

APP/R3650/W/23/3327643

LAND OFF MIDHURST ROAD AT SCOTLAND PARK

MIDHURST ROAD, HASLEMERE, SURREY

Planning Inspectorate No: APP/R3650/W/3327643

LPA reference: WA/2022/01887

CLOSING SUBMISSIONS

ON BEHALF OF THE RULE 6 PARTY

(Haslemere Town Council, Haslemere Society, Haslemere Vision

and Haslemere South Residents' Association)

INTRODUCTION

1. The Rule 6 Party submits that planning permission for the Appeal Scheme should be refused on this appeal. It is accepted that the arguments in this case go to the question of whether exceptional circumstances exist and the development is in the public interest. For the reasons submitted by the LPA in its submissions during this appeal, and for the reasons given by objecting Interested Parties and the Rule 6 Party, it is clearly the case that exceptional circumstances do NOT exist and that the Appeal Scheme is NOT in the public interest. The harms arising from the Appeal Scheme include harms to the scenic quality, trees and woodlands, tranquillity, wildlife habitats and corridors of this land in the National Landscape. Those harms are substantial and are not adequately mitigated by the Appellant's proposals. Furthermore, they outweigh the purported benefits of the development, including its provision of housing. The Rule 6 Party submits that:

- 1.1. as regards its impact on the landscape, the Appeal Scheme would be contrary to policies SP2, RE1 and RE3 of the Local Plan Part 1 (2018), Policies DM11 and DM15 of the Local Plan Part 2 (2023), Policy H9.9(iii) of the Haslemere Neighbourhood Plan; in addition, the impact engages Policy H9 more broadly as well as Policies P1 and P6 of the Surrey Hills Management Plan. This Appeal should be denied in order to comply with paragraphs 187, 189 and 190 of the NPPF and to satisfy the duty introduced under section 245 of the Levelling Up and Regeneration Act 2023¹ (“LURA”) which created a set of new, proactive duties requiring public bodies and decision-makers to seek to further the statutory purpose of National Landscapes;
 - 1.2. as regards its impact on ecology, the application fails to demonstrate that the Appeal Scheme would not negatively affect and/or fragment the wildlife corridors adjacent to Midhurst Road and within the northern central area of the application site. Additionally, the ecological information fails to demonstrate that there would not be a detrimental impact on protected species being great crested newts, slow worms, hazel dormice and bat species, and Habitats of Principal Importance². The proposal is contrary to Policy NE1 of the Local Plan Part 1 (2018), Policy DM1 of the Local Plan Part 2 (2023), Policy H12 of the Haslemere Neighbourhood Plan. This Appeal should be denied in order to comply with paragraphs 193 and 195 of the NPPF; and
 - 1.3. as a consequence of application of these policies, there is strong reason to refuse the permission in accordance with paragraph 11(d) of the NPPF.
2. The Rule 6 Party is made up of four local organisations which are Interested Parties for the purposes of this appeal and that share a common position with respect to the Appellant’s application. They are:
 - 2.1. Haslemere Town Council, which comprises of elected parish councillors representing approximately 17,300 residents. Among its purposes, the Town Council provides input to planning and development matters, as well as furthering the public interest for the benefit of the town and its residents.
 - 2.2. The Haslemere Society, which has 415 members. It is a Civic Society, registered charity and a member of Civic Trust. It was established in 1884 by local residents including Sir Robert Hunter (a co-founder of the National Trust) in order to organise concerted action for the

¹ Amending s.85 of the Countryside and Rights of Way Act 2000

² See Conservation of Habitats and Species Regulations (2017); Wildlife and Countryside Act (1981); section 41 of the Natural Environment and Rural Communities Act (2006)

improvement, protection and preservation of rural scenery or features of local interest in the town and villages within the Haslemere area.

- 2.3. Haslemere Vision, acting through its Biodiversity Group. It is a local organisation comprising 23 people, including residents and representation from various local groups, one of which is Haslemere Town Council. It was originally constituted as a not-for-profit company limited by guarantee to consult on and develop Haslemere's Neighbourhood Plan. Haslemere Vision organised very extensive public consultation across Haslemere and district, including events, surveys and reports, resulting in recommending the Plan for relevant approvals and referendum. (Those consultations included a public survey³ in which [89%] registered their opinion that major developments should not be located in the greenfield land outside Haslemere's settlement boundary.) Since the adoption of the Neighbourhood Plan, Haslemere Vision has mainly focused on active travel and biodiversity initiatives.
- 2.4. Haslemere South Residents' Association, which has 291 locally resident members. It is an unincorporated association and it has a particular focus on the protection of Haslemere's green spaces, notably in the south of the town, as well as other matters of interest to local residents, including for example household security and traffic calming.

3. The member organisations of the Rule 6 Party are separate organisations (save that the Town Council has representation on Haslemere Vision). In a small town like Haslemere it is not surprising that there are constituents who are members of both the Haslemere Society and the Haslemere South Residents Association, although perhaps slightly surprising that only 33 individuals are members of both organisations.
4. Each member organisation of the Rule 6 Party has duly authorised its participation as a member (by resolution of Full Council in the case of the Haslemere Town Council, by Committee resolution following communication with Members in the case of the Haslemere Society, by Members' resolution in the case of the Haslemere South Residents' Association, and by members' consensus in the case of Haslemere Vision).
5. In her ministerial statement of 30th July 2024 [Document NID 7.1], the Secretary of State said "Planning is principally a local activity, and it is right that decisions about what to build and

³ See appendix in NID 9.1

where should reflect local views.” It is for this reason that the Rule 6 Party plays a particularly important role in this Inquiry, notwithstanding other relevant factors.

