

**Land off Midhurst Road at Scotland Park, Midhurst Road, Haslemere,  
Surrey GU27 3DH**

**PINs Ref: APP/T3650/W/23/3327643**

**LPA Ref: WA/2022/01887**

**OPENING STATEMENT ON BEHALF OF WAVERLEY BOROUGH**

**COUNCIL ('The Council').**

**Introduction**

1. This Appeal relates to a proposal for major development for up to 111 dwellings within the Surrey Hills National Landscape. The Council opposes the grant of permission.
2. As between it and the Appellant the main issue is whether the Appellant is able to demonstrate that there are exceptional circumstances and that it is in the public interest for permission to be granted<sup>1</sup>.
3. It is agreed that whether or not there are '*exceptional circumstances*' as indicated in paragraph 190 of the NPPF is a matter that '*goes to the heart of the appeal*'<sup>2</sup>. In short as the Council understands it there remains no dispute but that if there

---

<sup>1</sup> As indicated by paragraph 190 NPPF

<sup>2</sup> NID 4.11: Planning SoCG - paragraph 5.3, p.20

are not exceptional circumstances demonstrated the scheme would not accord with the development plan as a whole<sup>3</sup>.

4. The application of the broadly drafted provisions contained in paragraph 190 NPPF requires an exercise of planning judgment and an understanding of context.

### **Landscape/Visual effects and National Landscape designation**

5. The primary basis for refusal<sup>4</sup> and for continued objection at this Inquiry is that the proposal would fail to preserve and enhance the landscape and scenic beauty of the National Landscape. Indeed, it would cause in the view of the Council and the expert evidence it puts forward serious harm to landscape character and in terms of visual effects, irrespective of the Appellant's treatment given to the design of the proposal.
6. The National Landscape of which the appeal site is a part comprises some of Surrey's most outstanding and beautiful landscapes. In policy terms it has the highest status and level of protection so far as landscapes are concerned in national policy. The site is agreed to be a '*valued*' landscape<sup>5</sup>.

---

<sup>3</sup> A position agreed at the last inquiry (see AD paragraph 51 in NID 3.8) and which appears implicit in the evidence of the Appellant. The converse would also be true.

<sup>4</sup> Other matters that initially formed distinct reasons for refusal were dealt with as explained in the first inquiry in 2024 - and see now NID5: Ian Johnson proof at section 12.1 & NID 4.11 PI SoCG which identifies issues in dispute as well as various agreed matters.

<sup>5</sup> NPPF 187a – see Smith proof at 3.8

7. It is critical that such nationally important places are safeguarded for the benefit of current and future generations.
8. The main area of development would be located on rising ground adjacent to a consented scheme that lies outside of the National Landscape and is near completion. It is an area of high landscape sensitivity. The placing of a major housing scheme on the designated land would change the character and appearance from one possessing key characteristics of the National Landscape countryside to that of an urban environment. To service the proposed housing a new vehicular access road is required which is proposed to run from Midhurst Road - which itself would be subject to tree removal and widening to facilitate a right turn lane. The Council contends that proposed entrance and related infrastructure (including a car park, buildings, road widening, tree removal and extensive engineering works and other development in the National Landscape) would fundamentally change and in doing so adversely impact the existing rural character and appearance of the land around near the road that exhibits key characteristics of the National Landscape. It is also currently part of the NL which forms an area indicating the start of the nationally important countryside as distinct from the more built-up area of Haslemere.
9. The proposed development within the areas identified in evidence as LCA1 & LCA2 (which cover around 5 hectares of National Landscape and is agreed to be an area of high sensitivity) would result in a fundamental and adverse

change in landscape character that would be in clear conflict with a range of development plan policies, the National Landscape's Management Plan and up to date National Planning policy.

