m to the east of the site on Upchat Road and served by the 197 bus linking to Strood and Chatham Railway Stations. There are a number of additional bus services accessed from Wainscott and Medway City Estate.

2.0 PLANNING HISTORY OF THE APPEAL SITE

2.1 The site has no relevant planning history.

2.2 The application subject to this Appeal was refused by delegated authority on 26 February 2021. The single Reason for Refusal reads:

- 1 **The proposal would establish development and reinforce the presence of built form in open space that crosses to the east slopes of the Hogmarsh Valley, whilst also introducing another new feature in the form of a building and a stack of approx. 6m high as mitigation measures to address the odour arising from the nearby waste water treatment works. The proposals would erode the attractive rural backdrop that currently forms a green buffer separating Frindsbury, Wainscott and Upper Upnor contributing to the threat of coalescence between Upper Upnor and the urban areas, devaluing a currently rural image and as well as weakening the currently attractive setting for a major gateway within the borough - the A289. Overall, it is considered that the impact of this proposal is an intrusion into the countryside which results in harm to the character, appearance and function of this important landscape area that would significantly and demonstrably outweigh the benefits of the 72 dwellings and the provision of a children's nursery. The proposal conflicts with Policies BNE25 and BNE34 of the Medway Local Plan 2003 and paragraph 170(a)&(b) of the National Planning Policy Framework 2019.**

2.3 The weight to apply to Local Plan Policies BNE25 and BNE34 of the Medway local Plan (together with other relevant policies) is subject to further assessment in Appendix 1 of this statement and respective proofs of evidence.

2.4 In respect of NPPF Paragraphs 174 (previously 170) a) and b), it is agreed that the only applicable text from those bullet points relates to Para 174 (a) '*protecting and enhancing valued landscapes*' and Para 174 (b) '*recognising the intrinsic character and beauty of the countryside*'. This is on the basis that the Appeal site does not have any biodiversity or geological value and soils of quality nor does it form wider natural capital and ecosystem from best and most versatile agricultural land or trees and woodland.

3.0 DEVELOPMENT PLAN

3.1 It is agreed that the Development Plan comprises:

- 1) Saved Policies from Medway Local Plan 2003 (**CD 5/1**)

3.2 The Medway Local Plan (MLP) (**CD5/1**) was adopted May 2003 with a Plan period of 1996-2006. Reference may be made to the following policies:

- Policy S1: Development Strategy
- Policy S2: Strategic Principles
- Policy S4: Landscape and Urban Design
- Policy S6: Planning Obligations
- Policy BNE1: General Principles for Built Development
- Policy BNE2: Amenity Protection
- Policy BNE3: Noise Standards
- Policy BNE4: Energy Efficiency
- Policy BNE5: Lighting
- Policy BNE6: Landscape Design
- Policy BNE7: Access for All
- Policy BNE8: Security and Personal Safety
- Policy BNE21: Archaeological Sites
- Policy BNE23: Contaminated Land
- Policy BNE24: Air Quality
- Policy BNE25: Development in the Countryside
- Policy BNE26: Business Development in the Countryside
- Policy BNE34: Areas of Local Landscape Importance
- Policy BNE35: International and national conservation sites
- Policy BNE37: Wildlife Habitats
- Policy BNE38: Wildlife Corridors and Stepping Stones
- Policy BNE39: Protected Species
- Policy BNE42: Hedgerow Retention
- Policy BNE43: Trees and Development Sites
- Policy H1: New Residential Development
- Policy H3: Affordable Housing
- Policy H10: Housing Mix
- Policy H11: Residential Development in Rural Settlements

- Policy L4: Provision of Open Space
- Policy L10: Public Rights of Way
- Policy T1: Impact of Development
- Policy T2: Access to the Highway
- Policy T3: Provision for Pedestrians
- Policy T4: Cycle Facilities
- Policy T6: Provision for Public Transport
- Policy T11: Development Funded Transport Improvements
- Policy T12: Traffic Management
- Policy T13: Vehicle Parking Standards
- Policy T14: Travel Plans
- Policy CF12: Water Supply

