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Report to the Secretary of State for Communities and Local Government

by S E Gibbs MA MSocSc MRTPI

**an Inspector appointed by the Secretary of State for
Communities and Local Government**

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ GTN 1371 8000

Date: 16 October 2006

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 78

Appeal by Love Lane Investments Ltd & Respond

LPA: Runnymede Borough Council

Land at Franklands Drive, Addlestone

Inquiry held 23 to 26, 30 and 31 May, 1, 2 and 20 to 22 June and 17 July 2006

File Refs: Q3630/A/05/1198326

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Land at Franklands Drive, Addlestone

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Love Lane Investments Ltd & Respond against the decision of Runnymede Borough Council.
- The application Ref RU.05/0818, dated 04.08.05, was refused by notice dated 17.03.06.
- The proposal is for outline planning permission for residential development (of 350 dwellings) comprising affordable and accessible housing, access roads and public open space and demolition of 3 dwellings.

Summary of Recommendation: that permission be granted subject to conditions as set out in the annex.

PROCEDURAL MATTERS

- 0.1 The inquiry into this Section 78 appeal was held jointly with a called-in application (file refs: GOSE 103/001/RUNN/40880 & APP/Q3630/A/05/1186514) concerning another proposal for residential development within the Borough of Runnymede. The called-in application made by A2 Housing Group (formerly the Apex Housing Group) related to a proposal for erection of 173 dwellings and one office with associated access and parking and works to adjoining highways following the demolition of 108 dwellings of the Wapshott estate
- 0.2 Although the inquiry was held jointly and much of the broader planning context is common to both schemes which both raise issues relating to Affordable Housing, the key points at issue for the two schemes are identifiably different. The Wapshott Road application was called in because it was considered to have important implications for Government policy concerning new development and flood risk and has been the subject of a separate report and recommendation already submitted to the Secretary of State. On the first day of the inquiry general housing issues, relating to Development Plan requirements and housing land supply, were discussed at a Round Table Session. Affordable Housing issues were discussed in a similar manner on the second morning of the inquiry.

BACKGROUND TO THE PROPOSAL

- 1.1 Two Statements of Common Ground have been produced. A Statement of Common Ground (INQ6) is prepared by the appellants and Runnymede Borough Council. This includes a description of the appeal proposals, the site and surroundings, planning background and relevant planning policies. A Statement on Highway Matters (CD196) has been agreed between the appellants and Surrey County Council.

The Site and Surroundings

- 1.2 The Appeal Site, shown on CD171, is approximately 15 ha in extent. In addition approximately 8.4 ha of land adjoining the eastern boundary is within the Appellants' control and proposals for this land have been brought forward in association with the scheme for which planning permission is sought. The western part of the site is rough grassland that has become established on an area of flat land previously used as a tree

nursery and prior to that having been worked over for minerals. Signs of former mineral working are more evident within the central part of the site which is now scrubland but includes some clear signs of excavation as well as a pond and some indications of land contamination. The area to the east lying outside the appeal site but within the appellant's control is also fairly open in character and is at a lower level than the appeal site. In addition there is one existing house, Park Farm, within the main body of the site. The red line area surrounding the appeal site extends north westwards to take in 3 residential properties within Franklands Drive and highway land within Franklands Drive, Row Town and Ongar Hill.

- 1.3 Plan RBC1 in RBC7A shows the appeal site in relation to its surroundings and to Local Plan planning designations. An oblique aerial photograph is included as Plan RBC2 in RBC7A. The northwestern and northeastern boundaries of the main body of the Site adjoin the built up edge of Row Town. This is a residential area forming the south western part of Addlestone. The centre of Addlestone is a distance of some 2.5km from the appeal site. The northwestern boundary backs on to the rear gardens of properties in Franklands Drive with a belt of mature trees, protected by a Tree Preservation Order (CD195), lying within the appeal site. The north eastern boundary is close to the backs of houses in Caxton Avenue, Chaucer Way and Hartland Road. The majority of the appeal site and part of the adjoining land within the appellants' control is shown on the Local Plan Proposals Map as a Housing Site.
- 1.4 To the south east and west of the appeal site is open land in agricultural use. This is part of a relatively narrow tract of open land following the valley of the Bourne which is part of the Metropolitan Green Belt and helps to separate Addlestone from Woodham, further to the south. The western and southern boundary of the appeal site is co-incidental with the Green Belt boundary but on the eastern side the part of the appeal site containing the pond is within the Green Belt.