6. As is clear from this composition, the Rule 6 Party and its members have a strong representational mandate to represent community views in this appeal. To the extent that there are local residents of Haslemere who are supportive of the Appeal Scheme, very few have expressed a point of view or commented either at the time of the original application, the first appeal inquiry or this appeal inquiry. In fact, apart from leadership of Haslemere 1st Scouts Group and the Grayswood Nursery, there appears to have been only 1 submission by a local resident in favour of the development compared to an aggregate since application of over 500 submissions in opposition, of which 371⁴ appear in the Core Documents of this Inquiry. It is also the case that the reasoning of those submissions made in objection to the Appeal Scheme is invariably of a considered and high-quality nature.
7. The Appellant seeks to downplay the extraordinarily high number of public written objections to the Appeal Scheme as being either unrepresentative or undemocratic. In disagreement, we simply refer to the alignment of those objectors with the views expressed through the wholly democratic process in the design and adoption of the Haslemere Neighbourhood Plan which states that major development should not take place outside the settlement boundary, as would happen if the Appeal Scheme were to be approved.
8. Consequently, the Rule 6 Party considers itself to be unequivocally representative of the majority of the local community in addition to being the channel through which its four constituent local council and community bodies are able to present this Inquiry with their considered views on the Appeal Scheme.
9. In the interest of efficiency, this closing submission does not repeat factual details of the location and setting of the site, the history of the application or list relevant planning statutes, regulations, policy or guidance. These are all adequately captured in the Opening Statements of the parties or have been cited in evidence.

⁴ There is a discrepancy between the total number of submissions made during the course of this application and the lesser number that have been uploaded to the Core Documents for this particular appeal inquiry.

10. As indicated in opening, the Rule 6 Party has not had access to sufficient resources to instruct Counsel and therefore does not make discrete submissions on matters of law, save to the extent submissions are made with regard to the elements that should be considered in the planning judgement before the Inspector and the weight to be given, in our opinion, to certain of those elements.
11. The Rule 6 Party makes no submissions with respect to housing supply, which, in any event, is a matter covered by a Statement of Common Ground agreed by the Appellant and the LPA.
12. As indicated in our Opening Statement, the Rule 6 Party makes submissions on the following topics within this appeal: landscape, environment/ecology and local concerns (including road safety, water supply, affordability and footpath 597).
13. Our closing submissions will be structured to follow the main matters to be considered by the Inspector, as identified at the CMC, namely:
 - A. Effect on the landscape;
 - B. Exceptional circumstances;
 - C. Housing land supply and affordable housing;
 - D. Biodiversity Net Gain; and
 - E. Materiality of the quashed first appeal decision.

A - EFFECT ON THE LANDSCAPE

14. The proposed site for development sits in the Surrey Hills National Landscape (it was designated as part of the then Surrey Hills Area of Outstanding Natural Beauty in 1958 and was a private country estate at the time) and is adjacent to the South Downs National Park. It is outside the settlement boundary as defined in both the LPA's Local Plan and the Haslemere Neighbourhood Plan.
15. After commenting on certain policy principles relevant to the Surrey Hills National Landscape, our submissions on landscape will focus on certain key qualities of the site's natural beauty and how these are features of the National Landscape that should be enhanced or conserved. They are features, the loss of which is not capable of mitigation or compensation, notwithstanding the Appellant's attempts to suggest otherwise. We will summarise the evidence presented in the

inquiry that demonstrates the high value of each of these features for the local community and for visitors to Haslemere. Finally, we will point to the evidence that shows how substantial, significant and fundamental the severe harm would be to this National Landscape from the Appeal Scheme, if it were granted planning permission.

Policies relating to natural beauty in the Surrey Hills National Landscape

16. As land within the National Landscape, the policies already mentioned are applicable. The extent to which the Appeal Scheme runs counter to those policies was expressed in the strongest terms by Ms. Katherine Atkinson, Chair of the Surrey Hills National Landscape Board [Document NID 2.2].
17. In his oral evidence, Mr. Collins, for the Appellant, inferred that Ms. Atkinson's view should carry less weight because she is not a professional planning expert. As Chair of a statutory consultee, Ms. Atkinson's views should be given great weight irrespective of whether or not she is a qualified planning professional in the same way that the views of the Secretary of State (as a statutory decision-maker in planning matters) carry no less weight when the Secretary of State is not a professional planning expert.
18. The Appellant has suggested that the fact that the site is in private ownership and that there is no public access diminishes in some way its status as an area designated as National Landscape ("In terms of landscape, the Application Site is currently in private use and offers no existing public benefits.") [Savills' letter at Document CD2.7]. This is not a valid starting point, since the designation of land as, previously, AONB or, now, as National Landscape, is not dependent on who owns it or on whether there is public access. Furthermore, not only is it the case that the Midhurst Road and Footpath 597 fall within the National Landscape but also their users, together with users of Bell Vale Lane, enjoy and appreciate the natural and scenic value of the protected countryside that is land owned by the Appellant.
19. The Surrey Hills National Landscape board has published criteria for the designation of National Landscape [Document ID5.3 - *Guidance for Assessing Landscapes for designation etc.*]. Table 3 on page 13 includes the list of factors related to Natural Beauty that are assessed; they are:
 - **Landscape quality** - This is a measure of the current physical state or condition of the landscape and its features.

- **Scenic quality** - The extent to which the landscape appeals to the senses (primarily, but not only, the visual senses).
- **Relative wildness** - The degree to which relatively wild character can be perceived in the landscape and makes a particular contribution to sense of place.
- **Relative tranquillity** - The degree to which relative tranquillity can be perceived in the landscape.
- **Natural heritage features** - The influence of natural heritage on the perception of the natural beauty of the area. Natural heritage includes flora, fauna, geological and physiographical features.
- **Cultural heritage** - The influence of cultural heritage on the perception of natural beauty of the area and the degree to which associations with particular traditions, people, artists, writers or events in history contribute to such perception.

Landscape and Scenic Quality: General

20. As designated National Landscape, the area of the site typifies the landscape and scenic qualities of the Surrey Hills National Landscape. To be designated as National Landscape, an area has to satisfy a high bar in terms of its landscape quality – it must have outstanding natural beauty – and that bar is set at a national level. This particular part of the National Landscape also has the characteristic of being part of the special countryside that entirely surrounds Haslemere.
21. The landscape and scenic quality of the site was acknowledged during the processes of preparing the Waverley Local Plan and the Haslemere Neighbourhood Plan, as seen through the policies, site allocations and settlement boundary definitions within both plans.
22. The Surrey Hills Environmental Design Guidance [Document NID 7.20] not only states that development should be inside the settlement boundary (at para 3.1) but also “avoid development on open slopes” (at para 3.2). LCA 1 and LCA 2 of the proposed development site are examples of open slopes that are characteristic of the Surrey Hills National Landscape. They are even virtually identical to the example open slopes featuring in the photographs in publications issued by the Surrey Hills National Landscape (for example, the cover of the Surrey Hills Management Plan 2020-2025 [Document CD 7.9]).