Emerging Plan

- 3.3 The Council has published a Local Plan Regulation 18 Consultation Strategy document in 2018 **(CD5/3)**.
- 3.4 A regulation 19 Local Plan consultation is anticipated to take place in late Autumn 2021.
- 3.5 The parties' positions on the relevance and weight to be attached to the policies, as well as whether they are to be considered "most important for determining the application" for the purposes of NPPF, para 11(d), is set out in **Appendix 1** of this SoCG. The planning judgements of each will be considered in Evidence.
- 3.6 There is no Neighbourhood Plan being proposed for the Parish of Frindsbury Extra in which the site sits.

4.0 RELEVANCE OF ANY SUPPLEMENTARY PLANNING GUIDANCE PUBLISHED BY THE LPA

4.1 Relevant Supplementary Planning Documents:

- Developer Contributions & Obligations SPD (May 2018) **(CD5/6)**

4.2 In addition, the following documents have been published by MC which are relevant:

- Medway Landscape Character Assessment (2011) **(CD5/13)**
- Annual Monitoring Report (Dec 2020) **(CD5/7)**
- Housing Delivery Test Action Plan (July 2021) **(CD5/9)**

5.0 POSSIBLE CONDITIONS AND THE REASONS FOR THEM

5.1 A separate schedule of Conditions will be prepared and submitted prior to the Public Inquiry

6.0 DRAFT TERMS OF ANY S106 OBLIGATIONS

6.1 The Heads of Terms are.

- a) 25% of all housing to be provided as affordable housing.
- b) Financial contributions as follows:
 - i) £12,124.80 towards improvements to facilities and equipment to libraries within the vicinity.
 - ii) £3,960 toward improvements to PRow at Saxon Shore Way and other PRowS in immediate vicinity
 - iii) £150,000 Bus Services
 - iv) £75,000 highways improvements
 - v) £5,430.48 to support youth provision and programme delivery in the Strood and Peninsula area
 - vi) £12,704.40 For the provision, improvement and promotion of waste and recycling including:
 - Waste containment for the development (waste and street litter bins)
 - Maintenance & improvement of local bring centres (HWRC's & bring sites) to cover the developments impact
 - Waste education & promotion (The development, local schools & events)
 - vii) £20,900.16 towards enhancements to the visitor centre at Upnor Castle
 - viii) £109,827.97 toward enhancement of open space facilities and the Great Lines Heritage Park.
 - ix) £457,808.943 toward mitigating the impact of the additional pupils produced. Expansion of one or more of Chattenden, Hundred of Hoo, St Nicholas Infants, Strood Academy.

- Nursery - £95,613.44
 - Primary - £234,686.36
 - Secondary - £127,508.63
- x) £46,424.88 to support the foundation and development of the Peninsula locality Primary Care Network including the supporting infrastructure, IT, training and equipment;
- xi) £18,028.08 towards Designated Habitats Mitigation.
- xii) The contribution towards Odour Mitigation at Whitewall Creek WWTW will be subject to the final S106 Agreement.

6.2 Other non-financial obligations include

1. The provision of the new footpath connections with adequate surfacing and lighting
2. The provision of two bus stops; one as a pole and flag and one with a shelter
3. The mitigation measures at the wastewater treatment works as set out in the Odour Constraints Assessment.
4. The widening of Upnor Road to provide passing locations for vehicles.

6.3 A completed S106 Agreement will be submitted in accordance with the appeals procedures.

7.0 AREAS OF AGREEMENT – GENERAL

7.1 The following confirms areas that are not in dispute between the parties and the referenced technical reports are considered to satisfy National and Local Planning policy requirements together with relevant technical guidance informing their preparation. Where necessary appropriate planning conditions are proposed which are set out under Section 6 of this Statement.

i) Housing Land Supply – as at April 2021

7.2 The housing land supply ranges from 2.54yrs to 3.03yrs¹ based on the supply within Council's latest published AMR (December 2020) **(CD5/7)**. The difference is dependent upon if, and when it is necessary to consider any deficit and over what period that deficit is recovered.