The Development Proposed

- 1.5 The proposal is for a development of 350 dwellings and demolition of 3 dwellings. The application (CD168) was made in outline with all matters apart from means of access reserved for later determination. A concept master plan, drawing no FDA1.10A, has been produced and is to be found within FDA1.10¹. While the gross area of the Appeal Site is over 15 hectares, the net area for residential development is about 7.8 hectares and the consequential development density around 45 dwellings per hectare.
- 1.6 The development would be carried out by the Respond Consortium which is comprised of the following housing associations, registered with the Housing Corporation: Elmbridge Housing Trust, Peerless Housing Group and Saxon Weald Housing Association. These are all registered social landlords and the intention is to produce a scheme that would be 100% Affordable Housing. This would include: equity share, intermediate rent and social rented housing. The mix of the scheme was the subject of discussion at the inquiry and the appellants' intentions would be to provide the mix set in Table 1 on the next page. In addition the "Lifetime Homes" 16 point standard, promoted by the Joseph Rowntree Foundation (CD89), is to be incorporated into each dwelling.
- 1.7 Vehicular access to the site would be formed by widening a short section of Franklands Drive between the site boundary and Row Town to provide a carriageway of 7.3 metres and footways of 1.8m on each side. It is also proposed to reconfigure the junction of Rowtown, Hare Hill and Ongar Hill to enhance the capacity and safety margins at the existing junction. An additional

¹ This is a revision of the illustrative master plan (drawing no 12661/001 Rev C) submitted with the appeal proposals, with the extent of the area to be used for housing reduced. Previously it had been intended as shown on Plan B in FDA2.1 to develop on some 10 hectares at a density of some 35 dwellings per hectare.

emergency access would be created through the redevelopment of 47 Franklands Drive and this would at other times be a cycle and pedestrian path. Pedestrian and bicycle access to the site is also proposed via Caxton Way. A Supporting Transport Assessment (CD172), prepared by Buchanan and Partners in July 2005, was submitted with the planning application. This includes material on a transport package agreed with Surrey County Council to encourage sustainable travel by non-car modes, as well as highway capacity testing and a lay out for the Row Town/Hare Hill junction.

Table 1: Revised Mix (from CD182A) put forward at the inquiry

		Social Rent		NH Homebuy at 50%equity		Intermediate Rent		Overall Scheme	
House Type	Size m ²	Units	%	Units	%	Units	%	Units	%
1 bedroom 2 person Flat	51	40	24%			10	25%	50	14%
2 bedroom 3 person Flat	61	30	18%	80	57%	12	30%	122	35%
2 bedroom 4 person House	76	40	24%	60	43%	12	30%	112	32%
3 bedroom 5 person House	86	50	29%			6	15%	56	16%
4 bedroom 6 person House	101	10	5%					10	3%
TOTAL		170	100%	140	100%	40	100%	350	100%
		49%		40%		11%		100%	

1.8 In association with the development it is intended that land within the site and on adjacent land within the control of the appellants should be laid out as a mixture of woodland and grassland providing a semi-natural area that would be attractive to walkers and dog-walkers. This area, described as a SANGS (suitable accessible natural green space) would extend to 11.8 hectares and is shown on Plan FDA2.2.3 within FDA2.2a. In addition it is proposed that there would be a circular walk, an equipped playground of about 0.9 ha and 1.98 ha of playing fields, including car park and pavilion. The former would be provided on the part of the appeal site that is within the Green Belt and the playing fields would be on the adjacent land within the appellants' control.