23. Evidence presented by Mr. Petrow [Document NID 5.7] and Mr. Chris Harrison [Document NID 5.8] demonstrates the quality of the landscape both in terms of expert landscape assessment and in terms of the value that the landscape has for the community.
24. Additional evidence presented by members of the public during the inquiry [see Documents at NID 13] support the extremely high value that the community places on the landscape seen from both the Midhurst Road and Footpath 597, which is essentially the views of these special open slopes surrounded by beautiful woodland.

Landscape and Scenic Quality: Sunken Roads

25. The Surrey Hills Environmental Design Guidance [NID 7.20] states: “An essential constituent of the Surrey Hills AONB is the network of [...] lanes, often with high banks and hedgerows... These lanes are often rich in history reflecting centuries of human use and still retain much of their traditional charm.”⁵ The Midhurst Road exhibits this traditional charm and indeed dates back to Roman times when it was a trackway from Chichester⁶.
26. The Midhurst Road runs adjacent to the western side of the site and on which a new access road junction and road widening is proposed. It is a characteristic sunken lane or road of the Surrey Hills National Landscape. The fact that it is a trunk road does not detract from its status as both a sunken road and a road with value in terms of cultural heritage (see below).
27. Evidence presented by Mr. Harrison was that the Midhurst Road forms a lengthy ‘gateway’ in and out of the town, linking up with the South Downs National Park. The Appellant’s case is that the access road only affects a short section of the road. Sir, you will have seen on your site visit the characteristic canopied and sunken landscape of this stretch of road. The landscape character of the road depends on its continuous flow, and the integrity of that flow not being broken by, for example, the large access junction proposed in the Appeal Scheme.
28. Evidence from interested parties included several who clearly appreciated the Midhurst Road as a sunken road, typical of the local landscape. There is no formula for determining what a sunken road is, but the approach to the access road from the north is unambiguously sunken; the

⁵ NID 7.20 – see 3rd para of the Introduction on page 1.

⁶ See *Roman Roads of Surrey* – Alex Vincent, 2001, page 81 - Middleton Press

Footpath 597 is several metres higher than the level of the road at the northern section of the site (in the vicinity of the square ruined building at the commencement of the road widening of the lead-in to turn left into the development).

29. Additional evidence presented by members of the public during the inquiry⁷ support the extremely high value that the community places on the special character of the canopied entry to Haslemere, as seen when entering and leaving the town, both by the Midhurst Road and by Footpath 597.

Tranquillity Quality

30. Evidence presented by Mr. Harrison in paragraph 9 of his Proof of Evidence shows the valuable quality of the tranquillity of the site. This includes the particular quality of the site as regards dark skies. CPRE's light pollution and Dark Skies map records the level of radiance in this area as being between 0.25 and 0.5 NanoWatts/cm²/sr, the second darkest night sky categorisation in the country.

31. Additional evidence presented by members of the public during the inquiry support the extremely high value that the community places on the dark skies and tranquillity of this part of Haslemere, including when experienced from Bell Vale Lane on the boundary of the site.

32. Footpath 597, both alongside the Midhurst Road and as it links to Bell Vale Lane, provides relative tranquillity notwithstanding the proximity of traffic. This is due to its screened characteristic with trees and foliage between it and the road, as well as its height above the road at points where the road is most sunken. This relative tranquillity is a quality that is particularly valued by local people and other users.

Natural Heritage Features

33. Evidence from the Appellant's own ecological survey⁸ confirms that the site has a rich biodiversity that includes Priority Habitats (lowland mixed deciduous woodland, hedgerows and Lines of Trees) and is home to many Priority Species. Additionally, it lies within 500m of the Blackdown and Valewood Site of Nature Conservation Interest (SNCI).

⁷ See oral evidence of Mrs. Maggie Hamilton, for example.

⁸ Document ID2.6, p6-7

34. The site also contains several significant wildlife corridors running from north to south and also west to east. This corridor network plays a vital role in connecting the important ecological features located within the site as well as with the surrounding countryside. It is an integral part of the Haslemere Ecological Network which is defined and protected under Policy H12 of the Haslemere Neighbourhood Plan⁹.
35. The wildlife corridors support a range of protected species. Among these are the Hazel Dormouse, at least 9 bat species, slow worm, grass snake, at least 32 bird species (with 11 species of note for nature conservation) and badgers.

Natural Heritage Quality: Trees and Woodland

36. Evidence set out in the Rule 6 Party Ecology Proof of Evidence [Document NID 5.9] explains the importance of the mature trees and woodland of the proposed site. Many of the trees are also subject to Tree Preservation Orders which confirms their important value. These assets of the site contribute to the quality of the Natural Beauty which you will have witnessed on your site visit.

Cultural Heritage Quality

37. Evidence in Mr. Harrison's Proof of Evidence sets out the important cultural heritage of the site in its context as part of the special countryside surrounding Haslemere. It is no less significant that artists and writers have described the beauty of the landscape at Haslemere without mentioning the Red Court estate by name. The Red Court estate forms an integral part of the valued landscape that is cherished within the identified cultural heritage. It is precisely the type of cultural heritage referred to in Appendix 1 to the *Guidance for Assessing Landscapes for designation etc.* where it gives the indicator as: "Availability of descriptions of the landscape in notable literature, topographical writings or guidebooks, or significant literature inspired by the natural beauty of a landscape."¹⁰

⁹ Document CD6.3

¹⁰ Document NID5.3, p.25

38. Evidence presented by Mr. Mick Bradford, a member of the public, during the inquiry further supports this community value in the cultural heritage of the landscape in which the site is located [see Document NID 13.4].

39. Additional evidence from members of the public in response to this inquiry¹¹ support the extremely high value described by Mr. Bradford.