7.3 For the avoidance of doubt the Council does not consider it appropriate to assume that past under delivery represents housing need over and above that assessed by way of the standard method calculation of local housing need. This is because, as the PPG explains, *"the affordability adjustment is applied to take account of past under delivery"* (paragraph 011 Ref ID: 2a-011-20190220).

7.4 The Appellant considers that the deficit accrued since the base date of the LHN (2018), should be factored into the 5-yr supply calculations on the basis of the PPG (Paragraph: 022 Reference ID: 68-022-20190722) which confirms *'To ensure that there is a realistic prospect of achieving the planned level of housing supply, the local planning authority should always add an appropriate buffer, applied to the requirement in the first 5 years (including any shortfall) (our underline). This will result in a requirement over and above the level indicated by the strategic policy requirement or the local housing need figure.*

¹ The Council will, if appropriate, update the five-year supply figure for the 1st April 2021 to 31st March 2026 if the monitoring data is available in good time. It is not anticipated that the supply will be above 5 years.

Table 7.1: Housing Land Supply

	Appellants Position		Medway Position
	Based on deficit 2018 onwards and Sedgefield approach	Based on deficit 2018 onwards and Liverpool approach	Based on Local Housing Need, and PPG (at Dec. 2020)
Planned Requirement 2020/21 – 2024/25	8,310	8,310	8,310
Deficit since 2018/19	1,568	1,568	-
Sub total	9,878	9,878	-
20% Buffer	1,975	1,975	1,662
Additional 20% buffer to be rectified in 5yr period.	1,975	395	
Total Required In period 2020/21 – 2024/25	11,853 (2,371dpa)	10,273 (2,055dpa)	9,972
Supply² (Section 7 AMR Vol 2)	6,040	6,040	6,040
Actual Deficit	5,813 dwellings	4,233 dwellings	3,932 dwellings
HLS Position	2.54yrs	2.93yrs	3.03yrs

7.5 Medway’s most recent Housing Delivery Test 2020 (**CD5/8**) confirms that in the last 3 years, Medway has achieved a delivery of 55% against its required target.

7.6 There have been shortfalls in delivery since 2014/15. The Council has used the Local Housing Need (LHN) figure, derived from the Government’s Standard Methodology for calculating housing need since 2017/18 and as PPG sets out, until the LHN is adopted as a Local Plan requirement there is no need to further consider past undersupply. Past delivery is reflected in Table 7.2 below.

² No analysis of the Supply has been undertaken by the Appellant who reserves the right to do so if required based on footnote 3 above. The 6,040 figure reflects the AMR supply less 3 sites which have a resolution to grant subject to section 106 (at the time of the AMR) removed from the total supply

Table 7.2: Housing Completions in Medway

Year	Completions	Requirement / Local Housing Need	Difference
2014/15	483	1,000	-517
2015/16	553	1,000	-447
2016/17	642	1,000	-358
2017/18	680	1,334	-654
2018/19	647	1,683	-1,036
2019/20	1,130	1,662	-532
2014/15 – 2019/20	4,135	7,679	3,544

7.7 The Council's 2015 Strategic Housing Market Assessment (**CD5/17**) identified a need of 744 affordable dwellings per annum. Since 2015, the affordability ratio has risen from 6.90 to 7.57. In 2018/19 there were a total of 181 affordable housing units delivered, which is 26% of the gross number of housing completions. It was some 563 dwellings short of the SHMA identified annual need,

7.8 The Council has an adopted Housing Strategy 2018-2022, within which an annual target for Affordable Housing is set at 204 units. Therefore, in 2018/19 the total of 181 affordable units was only 23 short of the Council's adopted affordable Housing target. In 2019/20 affordable housing completions were 333 units (29% of gross completions and 129 units above target).

ii) Presumption in Favour of Sustainable Development

7.9 It is agreed the site is not subject to any NPPF Footnote 7 exemptions identified in NPPF Para 11d) i.

7.10 It is agreed the Presumption in Favour of Sustainable Development (the tilted balance) is engaged as a result of the Housing Land Supply Position.