1.9 The application was also supported by the following documents:

A Design Statement – Barton Willmore : July 2005 (CD173)

An Updated Report on Badger Activity – Bioscan Environmental Consultancy (CD174)

A Report on the past use of the site for Minerals Working – Environomics (CD175)

A Contamination Report (Existing Pond) – T A Millard Consulting (CD176)

A Tree Survey – CBA Ltd (CD177)

An Archaeological Evaluation – John Samuels Archaeological Consultants (CD178)

A Landscape Strategy Plan – Barton Willmore (CD179)

A Flood Risk Assessment – Millard Consulting Engineers (CD180)

Planning Policy

- 1.10 Details of relevant planning policies are set out in section 5 of the Statement of Common Ground. At the level of national policy and policy guidance, PPG2, PPG3, Circular 6/98 on Affordable Housing (CD8, CD9 and CD21) and the general guidance in, and associated with, PPS1 (CD6 and CD7) are of particular relevance to the issues raised directly by this development proposal.
- 1.11 In addition and not fully reflected in the Statement of Common Ground, the planning context within which this appeal has come forward has been very significantly impacted by issues relating to development in the vicinity of the Thames Basin Heaths Special Protection Area (CD140). Circular 06/2005 (CD22) and PPS9 (CD12) are of particular importance in that context, especially in relation to the correct application of the Conservation (Natural Habitats &c) Regulations 1994 (CD144), as well as having relevance in relation to the site itself.
- 1.12 The Development Plan is comprised of RPG9, Regional Planning Guidance for the South East, March 2001 (CD20), the Surrey Structure Plan 2004 (CD48) and the Runnymede Borough Local Plan Second Alteration (CD56). Policies for the provision of housing and for its implementation on a phased basis in accordance with a plan, monitor and manage approach are of particular relevance to this proposal. These policies are developed against a background of policies designed to secure sustainable development, including promoting redevelopment of brownfield sites, and with policies relating to the long term protection of the Metropolitan Green Belt.
- 1.13 The proposal is put forward as being for 100% Affordable Housing. The extent to which this reflects the real character of what is proposed was a matter that was examined in considerable detail at the inquiry and is contested in the case presented by the Borough Council. While Circular 6/98 remains the most up to date statement of planning policy on Affordable Housing there has been extensive examination of the issue at both national and local levels, within wider attempts to improve an understanding of the performance of housing markets.
- 1.14 Expressions of Government policy in relation to broad policies towards the performance of housing markets are to be found in the Government Response to the Barker Report (CD36) and the ODPM's Sustainable Communities: People, Places and Prosperity (CD30). The latter includes as a strategic priority "delivering a better balance between housing availability and the demand for housing, including improving affordability"². At a local level, Runnymede Borough Council has commissioned a Housing Study from Fordham Research to assess the local requirements for affordable and market housing. The results of the study were published as a Housing Needs Assessment in June 2005 (CD72).
- 1.15 Franklands Drive was one of four housing sites for which the Borough Council produced planning briefs in 2001. The brief which is contained in CD185 has the status of Supplementary Planning Guidance. The brief contains contextual information, sections on access to the site and on access to local facilities and public transport, advice on development potential and a requirement for a design statement.

Planning History of the Site, including Previous Appeals

- 1.16 The site has an unusually extensive planning history. This is set out in detail in section 4 of the Statement of Common Ground (INQ6). It can be summarised in the following terms:

² The quotation is from Strategic Priority IV, set out in Appendix 2 on page 60 of CD30.

- (1) Since the mid 1980's the site has been identified in local plans - the Runnymede Borough Local Plan of 1985 (CD53A), the First Alteration of 1993 (CD54) and the Second Alteration of 2001 (CD58) - as suitable for housing development but as a "reserve site" for development at a future, rather than an early, date.
- (2) A series of section 78 appeals decisions - in 1989 (CD189), 1992 (CD190), 1999 (CD191) and June 2001 (CD192)³ – have involved a general recognition of the site's suitability for housing development but have all been dismissed. The reasons for refusal of planning permission have been grounded principally on benefits arising from regulation of the supply of housing land and the argument that release of the appeal site for development would be premature.

1.17 An earlier appeal (ref Q3630/A/05/1175061), relating to the same site and for a proposal that was very similar to the current appeal, was submitted in February 2005. That appeal was withdrawn after the current appeal proposal was lodged and prior to the opening of the inquiry on 23 May 2006.