10. As we will explain in evidence the proposal before this Inquiry is contrary to various policies in the NPPF and in this particular context in terms of 190 (c) NPPF would have a seriously detrimental effect on the landscape it is proposed to place it in which would be permanent and which could not be moderated in a way that makes it acceptable.
11. Although some improvements to parts of the larger redline site that the Appellant has chosen for this application are proposed they are not of a nature that could be said to offset the adverse harm caused by the development proposed. It is not credible to claim – as the Appellant appears to – that there would be an overall beneficial change to the currently undeveloped land.
12. We will of course need to examine the approach the Appellant has taken in this – the latest attempt – to get permission and in the evidence it has now produced in relation to landscape and visual effects. There appear to be some fundamental differences of approach and judgment as between the Council and the Appellant and indeed as between the approach the Appellant now pursues compared to the case it put before the inquiry last year.

13. It is of note in this context that amongst the many detailed and cogent objections made by parties to this proposal the Surrey Hills National Landscape Board has felt it necessary to indicate clearly that allowing this proposal would *'send shock waves throughout nationally protected landscape bodies and the Surrey public'*. It is right to do so. As both the Chair of the Board<sup>6</sup> and the Surrey Hills National Landscape Planning Adviser<sup>7</sup> have made clear there is no basis for finding 'exceptional' circumstances exist here. The proposal would seriously harm the natural and scenic beauty of the National Landscape in a way that is wholly objectionable.

14. As the Board have correctly identified quite apart from the Policy tests which are plainly not overcome the Inquiry will also need to consider the statutory duty in s85 of the Countryside and Rights of Way Act 2000 (as amended) which requires the decision maker to *'seek to further the purposes of conserving and enhancing the natural beauty'* of the National Landscape. It is plain that the proposal is not consistent with the promotion of such statutory purposes and a grant of permission would not be in accordance with that duty. There is simply no cogent justification for such a proposal. More recently (December 2024) statutory guidance has been produced by the government<sup>8</sup> and early in the new year (January 2025) the government produced new planning practice guidance

---

<sup>6</sup> NID 2.2 -30.11.24 - from Katherine Atkinson, Chair of the Surrey Hill NLB

<sup>7</sup> Clive Smith – email dated 11.3.25

<sup>8</sup> NID 7.11 - DEFRA

emphasising the importance of delivering the statutory purposes of National Landscapes.

### **Context and Balance**

15. I indicated that a decision needs to be made in context. Paragraph 190 NPPF provides a point of reference for consideration of at least some of the context as does the consideration of relevant development plan policies and the statutory provisions and new guidance I have already briefly addressed.

16. Much is made by the Appellant in evidence of the current lack of a 5 year housing land supply and it is a matter of common ground that the Council - in light of the new requirements to calculate need - has currently only a 1.28 year supply<sup>9</sup>. But the Appellant singularly fails to put that in context. The new government planning policy context makes it clear that the importance of delivering increased and much needed housing must now - more than ever - focus on how and where it should be delivered.

17. In simple terms, that should not except in exceptional circumstances and where it is in the public interest be in National Landscapes. Rather the imperative and message from the same policy context that has identified a greater need for housing now is to deliver new housing on brownfield land or if not there then in the areas yet to be identified (or which are currently being identified in local plan reviews now starting) as grey belt.

---

<sup>9</sup> As agreed in the St of Cg at NID 4.2, p.9

18. At the same time the importance of the strengthened duty on decision makers to further the purposes of National Landscapes has been supported and reaffirmed in new guidance. Moreover it has been emphasised that decisions as to where housing should go should in principle be plan led.
19. Decisions on major developments in National Landscapes which seek to grapple with paragraph 190 NPPF matters are not in many regards as suitable a forum as a plan led context would be in deciding whether houses should be built in such an important area. This Council has already recently approved a timetable<sup>10</sup> for a new local plan to take into account the new policies of the government which will lead to a new plan by July 2028 and an emerging evidence base for consultation well before then and well before any meaningful housing could actually be delivered by this proposal.
20. Quite apart from all that the new plan led 'requirement' may - given the acknowledged constraints - result in a materially smaller requirement than the current calculation of need indicates. This is a point clearly made in up to date government guidance as is the point that national Landscapes are unlikely to be suitable areas for accommodating unmet needs from nearby non designated areas. It is highly material to context and an assessment of whether there are in fact exceptional circumstances to justify harming the NL.