7.11 It is agreed the Presumption in Favour of Sustainable Development (the tilted balance) is also engaged as a result of the Housing Delivery Test Results.

iii) Residential Development

7.12 It is agreed the proposed mix of open market and affordable homes is appropriate.

Table 7.3: Proposed Housing Mix

	Market	Affordable	Total
1-bed maisonette	0	4	4
2-bed house	7	6	13
3-bed house	36	6	42
4-bed house	8	2	10
5-bed house	3	0	3
Total	54	18	72

7.13 It is agreed the proposed density at 14.1dph (gross) is appropriate.

iv) Children's Nursey

7.14 It is agreed that there is a need for the children's nursery.

7.15 It is agreed the location, scale and siting of the nursery is acceptable, subject to the Council's position that the overall principle that the development is unacceptable in landscape terms.

v) Design and Layout

7.16 It is agreed that the heights of the proposed residential dwellings would be up to two storeys in height.

7.17 It is agreed the house type designs and materials for the development are of a farmstead type aesthetic.

7.18 It is agreed there would be a mix of detached, semi-detached and terraced properties. All dwellings would have a private amenity area and there is also landscaping proposed to the fronts

7.19 It is agreed that there are no objections in respect of the architecture proposed and the dwellings are well planned with appropriate elevations.

7.20 It is agreed the internal impact of the infrastructure (roads, footpaths, surfaces and small-scale landscape edge relationships) is deliberately not over engineered.

7.21 It is agreed in design and layout terms the proposed development has been well thought through and would be capable of being a high quality development in design terms (subject to detailing).

vi) Climate Change and Adaptability

- 7.22 It is agreed the proposed dwellings will be required, by way of condition, to achieve a carbon reduction of 50% lower than that set out in Part L of the Building regulations.
- 7.23 It is agreed the property sizes, internal arrangements and plot sizes provide for adaptability and flexibility to respond to future multi-functional spaces, including working and learning from home without compromising the amenity of each dwelling or plot.

vii) Landscape and Open Space

- 7.24 It is agreed the site provides for sufficient open space and exceeds the minimum requirements.
- 7.25 It is agreed a Locally Equipped Area of Play (LEAP) will be provided on the site and this will take the form of a natural style. This will be secured by way of Condition.
- 7.26 The proposed landscape strategy is as set out in Landscape Strategy Version 12 **(CD2/65)**.

viii) Highways

- 7.27 It is agreed (noting that the Council have some concerns from a landscape and visual perspective over the associated vegetation loss and change in character of Upnor Road) that Highways capacity and safety is not a constraint to development, subject to the implementation of the proposed highways works, including:
- Provision of the access as per drawing H08 Rev P8 **(CD2/108)**
 - The delivery of new Public Rights of Ways
 - The delivery of a new bus stop
 - The proposed widening of Upnor Road.
- 7.28 The submitted Transport Statement **(CD2/10)** and subsequent update in the Covering Letter dated 04 December **(CD2/63)** sets out an appropriate methodology to assess the highways impacts of the Development. It is agreed the impact on the local network is deemed acceptable and would not represent an unacceptable impact on highway safety and would not be a severe impact on the network.
- 7.29 It is agreed that sufficient parking is provided on site for the residential dwellings and the visitor spaces.