2 THE CASE FOR LOVE LANE AND RESPOND ⁴

Introduction

- 2.1 The Appeal Proposals before this Inquiry are "unique". This is not just because they are for 100 per cent affordable housing at a scale of release that will contribute substantially to the identified requirement within a Surrey borough. This is not just because they are wholly different from the market housing schemes that have been promoted for the Appeal Site over the last 20 years, nor, because there will be no threat to the Green Belt if the Appeal Site is developed. Rather, it is because they come at a time when the planning policy climate is encouraging solutions of this kind, particularly within South East England, and, at a level of phased delivery that can make a significant contribution to meeting the growing requirement for affordable housing.
- 2.2 Uniquely, at present, for a housing site within Runnymede and exceptionally within the administrative areas affected by the Thames Basin Heaths Special Protection Area consideration, the Appeal Site is also able to provide full on-site provision of suitable accessible natural green space (SANGS).

The Main Considerations

- 2.3 In the Minutes of the Pre-Inquiry Meeting two main considerations were identified which continue to capture the essence of the considerations upon which the Inspector needs to report to the Secretary of State. They are:
 1. Whether the benefits of releasing the site now for affordable housing, together with the other benefits that this particular development would bring, are sufficient to outweigh any harm that might be caused to the Council's housing strategy and its expression through the development plan process;
 2. Whether the development would adversely affect the integrity of the Thames Basin Heaths Special Protection Area ("TBHSPA").

³ A similar decision for a part of the site was issued in August 2001 (CD193).

⁴ The case reported is based very closely on the appellants' closing submissions, amplified in relation to the topic of Appropriate Assessment by material taken from Mr Baxter's proof and appendices

- 2.4 Having regard, also, to the issues specifically identified in the Wapshott “call-in” letter the appellant’s case is structured around the following headings:
- Policy Context
 - Housing Numbers
 - The Wapshott Application
 - The Affordable Housing Issues
 - Highways and Transport Matters
 - Nature Conservation Considerations
 - Other Issues

Policy Context

- 2.5 It remains the Government’s primary housing objective that everyone should have the opportunity of a decent home with greater choice and the avoidance of social distinctions. Recognition is given to meeting the housing requirements of the whole community including those in need of affordable and special housing.
- 2.6 Further statements of government policy, including the Government’s Sustainable Communities: Homes for all (CD33) and the Government Response to Kate Barker’s Review of Housing Supply (CD36), have made it apparent that, in seeking to meet the long-term challenge of improving affordability, the provision of new units and new land will be required, and that action needs to be taken now to increase affordable housing output. In the context of affordable housing provision, it is the widening of the term “housing need” to embrace “households who are unable to access suitable housing without some financial assistance” that sets the context in which the Appeal Proposals are being promoted.
- 2.7 This “context” is reflected at a national level with not just a backlog of affordable housing but also the need to address newly arising demand by increasing the supply of new build by some 23,000 additional houses per annum. Therefore, the importance of meeting affordable housing targets is stressed not only by national government but also by the South East Regional Housing Board in the Regional Housing Strategy (CD40) and by Surrey County Council.
- 2.8 In their consultation responses (CD186 & CD187) the South East England Regional Assembly (SEERA) and Surrey County Council take account of provision of affordable housing as an issue that is irrespective of housing land supply considerations. Neither SEERA nor Surrey County Council raised objection to the Appeal Proposals on the basis of the provision of one hundred per cent affordable housing at “local level”. Furthermore, by way of example, another Surrey authority, Woking Borough Council, has chosen to promote their safeguarded sites for affordable housing and has received the support of Surrey County Council for their approach.
- 2.9 At district level Runnymede has been identified, within the February 2006 SEERA Report “additional Advice on Affordable Housing Policy” (CD43), as displaying particularly acute problems of access to affordable housing (sometimes referred to as “hotspots”).
- 2.10 The Borough Council’s Housing Strategy Statement (2002-2006) (CD70) identifies “to provide more affordable homes” as its top priority, with a published target of 750 dwellings for the five year period i.e. 150 per annum. The more recent Housing Needs Assessment (CD72) indicates a much higher need of 522 dwellings per annum. However, at this Inquiry, the Council argue that it may not be appropriate for the Borough to meet 100 per cent of that target. It is illuminating,

by its very absence, that the Council's next Housing Strategy awaits publication at the present time.

- 2.11 Policy HO8 of the Runnymede Borough Local Plan permits the grant of consent in "exceptional circumstances". A liberal interpretation of this policy, in a plan, monitor and manage regime, has justified several of the Council's decisions to grant consent, irrespective of the potential consequences on the future housing land supply position. Here, a similar approach should be applied because of the exceptional circumstances of the Appeal Proposals.