Specific Built Form Factor

40. Mr. Smith's evidence sought to emphasise the contribution that built forms may make to the natural beauty of the National Landscape. Although it is true that built form is recognised in Appendix 1 to the *Guidance for Assessing Landscapes for designation etc.*¹²), it is not prioritised as one of the six qualities listed in Table 3. In this context, the Inspector is invited to reject the Appellant's and Mr. Smith's position that replacing the purely natural features of LCA1 by the built form comprising a lodge, a bike park, car park, 'ramblers' bothy' and over 100m of tarmac road is a genuine conservation or enhancement of the natural beauty of this part of the National Landscape.

Harms from the Appeal Scheme

41. Having described some of the principal qualities of the development site that should be conserved and enhanced under LURA and the NPPF, we now turn to the harms that will be inflicted by the Appeal Scheme.

Harm to Landscape and Scenic Quality: Countryside and Open Slopes

42. The settlement of Haslemere is entirely surrounded by National Landscape and National Park. As such, all approaches to the town share these characteristics. No other major settlement in Surrey is surrounded by protected landscape in this way¹³. If permitted, the Appeal Scheme would cut a significant portion of outstanding Natural Beauty from this landscape and would irreparably harm its beautiful landscape and scenic quality on the approaches to the town from the South.

¹¹ See submissions in NID 9, NID 10 and NID 13]

¹² ID5.3

¹³ It is admitted that there are smaller settlements, villages and hamlets, that are 'washed over' by the Surrey Hills National Landscape.

43. The harm is cumulative to the nearby loss of National Landscape to housing development at Sturt Farm. The Surrey Hills National Landscape board has expressed its concern at the cumulative effect of developments in the context of replacement buildings¹⁴; how much greater the “special care” that needs to be taken to prevent the cumulative harm to National Landscape through new building and development.
44. Although at one section, the site adjoins a settlement area (Scotlands Close and the so-called ‘Phase 1’ of Scotland Park) and therefore is next to the edge of the settlement boundary, this does not diminish its designation and quality as National Landscape with the natural beauty and protection afforded to such countryside. Indeed, it is trite to say (but no less important) that by definition every area of National Landscape in the country has an edge to it, being the boundary of that particular area of outstanding natural beauty. And there are not two types of National Landscape – one poorer type which is up to 100 metres from the edge and another richer type which is more than 100 metres from the edge. A piece of land is either inside the National Landscape or outside it, just as a piece of land is either inside a National Park or outside.
45. The Appellant has argued that, by virtue of being close to the edge of the protected area and next to a settlement, a portion of the site is less valuable and therefore it is all right to build on it. This logic would justify the erosion of National Landscape by housing developments on a never-ending slippery slope and is not, in our view, the correct approach to interpreting either the registered designation of areas of National Landscape or Parliament’s intent.
46. Under cross-examination, Mr. Smith described the so-called “cherished journey” up the road from the lodge as “picturesque”. We suggest that an entrance road to a housing estate with street lighting is unlikely to be considered by many, whether standing on the road or on Footpath 597 to be as picturesque as the open slopes that are designated to have natural beauty in their existing state.

¹⁴ The Surrey Hills Management Plan (CD 7.9) states in section 9 at 3rd para (electronic page 17 of 23) “Special care needs to be taken over their [(replacement building’s)] siting, volume and design to ensure that their impact on the landscape does not become progressively greater over the years and takes into account any previous building enlargement”.

Harm to Landscape and Scenic Quality: Sunken Road

47. The Appellant has repeatedly challenged the harm to the character, charm and beauty of the Midhurst Road that would arise from the Appeal Scheme. The Appellant admits that there would be harm to the character of the Midhurst Road but only for a short section. The reality would be quite the opposite, with substantial harm to the character, charm and beauty of the road and, as already described, its continuous flow as a gateway to the town . The drawings of the highway modifications [Document CD 1.21] show the extent of damage to the high banks and the trees and vegetation bordering the road. And the modifications are required to comply with the design requirements of the Highways Authority (Surrey County Council).
48. The Appellant's point out that the Midhurst Road is not technically "sunken" at the proposed point of entry to the access road, given that the level of the road is above the ground level of Footpath 597, running parallel to the road. However, this ignores the fact that the road is below the level of Footpath 597 within about 75m in both directions, north and south, of that point of entry. This means that the road widening work, which extends 125m to the south (35m for the turning lane and 90m for tapering) and approximately 125m to the north (approximately 35m in front of the turning lane and 90m for tapering), inevitably involves removal of the high banks. This will be most dramatic on the northern end of the junction where the high bank rises approximately 5m above the road and is held together by the roots of mature trees (some category B). The design evidence submitted by the Appellant is woefully inadequate in demonstrating the adverse landscape consequences of these roadworks, not to mention the engineering consequences at the end of the northern taper widening where retaining walls would be required, if not destruction of yet more length of the high banks of the sunken road further north and outside the boundary of the site.
49. It should be noted that the Appellant's AVR [Document NID 5.3 part 2] assumes that the widening of the road ends before the square building at the northern end of the tapering. It is therefore not accurate in terms of showing the future state of the high bank at this section of the sunken road.
50. The replacement of these high banks and their mature trees by some grasses and oak, sweet chestnut and beech saplings [see Document NID 5.3] will in no measure make up for the damage and loss of the natural beauty of this part of the Midhurst Road.

Harm to Tranquillity Quality

51. The Rule 6 Party draws attention to the cases cited by Mr. James Maurici et. al. in *A Practical Guide to Planning Law and Rights of Way in National Parks, the Broads and AONBs* [document CD 10.9 at electronic p.23]. They are examples where the potential harm to tranquillity within the National Parks or National Landscape was found by inspectors to be a critical factor in refusing planning permission and were decided even before the stricter duties arising under section 245 of LURA. At paragraph 4.11(b), “[t]he conversion of a barn... to a bunkhouse able to accommodate thirteen tourists and holidaymakers was refused because it would lead to unacceptable levels of disturbance in a tranquil area”¹⁵. In another example, Mr. Maurici et. al. reference an inspector who “was concerned that increasing facilities and accommodation at a Children’s Recreation & Study Centre would result in increased noise and disturbance to the detriment of the remote and tranquil nature of the AONB. In reaching this decision, the inspector noted that although there were benefits associated with increasing enjoyment of the countryside, the aim of protecting the AONB was paramount.”¹⁶
52. The one example given by Mr. Maurici et. al. at paragraph 4.11(e), where planning permission was granted to the detriment of disturbing tranquillity, was where events for motocross were to take place seldomly, just two times a year. This is to be contrasted with the daily use of the Scout Hut and Forest School in the Appellant’s proposals.
53. These examples and commentary from an experienced King’s Counsel in planning law show the prioritised importance of tranquillity as a quality of the National Landscapes – and, again, even before section 245 of LURA.
54. The activities associated with both the Scout Hut and the Forest School, both in terms of the traffic caused by the comings and goings of participants in events on a daily basis, for both children and adults, and the noise and disturbance from activities taking place in the outdoors would be harmful to the tranquillity of the National Landscape.