7.30 It is agreed sufficient parking is provided for the Children’s Nursery.

ix) Accessibility

7.31 It is agreed the site is in an accessible location.

7.32 It is agreed there are a number of existing services withing sufficient walking distance and a number of services readily accessible as shown in Table 7.4 and Appendix 3:

Table 7.4: Accessibility Table

Services / Facilities	Distance (straight line)
Frinsbury Lawn Tennis Club	180m
Uponor Cricket Club	190m
Kings Arms Public House Upper Uponor	290m
Existing Bus Stop – Upchat Road/Uponor Junction	300m
Tudor Rose Public House Upper Uponor	350m
Wainscott Primary School to rear access.	600m
Ordnance Yard, Lower Uponor	610m
Smilers Pre-School, Wainscott	680m
Premier Stores	780m
Co-Op Store located in Wainscott	780m
Golden Fish Bar, Wainscott	790m
McDonalds Restaurant	820m
Co-Op Store and Petrol Station Medway City Trading Estate	820m
Medway City Trading Estate (Edge of)	820m
Highparks Medical Centre	990m
Lawsat Pharmacy	990m
Dockside Outlet Centre comprising up to 37 outlets inc. Odeon Cinema, Burger King, The Card Factory, Pizza Hut, Marks and Spencer, Clarkes, Cotton Traders, Holland and Barrett, The Range, Mountain Warehouse.	1000m
Chatham Dockyard	1200m
Strood Railway Station	1900m
Hundred of Hoo Academy	2400m
Asda Superstore	2,400m

- 7.33 It is agreed that 3 new footway links are to be provided, namely:
- A 1.8m wide footpath to the north west linking to the new bus stop
 - A 1.8m footway from the west of the site, linking to Public Footpath RS125 (leading to Wainscott)
 - A 1.8m footway south west, leading to Upnor Road and to join Berwick Way, leading to Medway City Estate

7.34 It is agreed a new bus stop is to be provided approximately 70m from the site access.

x) Heritage and Archaeology

7.35 It is agreed Heritage and Archaeology are not a constraint to development.

7.36 A Desk Based Heritage Assessment (**CD2/13**) was submitted in support of the application. It is agreed the report adequately assessed the heritage assets, including the significance of 6 Listed Buildings.

7.37 It is agreed the development has no impact on the significance of the listed buildings or conservation areas, with their significance, or special architectural and historic interest, preserved.

7.38 A Desk Based Archaeology Assessment (**CD2/14**) was submitted with the report. Following a request for additional information from KCC Archaeology on the Palaeolithic era, an additional Report was submitted (**CD2/61**) following trial trenching confirming limited potential.

7.39 It is agreed the archaeological potential for the site has been sufficiently investigated and with a condition requiring a watching brief to be attached to any forthcoming planning permission.

xi) Flood and Drainage

7.40 It is agreed Flood Risk and Drainage is not a constraint to development. A Flood Risk Assessment and Drainage Strategy (**CD2/11**) was submitted in support of the application.

7.41 It is agreed that the majority of the site lies in Flood Zone 1, with parts of the site in flood zones 2 and 3.

7.42 It is agreed the sequential approach has been undertaken to ensure all buildings are located fully in flood zone 1.

7.43 It is agreed some gardens lie in flood zone 2 and 3 and that boundary treatment in these locations

will remain permeable.

- 7.44 The Lead Local Flood Authority has not objected to the application.
- 7.45 The Environment Agency has not objected to the application.
- 7.46 The Lower Medway internal Drainage Board have identified maintenance works off site which may alleviate localised flooding on Upnor Road.
- 7.47 It is agreed the proposals will not increase the risk of current off site flooding issues.
- 7.48 It is agreed the Drainage Strategy is acceptable and subject to detailed Conditions.