Housing Number Issues

- 2.12 The differences between the principal parties remain as recorded in the Notes for the Housing Roundtable and Affordable Housing Round Table Sessions (RBC53 & RBC54) as well as in the respective proofs and statements of Messrs. Newlyn and Jenkins, Hinsley and Fordham.
- 2.13 From these sessions and the subsequent inquiry debate the following points warrant specific comment.

The Numbers

- 2.14 It is plain from the evidence put forward by Mr. Jenkins in his latest housing trajectory (RBC14A) that the Structure Plan housing requirement for Runnymede of 2030 dwellings by 2016 will be exceeded without the need to release further HO6 reserve sites. Windfall sites can be relied on to produce some 876 dwellings in excess of that requirement. However, the Council have, to date, been unconcerned at the surplus as they continue to release sites, particularly those which should otherwise be caught by policy HO8.
- 2.15 That "figures" position is, essentially, uncontested by the Appellants. However, it is the rate at which windfalls are likely to come forward that separates Mr Newlyn from Mr Jenkins. If Mr Newlyn's figure of 55 dwellings per annum is correct then there is room to release the Appeal Site as the 2016 figure of 2030 dwellings will not be substantially exceeded. If Mr Jenkins is correct then the consequences of over-supply need to be more closely addressed.
- 2.16 The Council's heavy reliance on windfall sites entails important consequences. No Urban Capacity Study has been carried out at local level, even though this was a recommendation of the EIP Panel (CD47). The likelihood of particular sites coming forward has not been identified and there is no information on specific constraints and opportunities or on infrastructure impacts. There is uncertainty as to the amount of affordable housing that can be delivered from windfall sites and, with reliance on windfall sites, the supply of affordable housing has not kept pace with general housing, let alone increased as a proportion.
- 2.17 Relying on windfall sites for the immediate future, also assumes that the Thames Basin Heaths Special Protection Area issues will be resolved quickly; but the current absence of an interim strategy or other delivery plan by the Council means that many windfall sites will be precluded from development until satisfactory mitigation measures have been achieved, in all probability, through section 106 financial contributions. There is also the question as to the extent an additional financial burden would affect the viability of windfall developments, particularly smaller ones. There are no short term solutions other than the physical delivery of SANGS, as in the instant case through the Appeal Proposals. Consequently, there is no certainty that the historic rate of implemented windfall permissions will continue, with consequential effects on the housing supply position.

Oversupply

- 2.18 Although oversupply was raised by the Council as its first reason for refusal it is noteworthy that the Council is equally of the view that, even at the present time when planning circumstances permit, as for example at Wapshott Road and other identifiable sites, consent should still be granted. Not only the wording but also the Council's own application of Policy HO8 permits it.
- 2.19 Furthermore, the Council has not identified what specific harm would arise in the instant circumstances. The absence of any request for financial contributions to physical and social infrastructure in respect of the Appeal Proposals is particularly telling in this regard.

Green Belt Impact

- 2.20 Historically, one of the concerns expressed about the early release of the Appeal Site has been the alleged resultant pressure for release of more green belt land than would otherwise occur. In contrast with all earlier appeal decisions, on this occasion the Appeal Site would not be released out of sequence as, together with Wick Road, it is the next site to be released under Policy HO6 of the Runnymede Borough Local Plan (2nd Alteration). It is noteworthy that the objection from Fairview Homes makes no suggestion that the Wick Road site could be developed for 100 per cent affordable housing.
- 2.21 Furthermore, neither the Runnymede Borough Local Plan nor the Surrey Structure Plan 2004 require replacement of reserve sites which are released for development with further reserve sites. Even with the release of Appeal Site, the capacity of the reserve site stock would remain at 1350 to 1450 dwellings (RBC42). Therefore there is no need to review the Green Belt to bring forward further reserve sites. Even if there were, then in line with advice in paragraph 2.7 of PPG2 "exceptional circumstances" would still need to be demonstrated. It is to be noted that no reserve sites were included in the Surrey Housing Capacity Study which led directly to the Structure Plan housing requirement for Runnymede of 2030 dwellings.