¹⁵ See APP/C9499/A/14/2212524

¹⁶ See APP/L3815/A/021098439

55. The Appellant relies upon an estimate that there will be “hundreds of children and teenagers”¹⁷ utilizing these facilities and that does not include the very many adults who can be expected if the Scout Hut is opened to other groups.
56. The Surrey Hills National Landscape Board has a duty “to seek to further the purpose of increasing the understanding and enjoyment by the public of the special qualities of the AONB”. This is not something that other public authorities or the Inspector have to have regard to.¹⁸ The Board’s duty, however, is explicitly secondary or subsidiary to the Board’s duty to conserve and enhance the natural beauty of the AONB (this is set out in section 87 of the Countryside and Rights of Way Act 2000¹⁹).
57. The Act says that where the two purposes conflict, greater weight must be given to conserving the natural beauty of the AONB, which includes tranquillity. So, Sir, even if you had to have regard to increasing the understanding of the AONB’s special qualities, the proper conclusion is that the harm caused by the scout hut and forest school would not be outweighed by their users’ enjoyment of the AONB.

¹⁷ See document ID 5.9 and Vision document on Waverley’s planning portal for Appellant’s Phase 1: <https://planning360.waverley.gov.uk:4443/w2webparts/Resource/Civica/Handler.ashx/Doc/pagestream?cd=inline&pdf=true&docno=8477396>

Vision Statement for wider development (Phases 1 and 2) – November 2021

“Together, both the Scout and Forest School provisions at Scotland Park will provide an educational resource and tailored facilities for **hundreds of children and teenagers** attending many of Haslemere’s 12 local schools and college. Moreover, under the tutelage of 1st Haslemere Scout Group, young people from a wider catchment area, such as those who need to use Black Down for the Duke of Edinburgh award programmes, will benefit from the facilities at Scotland Park.”

¹⁸ See ID 5.3 – Guidance for assessing AONBs – page 19 para 8.8

“In AONBs, there is no duty on relevant authorities (other than a Conservation Board) to have regard to the understanding and enjoyment of the area’s special qualities.”

¹⁹ Countryside and Rights of Way Act 2000

87 - General purposes and powers.

(A1) It is the duty of a conservation board established in relation to an [AONB] in England, in the exercise of their functions, to seek to further—

(a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and

(b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty,

but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a).

58. The Appellant has argued that noise from the Midhurst Road means that the site is not tranquil. Firstly, it is not the case that the Midhurst Road is continuously busy and noisy. Secondly, the assessment of tranquillity is an assessment of “relative tranquillity” in the context of the natural beauty of National Landscapes (see Table 3 in the *Guidance for Assessing Landscapes for designation etc.*²⁰). The tranquillity of the wooded area on the site and the southern part of the site is enjoyed by users of both Bell Vale Lane and Footpath 597 to the south western side of the site, notwithstanding the existence of traffic on the other side of the large site. The screening of mature trees and vegetation between Footpath 597 and the Midhurst Road that contributes to the relative tranquillity will be removed during the construction period of the development and not replaced with mature vegetation for many years, if at all.
59. In the context of dark skies, significant light output from the proposed housing estate and associated vehicle headlights would have a detrimental effect on the dark skies enjoyed from a much wider area than just the new housing estate itself. The Milky Way is frequently visible in this area and there is a local concern that this experience would permanently be lost.

Harm to Natural Heritage Features

60. This is discussed in more detail under ‘Biodiversity Net Gain and Impact on the Haslemere Ecological Network’. However, the Rule 6 Party’s position is that harm will be caused to the wildlife corridor network within the site which does not accord with NPPF para 187(d). The ecological features that currently support Priority Species will be harmed and the Haslemere Ecological Network will be permanently fragmented. As such, the Appeal Scheme also does not accord with the Haslemere Neighbourhood Plan Policy H12.1.

Harm to Natural Heritage Quality: Trees and Woodland

61. The proposed development will entail the felling of many mature trees. They are not all category C, as Mr. Collins for the Appellant stated, but rather include category B trees and include trees which are the subject of Tree Protection Orders (see plan at NID 8.5). This will represent severe damage to one of the key characteristics of the Surrey Hills National Landscape. The felling will occur not only along the Midhurst Road but also in the main areas of woodland in LCA 3 and 4 in order to develop the proposed Scout Hut and Forest School, together with their associated parking, roadways and footpaths.

²⁰ ID5.3

62. The felling of trees on the Midhurst Road in order to enable the building of the access junction and the necessary widening of the road (with associated tapering) for 125m in each direction from the access road (i.e. 250m in total) will constitute substantial and significant harm both in terms of the trees themselves, their hosted wildlife and their contribution to the scenic value of the cherished tree-lined, canopy-covered Midhurst Road. The time required for the canopy to be regrown is in the order of 20 years, and even then at the access road junction it is not the case that the same effect of canopy can ever be achieved due to (by definition) there being no trees on the eastern side at the junction point itself. And, of course, even in 20 years' time the beauty of the felled ancient trees will not have been replicated.

Harm to Cultural Heritage Quality

63. The erosion of the countryside surroundings of Haslemere by the Appeal Scheme would negatively impact the town's cultural heritage which is rooted in the beauty of the ridge and slopes of the development site. A housing development, of whatever design quality, is contradictory to the historic landscape and scenic aspirations of those National Trust founders and literary greats upon whose shoulders the people of Haslemere stand; the current generation continues to appreciate and enjoy that cultural heritage which benefits from the protection of the National Landscapes designation.