xii) Ecology

- 7.49 It is agreed Ecology is not a constraint to development. The application was supported by an Ecological Impact Assessment (CD2/9), together with further reports listed below:
- Phase II Ecology Survey Results (CD2/53);
 - Biodiversity Net Gain Calculation (CD2/53);
 - Dormice Survey Results (CD2/54);
- 7.50 The reports confirm that the Site is not subject to any local or National ecological designations and is of limited ecological importance.
- 7.51 It is agreed that a series of mitigation proposals are required including a wildlife sensitive lighting plan; a Construction and Environmental Management Plan including measures to protect wildlife and habitats from construction impacts; and a habitat enhancement and long-term management plan.
- 7.52 Subject to the proposed conditions, it is agreed the site can achieve a net biodiversity gain figure of at least 34%, which reflects the on-site calculations and excludes any potential enhancements from the off-site habitat creation proposed in the wider Hogmarsh Valley.
- 7.53 It is agreed the impacts on the adjacent Tower Hill to Cockham Wood SSSI during construction will be minimal. It is agreed the proposed buffer vegetation proposed in the south west corner is appropriate and limit the pressure on the SSSI.
- 7.54 It is agreed the Strategic Access Management and Monitoring Strategy tariff is required and secured

through the S106 Agreement.

xiii) Arboriculture

- 7.55 It is agreed that there are no TPOs in the Site or immediately adjoining its boundaries. The supporting Arboricultural Impact Assessment (**CD2/64**) confirms there are no Grade A trees on the Site and the trees proposed to be removed are not veteran or of significance.
- 7.56 It is agreed that the long-term retention and management of retained trees can be secured through an appropriately worded planning condition.

xiv) Contamination

- 7.57 It is agreed contamination is not a constraint to development. The submitted Phase 1 Desk Study, Site Reconnaissance and Phase 2 Site Investigation Report (**CD2/15**). The recommendations within the report are agreed and can be secured through contamination and remediation conditions.
- 7.58 The Council's Environmental Health officer raised no objections to the development on contamination grounds.
- 7.59 The parties are in agreement that the Appeal proposals, subject to appropriate planning conditions, are not likely to be unacceptably impacted by contamination and there is no dispute between the parties in this regard.

xv) Odour

- 7.60 The application was supported by an Odour Constraint Assessment (**CD2/12**). It is agreed odour is not a constraint to development subject to mitigation. It is agreed that odour concentrations should not exceed 3 OUE m⁻³ in areas where proposed residential dwellings are located.
- 7.61 It is agreed that the proposed mitigation measures can be secured within the S106 Agreement and result in a reduction in odour concentration to 3 OUE m⁻³ or less. The proposed mitigation would comply with Policy BNE2(ii) of the Local Plan and paragraph 170(e).
- 7.62 The Council's Environmental Health officer raised no objections to the development on odour grounds

xvi) Agricultural Land

7.63 It is agreed the site does not constitute land that is of the best agricultural quality and does not conflict with the NPPF.

xvii) Air Quality

7.64 It is agreed there is no impact on an Air Quality Management Area and that a condition seek to secure an Air Quality Emission Mitigation Assessment and Statement is prepared for the site.

7.65 The Council's Environmental Health officer raised no objections to the development on Air Quality grounds

xviii) Noise

7.66 It is agreed there is no significant impact on the proposed development from local noise sources and that any mitigation can be secured by Condition.

7.67 The Council's Environmental Health officer raised no objections to the development on contamination grounds

8.0 AREAS OF DISAGREEMENT RELATING TO PLANNING

8.1 The area of disagreement relating to Planning include:

- 1) The weight to attach to the relevant policies.
- 2) The extent to which, the proposal would cause harm to the landscape character, visual amenity and functioning of the local area, including the Hogmarsh Valley Area of Local Landscape Importance.
- 3) The weight to be afforded to the identified benefits from the development.
- 4) The overall planning balance in the context of the tilted balance.

Signed:



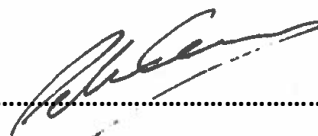
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On behalf of the Appellant

.....Andrew Wilford

Date: 26.08.2021

Signed:



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On behalf of the Council

...Peter Canavan

Date: 25.08.2021

APPENDIX 1
WEIGHT TO BE ATTACHED TO THE MOST RELEVANT POLICIES

APPENDIX 2
SCHEDULE OF DOCUMENTS FOR DETERMINATION

APPENDIX 3
FACILITIES PLAN