Prematurity

- 2.22 The Council needs to demonstrate harm if this second reason for refusal is to be substantiated. Although the Policy H06 housing requirement lapsed in April 2006, the remaining housing policies of the Runnymede Borough Local Plan remain extant and relevant to the Appeal Proposals as policies in the saved Development Plan. The LDF process is still at an early stage with only core strategy policies the subject of examination. For the reasons set out above in connection with the absence of impact on the Green Belt, development of the Appeal Site would not prejudice the continuing role of reserve sites within an overall housing strategy that continues to rely heavily on windfall previously developed land.
- 2.23 Furthermore, the Council has, in effect, already used policy HO8 to bring forward sites that meet and potentially result in excess to the Structure Plan and RSS housing targets. However, unlike Woking Borough, this Council has not chosen to pursue the route of meeting its affordable housing requirements from its reserve site stock and remains reliant upon conventional "section 106" initiatives seeking a proportion of the overall development.
- 2.24 Accordingly, no decisions that need to be made through the LDF will be prejudiced by the release of the Appeal Site at this stage. There would also be no prejudice to sites such as Aviator Park and the Safeway's site where there has been no take up of consents for office development or a convenience foodstore.

Affordable Housing Supply

- 2.25 Even taking a restricted approach as to what constitutes “affordable housing” it has been demonstrated that the Council’s housing land supply approach (both historic and prospective) cannot satisfy its current figure of 522 dwellings per annum nor its previous target of 150 per annum. This is the case even allowing for non new build initiatives, the future delivery from which is, in any event, increasingly uncertain.
- 2.26 It is also the Appellants’ case, as demonstrated by the experiences of the adjoining boroughs of Spelthorne and Elmbridge, that the supply side will not necessarily be increased by the Council reducing to 15 units the threshold size of sites from which a contribution of Affordable Housing is required. In consequence, more radical solutions need to be found. The Appeal Proposals provide a rare opportunity for a significant contribution to be made to meeting these targets.
- 2.27 The intention is that the Franklands Drive proposal would include a social rented element of 49%. It is acknowledged that this would reduce if Housing Corporation support is not obtained to the degree that is being sought and the cascade envisaged within the section 106 agreement comes into operation. However, sale of the land at 50% of its value for open market housing will ensure that housing would be on offer at a minimum of 20% below the open market.

Interim Conclusions

- 2.28 Taking these various factors together:
1. Oversupply and “frontloading” are acceptable occurrences within the Borough Council’s administrative area;
 2. The provision of a full scheme of affordable housing at local level is permissible in the housing policy context;
 3. The release of the Appeal Site will not lead to impact on the Green Belt nor increased pressure for other Green Belt sites to be released;
 4. Prejudice would not arise to the Council’s emerging LDF;
 5. Historic and prospective rates of affordable housing supply are incapable of meeting even the currently identified requirement.

The Wapshott Application

- 2.29 Given the joint form of the Inquiry, comment is required in respect of the Wapshott application proposals (file refs: GOSE 103/001/RUNN/40880 & APP/Q3630/A/05/1186514). The Appellants are not objectors to the proposed re-development of the Wapshott estate as neither competes with the other. However, the determination by the Secretary of State of both applications will, necessarily be informed by that part of the Inspector’s report on borough-wide housing supply and affordable housing supply issues.⁵
- 2.30 In this context attention is drawn to the particular way in which the Council has approached certain matters in relation to the Wapshott Road application:
- The acceptability of increased front-loading as part of the housing land supply consequences of granting permission;

⁵ When the closing submissions were presented it had not been finally resolved whether there would be a joint report following the joint inquiry, or as in fact has transpired separate reports.

- The Council's approach to and contrived avoidance of the direct application of Policy HO8 as well as its procedural disregard of the sequential assessment approach to flood risk;
- The Wapshott Road scheme is concerned with the delivery of Affordable Housing but as a replacement of affordable housing stock would achieve only one additional unit;
- The Council's willingness to accept the realities of affordable housing delivery through the generation of a cross-subsidy from market housing by one of its RSL preferred partners.

2.31 If such a relaxed approach is acceptable to the Council, as local planning authority then equal treatment should have been, and should be, given to the Appeal Proposals, the exceptionality of which is even greater in terms of delivering wider public benefits.