64. The Appellant would argue that a sympathetically designed lodge would contribute to the cultural heritage of the site, along with the renovation of a World War Two spigot gun emplacement. Whilst the Rule 6 Party is sympathetic to the latter, the former is nothing more than a simulacrum of no true compensatory cultural benefit in exchange for the eradication of 5 hectares of open slopes natural beauty and a cherished canopied sunken road with all their rich, truly historical, cultural heritage value.

Conclusion re. Effect on Landscape

65. Overall, the Appeal Scheme does not conserve or enhance the National Landscape as contemplated by NPPF paragraph 189 ("Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these

areas...”). As indicated, section 245 of LURA increased the strength of duty to seek to conserve and enhance the natural beauty of the National Landscape. This nature of this duty has recently been emphasised by the Secretary of State’s concessions in the Dedham Vale case²¹. It would constitute a major “detrimental effect on the environment [and] the landscape” of the site within the National Landscape, as referenced in NPPF paragraph 190(c), and we invite you, Sir, to conclude this in your assessment of the harms set out above. There is strong reason to refuse permission as contemplated by paragraph 11(d) of the NPPF.

66. To the extent that the local development plan policies SP2, RE1, RE3, DM11, DM15 and HNP-H9 are consistent with the NPPF in this context, the Rule 6 Party asserts that the Appeal Scheme would be contrary to such policies and/or their intent as well.

67. In addition, the Appeal Scheme application would create substantial and highly significant adverse impacts and would spoil the amenity, landscape and scenic beauty referred to in policies P1 and P9 of the Surrey Hills Management Plan [Document CD 7.9].

68. The Appeal Scheme would be in breach of policy H9.9(iii) the Neighbourhood Plan [CD 6.3] in terms of the loss of the existing canopy of mature trees on the Midhurst Road and furthermore does not conserve trees as contemplated by policy H1.

B - EXCEPTIONAL CIRCUMSTANCES

69. The Rule 6 Party asserts that there are no exceptional circumstances as required under NPPF paragraph 190 and that granting permission to the Appellant’s application would not be in the public interest.

70. In exercising your planning judgement, Sir, we invite you to give the maximum weight you can to the direct harm to the National Landscape that the Appeal Scheme will inflict, in terms of damaging the site’s natural beauty (described above) and its ecology and wildlife habitats (described below).

71. The Appellant seeks to argue that certain purported benefits of the Appeal Scheme should not only essentially outweigh the identified harms in your evaluation, Sir, but also be deemed

²¹ R (The Dedham Vale Society) v SoS HCLG & ors (2025), referred to in Document NID 13.1

relevant circumstances of a future and exceptional nature to help support their assertion that the test of paragraph 190 is satisfied overall. We reject that argument. The purported benefits are not so substantial as to outweigh the substantial harms, and they are not so exceptional as to rise to the very high level of exceptional circumstances that the NPPF contemplates.

72. Taking each of the main categories of purported benefit in turn, the Rule 6 Party submits as follows:

Purported Landscape Benefits

73. The Appeal Scheme includes a benefit of providing management of landscape and woodland within the National Landscape. On the other hand, the Appellant has sought (in our view, disingenuously) to diminish the impact of building on 5 hectares of National Landscape by arguing that it only represents a tiny fraction of the whole area of National Landscape across England and Wales. To the extent there is any merit whatsoever in such an argument (which we do not accept), then the same logic should be applied to the purported benefit of managing 78% of the site (or 18.53 hectares). This area of managed National Landscape equates to merely 0.0008% of the area of National Landscape across England, Wales and Northern Ireland – a miniscule, limited benefit by the Appellant’s own metrics.

74. There is unlikely to be any net benefit from the Appellant’s promise of improved management of the National Landscape on this land because the Appellant is already managing it, as current landowner. No doubt, as a competent manager of woodland, parkland and wetlands, the Appellant would intend to manage their land well, irrespective of whether or not planning permission is granted. Indeed, this is entirely consistent with the Appellant’s existing commitments connected to the ‘Phase 1’ development.

75. The Appellant offers new footpaths across the southern side of the site as a benefit for access to the South Downs National Park. This benefit has no material value and should be discounted as there are already a number of local footpaths, bridleways and quiet lanes that serve the community wanting to explore the National Park, not least the Footpath 597 and Bridleway BY104 that encircle the Appellant’s land, as well as Bell Vale Lane. Indeed Savills, (acting for the Appellant) states on its own webpages that, “the surrounding countryside offers ample

opportunities for walking, cycling and riding including Blackdown and The Devil's punch Bowl."²²
This demonstrates that the proposed new pathways add little additional benefit above the existing extensive network already in place.

76. The Rule 6 Party disagrees with the Appellant that the relocation of the historic Footpath 597 is a benefit. This is an established footpath which would become 'sandwiched' between two roads, with less mature tree bordering to its west and therefore would be less beautiful and less tranquil as well as being interrupted by the proposed access junction. Effectively, this will remove any perceived future benefit for walkers and will threaten its valued connectivity to the National Park via Bell Vale Lane.

Purported Ecological Benefits

77. The Appellant maintains that the ecology of the site will be enhanced and that there will be a Biodiversity Net Gain (BNG) of some 10%. The Rule 6 Party presented evidence that contradicts this and casts grave doubt over the approach and methodology behind the Appellant's claims in this respect. The ecology issues are dealt with here in a separate section of submissions on Biodiversity Net Gain and Impact on the Haslemere Ecological Network.

Purported Community Benefits

78. The purported benefits through the provision of a scout hut and a forest school facility should be given limited, if any weight, in the Inspector's evaluation. As stated by Mr. Paul Buckler, Chair of the 1st Haslemere Scout Group, on cross-examination during the Inquiry, the possibility of moving the scout group to the Appellant's site is merely a "preference" rather than a necessity.