---

<sup>10</sup> IJ proof t 9.24 refers, p.24

21. This context needs now to inform the consideration of NPPF 190 and it matters.

Moreover, not only is it relevant to understanding the '*national considerations*' (190 (a)) it also underpins and delineates the ability of a s78 appeal to grapple in any meaningful way with 'alternatives' in the broader context of the cost of and scope for developing outside of the designated area or of meeting the need for it in some other way.

22. The debate as to alternatives in evidence typifies this. It is in many senses an artificial one in this context and no doubt the inquiry will hear numerous arguments as to approach. But when it is grappled with and a common-sense planning judgment applied in essence the matter is simple. Given the current government policy context which seeks to emphasise that we should build houses elsewhere from National Landscapes it would be artificial for the Inquiry to assume that the only sources of supply are those which it is possible to identify at this time. Nor is a decision maker required to so do. A full plan review is underway and a call for sites is ongoing in light of the recent policy changes. There will clearly opportunities for further sites to come forward through the local plan review process and scope provided for housing in such sites.

23. But even if one did proceed on a narrow assumption, in relation to current 'alternatives' put before the Inquiry it appears the Appellant does not in fact suggest<sup>11</sup> that the position is materially any different from the last inquiry

---

<sup>11</sup> Smith proof at 4.108,p.39

where it was in the end accepted that there are indeed sequentially preferable sites – at least if one assumes the relevant question is whether there are other sites in the district capable of delivering a similar quantum of development.

24. That is, the Council suggests, the appropriate approach to take (to the extent that a debate about alternatives as one part of a wider consideration of factors in 190NPPF assists at all).

25. The Council through Mr Johnson has considered the up-to-date position and undertaken a planning balance. The Council will explain that it considers there to be conflict with a range of development plan policy and with the development plan as a whole. In particular the Council contends there would be conflict with policies SP2, RE1, RE3 of LPP1, policies DM11 and DM15 of LPP2 and policies H9 of the HNP. Further there are a number of material considerations which weigh against the appeal proposal. The proposal will cause unacceptable harm and would not be outweighed by the benefits put forward – in relation to which it appears there are elements of double counting by the Appellant. Exceptional circumstances do not exist. Paragraph 190 NPPF is not satisfied and the evidence provides a strong reason for refusal.

26. Beyond these matters which are easily sufficient to dispose of this appeal it is important and obviously material to note that the previous Inspector's decision which dismissed the appeal is less than a year old and considers the same proposal. The Council submit that the basis for the quashing of that decision (which was because of a procedural error) has nothing at all to do with the

reasoning and findings made by that Inspector on the various issues he grappled with relating to exceptional circumstances. His careful consideration of landscape and visual matters, of alternatives and of other considerations is highly material now as it was then. As a decision, even though quashed, it is in law capable of being an important material consideration<sup>12</sup> (not least given the importance of consistency for public confidence) and obviously is one for the purposes of this appeal. It weighs heavily against the grant of permission. Indeed, since that decision the new government policy amendments and guidance understood in context have made the importance of protecting National Landscapes from proposals such as this one even clearer. It would provide a yet further basis in a balance for dismissing this appeal and requires careful consideration.

27. The Council will submit that the appeal should be dismissed.

Tom Cosgrove KC

April 2025

Counsel for the Council

---

<sup>12</sup> See NID 7.37 – the Elmbridge case [2019] EWHC 1409 for a useful discussion of principles, referred to with approval in Kinnersley at NID 7.25