The Affordable Housing Issues

Introductory Comments

- 2.32 The Appeal Proposals are jointly promoted by a landowner with a consortium of registered social landlords (the RSLs). As well as these RSLs being subject to close regulation and control by the Housing Corporation, the level of confidence which the Corporation has in their capabilities is reflected in their "preferred partner" status and the increase in the levels of allocation they have received for 2006-2008. The proposed methods of tenure provision are Corporation standard "products", and, ones which continue to be supported by the Borough Council. This is a very different type of proposal from those promoted by housebuilder developers which have been found acceptable to the Secretary of State (FDA3.10-14), but considerable confidence can be placed in its achievability.
- 2.33 As paragraph 6.17 of Circular 6/98 (CD21) points out, it is the responsibility of the RSLs, as well as the landowner, to be satisfied that the Appeal Proposals are viable and deliverable. Here, delivery is secured not only by the form of the planning application but moreover by a series of planning obligations now, regrettably, due to the lack of active participation by the Council, by way of unilateral undertaking rather than bilateral agreement (FDA6.4 & 6.8). Mr Morton, in evidence, has expressed confidence in the scheme and in its prospects of securing of Housing Corporation grant funding.
- 2.34 Once planning permission has been granted, the RSLs should be able to work effectively with the Council's Housing Department on the scheme. Surrey Heath Housing Association⁶ is one of the Borough Council's preferred partners and co-operation is likely to be forthcoming from the Council, with appropriate involvement through the mechanisms of nomination agreements and lettings plans.
- 2.35 The social rented element of the scheme has not been challenged by the Council in terms of its affordability or its appropriateness as an element of the overall scheme. It is to be regretted that it was not until after the commencement of the Inquiry that the Council divulged its preferred mix in terms of tenure and size of unit. What is now put forward (Table 1 on pages 2-3 of this report) is intended to come closer to meeting the Borough Council's desire for more 3 and 4 bed units (even though this is not reflective of the findings of the HNA) whilst addressing the greater need for 1 and 2 bed units. This would satisfy the twin objectives of meeting housing need and achieving a mixed and balanced community.

⁶ In a letter of 31 August, the appellants' Solicitors, Shoosmith's, advise that on 3 July 2006 Surrey Heath Housing Association Ltd formally changed its name to Accent Peerless Ltd

- 2.36 The Council's substantive case on Affordable Housing has been solely presented by Dr Fordham who, although well-known in affordable housing circles, has never worked for or acted on behalf of an RSL in securing the delivery of affordable housing. It is also of note that all the Inspectors' reports upon which Dr Fordham relies as endorsement of the work of Fordham Research pre-date the publication of draft PPS3 (CD11) and the Government's response to the Barker report (CD36).
- 2.37 In view of fundamental differences between the parties, the following need to be addressed:
- (1) The definition of "housing need";
 - (2) The definition of "affordability";
 - (3) The achievement of "a mixed and balanced community";
 - (4) The deliverability of the scheme.

Housing Need

- 2.38 The Council's belief, as advised by Dr Fordham is that only those in inadequate or unsuitable housing qualify for "affordable housing". This is based on the definition of housing need in Appendix 2 to the DETR's (July 2000) Local Housing Needs Assessment – A Guide to Good Practice (CD199). However, the definition of housing need in Annex A to draft PPS3 (CD11) is those "households who are unable to access suitable housing without some financial assistance". Accordingly, the level of need identified in the Housing Needs Assessment is an underestimate of the overall level of need. Given the weight that the Council places on this Housing Needs Assessment it needs to be borne in mind that it is still only a factual snapshot, and, one taken in the first half of 2005.
- 2.39 The shortcomings of the Fordham approach are revealed by the most recent contention that the survey work undertaken by the Housing Needs Assessment (CD72) took account of all those, in terms of historic (i.e. 2000) and emerging Government guidance, who were in need. However, as stated on page 18 of CD72, the Housing Needs Assessment relies upon the July 2000 definition of housing need.
- 2.40 In consequence, the findings of the Housing Needs Assessment whilst informative cannot be definitive of the "need" position in relation to the "intermediate market" to which the Appeal Proposals specifically respond. There is a level of unmet need for housing for households falling between Dr Fordham's mid-point costs and relevant market entry-levels. A reflection of this "need" is also found in the evidence of demand that registered social landlords (RSLs) have experienced for the same type of product in neighbouring boroughs.