79. Similarly to the scouts, it is not the case that Grayswood Nursery is without current forest school space or facilities. It may sub-contract provision of services to Greensand Forest Adventures Ltd, and merely expresses a "hope" to have its own woodland space for forest school activities [see Document ID3.2 Appendix 9]. It is not clear whether the use of the proposed facilities for forest schooling in the Appeal Scheme will be organised through Greensand Forest Adventures Ltd., a commercial business, and therefore ultimately for the benefit of its shareholders and investors rather than the local community. An offer of land for the forest school which is much closer to

²² Savills sales website:
<https://search.savills.com/property-detail/gbgursgus240231>

the Grayswood Nursery was made during the Inquiry [see Document 13.14]. Aside from the approximately ten alternative forest schools available within a 5 mile vicinity of Haslemere²³, this offer together with the existing provision at Grayswood shows that there is no necessity for the proposed forest school facility in the Appeal Scheme and the Inspector is invited to give it reduced weight as a benefit accordingly.

80. The harms to tranquillity, including the traffic implications, of both the scout hut and forest school outweigh the purported benefits and therefore these should attach no weight in the overall consideration of exceptional circumstances.

Purported Economic Benefits

81. The Appellants suggest that there will be certain economic benefits arising from the Appeal Scheme. The Rule 6 Party did not adduce evidence to this point, but support the position of the LPA that, in the context of the overall buoyant economic status of Haslemere and district, these purported benefits are negligible and in our view should not carry weight in the evaluation of exceptional circumstances.

C - HOUSING LAND SUPPLY AND AFFORDABILITY

82. The Rule 6 Party makes no submission with respect to the 5 year housing supply, which is the subject of a statement of common ground between the Appellant and the LPA.
83. As regards affordability, homes in the Appeal Scheme would require key workers on average income to obtain typical mortgages of approximately 19 times the amount of their salary²⁴ – this is not the type of ‘affordable’ housing that Haslemere needs or that the community wants.
84. The Appellant has pointed to the development at Sturt Farm as a precedent for the building of affordable housing on National Landscape at Haslemere. It is not the case that the Appellant’s proposal is similar or can be compared to Sturt Farm beyond the order of magnitude in terms of separate dwellings. The Sturt Farm development is within the settlement boundary, whereas the Appeal Scheme is not. The Sturt Farm development is on National Landscape of a lower quality than that of the Appeal Scheme. The Sturt Farm development provides 132 dwellings

²³ See document NID 9.1

²⁴ Figures based on key worker salaries from www.payscale.com (£38,000) and Elvia Homes website 2025 Phase 1 homes priced at £775,000.

comprising homes subject to social rent, shared ownership and rent-to-own schemes²⁵, all of which are at a much lower price point, and therefore more affordable, than that provided by the Appeal Scheme.

D - BIODIVERSITY NET GAIN²⁶

85. In the Statement of Common Ground (March 2025)²⁷ it is agreed at paragraph 4.24 that "As the original planning application was made in July 2022 there is no statutory requirement for BNG... A net gain of just 1% would be policy compliant ...". An appeal decision dated 5 January 2022 is cited to support this. However an appeal dated 21 February 2024 relating to land to the west of Northwick Road, Northwick²⁸ states that "biodiversity net gain needs to be demonstrated for the development, even if the application was submitted prior to mandatory net gain requirements coming into effect..." because the "NPPF required that decisions should contribute to and enhance the local environment in a number of ways, including the provision of net gain in biodiversity." Haslemere Neighbourhood Plan (at paragraph 3.78) refers to the emerging Environmental Bill 2019-2021 and that it would include a requirement for developers to deliver a biodiversity net gain of at least 10%, it further states "This matter is incorporated within Policy H12.3".
86. The Appellant's application does not demonstrate (as required by NPPF para 187 (a) and (d), and policy H12 of the Haslemere Neighbourhood Plan) that the Appeal Scheme minimises impacts on and provides net gains for biodiversity and protects and enhances sites of biodiversity value both on and adjacent to the development site. The harm to biodiversity of the proposed development has not been fully identified and the proposed mitigation measures are inadequate. It is thus not possible to ascertain whether the proposal will comply with NPPF paragraphs 193(a) and 193(c).
87. Furthermore, the evidence presented in the Rule 6 Party Ecology Proof of Evidence [Document NID 5.9] indicates that the proposed development may not pass the three tests of The Habitat Regulations, and as such would not receive a licence from Natural England.

²⁵ <https://thakeham.com/land-development/sites/sturt-farm-haslemere/>

²⁶ Including Impact on the Haslemere Ecological Network

²⁷ Statement of Common Ground Final 04.03.25 (NID 4.11)

²⁸ APP/H1840/W/23/3319716 (see paragraph 25)

88. In the Appellant's Environmental Statement (Chapter 9: Ecology) [Document CD 2.28], the Appellant relies upon tables Table 9.4 and 9.5 to describe the supposed best practice avoidance, mitigation and enhancement measures to address the identified ecological impacts. There are 16 rows in these tables with ecological impacts from the development listed. For 15 of these impacts, it is claimed that Avoidance or Mitigation Measure(s) are "Not required" and measures to address these impacts, that are deemed "not significant", are listed. The evidence in the Rule 6 Party Ecology Proof of Evidence, supported by the expertise of Professor Tom Oliver, Mr. Gareth Matthes and Dr Philippa Guest, demonstrates that actually the harms are significant and hence the Applicant's expert has not followed the Biodiversity mitigation hierarchy principles that underpin NPPF paragraph 193 and biodiversity net gain approach. Avoiding impacts is required as a primary consideration in planning decisions.
89. The majority of the proposed habitat units from the net gain and enhancement strategy are to be delivered not through the creation of new habitat but by restoration of woodland within the site boundary. The Appellant proposes to remove these mature conifer trees, in 2 stages in year 1 and then 10 years later, and replace them with 600- 900 mm transplants of various species²⁹. Rather than increasing the value of the site for nature, this will make the woodland less biodiverse and will not contribute to net gain. When the new deciduous trees mature there will still be reduction in the current bird and insect diversity, as the overall tree diversity (both in terms of species richness and heterogeneity of canopy) will be lower than before the development.
90. Mr Jack's Ecology Rebuttal [Document NID 11.2] maintains that there will be no such loss in diversity. However, his reference at paragraph 2.10 to The Forestry Commission Practice Guide for the 'Management of Semi-Natural Woodlands' misinterprets that guidance; in fact, it pertains to removing areas of non-native conifers (e.g., Sitka spruce or *Picea sitchensis*) that crowd out light and lead to deep litter and humus layers, with a consequent species-poor understory. For the proposed development site, the area labelled coniferous woodland in Figure 8 of Document ID2.6 is actually mixed woodland, with a number of deciduous trees interspersed with conifers. The conifers are not densely planted and there is ample light for a species rich understory. The conifers themselves contain species deemed native to the UK (e.g., Scots Pine or *Pinus sylvestris*)

²⁹ Landscape Planning Specification for the Area of Detailed Consent - Scotland Park Phase 2 Haslemere (Sightline Landscape June 2022 Rev A 06.02.23) [Document CD2.24 at paragraph 7.1]

and these mature trees provide important habitat for insect, bird and mammal species, that would not be available if they were replaced with deciduous saplings.

91. It is clear that a woodland containing a small proportion of additional mixed woodland like this (less than 10% in this case), with the rest being deciduous, is going to have a higher number of different native tree species in total (i.e., higher tree species richness). This in turn, means a greater range of insects and bird species in the woodland, as well as below-ground microbiota and soil fungi (i.e., higher total biodiversity) both in terms of ecosystem types, species numbers and genetic diversity.
92. It is evident from the Appellant's plans³⁰ that there will be significant housing development in areas of the site containing wildlife corridors that are an integral part of the Haslemere Ecological Network. Contrary to the Appellant's consultant Engain's opinion that impacts would be "small scale",³¹ the evidence is that the wildlife corridors around the site would be significantly impacted by development due to the removal of trees and shrubs, invasion by non-native species and being severed by two access roads.
93. Furthermore, there is likely to be a significant impact on the ecological condition of those corridors that change from being classified as 'outside settlement' to 'within settlement' as a result of the development. Wildlife corridors 'within settlement' are generally considered not to meet the UK Habitats classification criteria of a native Line of Trees or Hedgerow, due to non-native, undesirable species, fences, roads, drives, paths and other services or infrastructure generally impacting most corridors 'within settlement', rendering them of lower-value for wildlife and biodiversity. Overtime the Central Corridor³² within the proposed development would lose its 'Good Condition' status, due to its presence and vulnerabilities of being within settlement and severed by an access road.
94. Under cross-examination, the Appellant's ecology expert could not confirm that the connectivity of the north-south corridor in conjunction with the east-west corridors is vital for wildlife dispersal to and from neighbouring habitats and woodland areas.

³⁰ Engain Ecology Proof of Evidence dated 12 December 2023 [Document ID2 2.6]

³¹ Engain Ecology Proof of Evidence dated 12 December 2023 [Document ID2 2.6 at paragraph 4.13]

³² See Map 2 on page 7 of the Rule 6 Party Ecology Proof of Evidence [Document NID 5.9]

95. The Appeal Scheme poses a real risk to the population of hazel dormice, a species protected under European and UK legislation³³ on the site. As explained in evidence presented by Dr. Philippa Guest during the Inquiry, the proposed mitigation measures are inadequate. The Appellant proposes that a tunnel at the access road will be sufficient mitigation, but there is no peer-reviewed advice or conservation evidence³⁴ that demonstrates dormice will utilise such structures.
96. As an arboreal species this access road would present a barrier to dispersal of hazel dormice along this corridor, as they are known to rarely travel along the ground, with no reports of them utilising tunnels. The Appellant fails to acknowledge that the wildlife corridor adjacent to the Midhurst Road provides important dispersal routes for hazel dormice (north-west) and their ability to connect with other dormouse populations in adjacent areas to the west such as Longdene, Hedgehog Lane and Sturt Farm.
97. As explained in the Rule 6 Party Ecology Proof of Evidence, the Appeal Scheme would sever this major Wildlife Corridor for dormice on the western side of the site, as well as other corridors on the eastern and central sides of the site, impacting the connectivity between populations around Haslemere; therefore it would significantly impact this European Protected Species.
98. For the combination of reasons that the Appeal Scheme does not adequately conserve or enhance the environmental and ecological assets of the site, the Rule 6 Party submits that the appeal should be denied.

E - MATERIALITY OF QUASHED FIRST APPEAL DECISION

99. The Rule 6 Party considers that the first appeal decision is material but also considers that the evidence before this Inquiry justifies on its own merits, without dependence upon the first appeal decision, the refusal of planning permission for the Appeal Scheme.
100. It is notable how many members of the public have expressed their concern at the decision-making process involving two costly appeals when the first appeal decision was quashed solely on procedural faults.

³³ See Conservation of Habitats and Species Regulations (2017); Wildlife and Countryside Act (1981); section 41 of the Natural Environment and Rural Communities Act (2006)

³⁴ See www.conservationevidence.com

101. For a second appeal decision to be inconsistent with the first appeal decision would, it is clear, just add to the concerns of the public and local constituents.

CONCLUSION

102. A starting point for evaluating the public interest is to ask what the public want who are most directly affected. As you have heard from the affected community, Sir, the public do not see a public interest in the Appeal Scheme.

103. The statutory protection afforded to National Landscapes is equivalent to the protection given to National Parks and the public interest in preserving them from largescale housing developments is reflected in the statements by the current Prime Minister and the Secretary of State for Housing³⁵. They advocate building on brownfield and so-called greyfield sites but not on National Parks or, by implication, National Landscapes, because the preservation of that protected countryside is a dominant public interest. The coming into force of section 245 of LURA and the subsequent DEFRA guidance [Document NID 7.11] only goes to reinforce the protection afforded to National Landscape.

104. The Appellant makes the case that the harms of the proposed development are outweighed by an exceptional list of a range of benefits, whether in landscape, ecological, social or economic. The Rule 6 Party submits that none of these purported benefits are as significant as the Appellant asserts and, indeed, some of them are so immaterial as to not be benefits at all. In short, there are no exceptional circumstances, but rather the National Landscape must be conserved without this harmful development.

105. Sir, for these reasons we submit that the Appeal should be dismissed. Thank you.

³⁵ Documents NID 7.1