Affordability

- 2.41 The terms "usefully affordable" or "technically affordable" adopted by Dr Fordham are not ones to be found in current or emerging Government guidance. The issue of "affordability" has to be judged on the election of an appropriate market-entry level.
- 2.42 As there now appears to be no dispute that the social rented and intermediate rented units are "affordable", the essence of the issue is whether there will be sufficient take-up of the shared ownership units to justify their treatment as affordable housing. Again, it is submitted that greater reliance should be placed on the views of the RSLs, based on their role as housing provider as well as their own very practical and local experience, rather than on the statistical analyses undertaken by Dr Fordham.
- 2.43 Undoubtedly, "shared ownership" is a useful affordable housing product that in the appeal proposal can and will meet an identified need for those whose choice is for home ownership but

who would be unable to purchase a property on the open market. The scenario put forward by the Borough Council that houses may remain empty because they are not actually “affordable” for prospective occupiers is a highly unlikely one. The precise mix of intermediate housing to be provided is not yet resolved. It will depend in part on the operation of the cascade mechanism. The anticipated range for the Homebuy product is from 25 to 50% of the equity with a figure of 75% only a fall-back in the cascade mechanism.

Mixed and Balanced Communities

- 2.44 There exists no specific definition or explanation in Government planning policy of what constitutes or could amount to a “mixed and balanced community” nor how it can be achieved with any degree of certainty⁷. The scheme is for 100% Affordable Housing and traditionally a mixed development is seen as market and Affordable Housing. Here a market element is introduced into the mix through shared ownership.
- 2.45 In the context of achieving a land-use as well as a social objective it needs to be borne in mind that the Appeal Proposals form an urban extension to the existing settlement of Addlestone which, itself, is a mixed community demographically as well as in terms of style and forms of property. The form, design and layout of the Appeal Proposals, although still in outline at present, meet current guidance and encourage integration both through their physical permeability and through the opportunities presented by the various amenity features for social inter-action. The design statement explains how integration can take place. Visually and functionally, the Appeal Proposals have all the beneficial elements which will enable them to operate as a highly successful housing development.
- 2.46 The Borough Council’s belief that a mixed and balanced community will not be achieved is patently influenced by its more restricted views on the issues of “need” and “affordability” as well as its late divulgence of its preferred mix in terms of tenure and size of unit. This has led to a mistaken assumption that only certain types of occupier will be housed within the development. Furthermore, the Council has acknowledged that neither of the mixes it puts forward satisfactorily addresses both the objectives of meeting need, and, of achieving a mixed and balanced community.
- 2.47 It is the Appellants’ contention, based on experience that, as the affordability gap widens, residents who will occupy the dwellings will come from an increasingly diverse range of household types, employment groups and variety of ages. This is aided by the apportionment of 51 per cent of the tenure to shared ownership and intermediate rent: New Build Homebuy (40%) and Keyworker (11%). The use of local lettings plans provides an established mechanism for encouraging such opportunities as well as neighbourhood management initiatives which the RSLs will be able to operate across the entirety of the development.

Deliverability

- 2.48 Based on preferred partner status, as well as experience, the RSLs remain confident that sufficient funding will be forthcoming which, when combined with their own direct financial resources, together with the discounted value of the land, will enable the development to proceed on a phased basis. Though the Council has sought to cast some doubt on the likelihood of such achievement, the capabilities of the RSLs have not been challenged. As well as certain other delivery considerations, a cascade mechanism has been included within the Unilateral Undertaking which, in the event that the level of anticipated public subsidy is not forthcoming,

⁷ The companion guide to PPG3, Better Places to Live by Design (CD10), focuses on design and architecture.

enables cross-subsidy to take place but in a context which remains within affordability parameters. It provides a “fall back” position. The land purchase would make use of Respond’s own financial resources. Accordingly, it can be stated with confidence that the Appeal Proposals will be 100 per cent affordable housing, and, that they are capable of proceeding once planning permission has been granted.

Interim Conclusions on Affordable Housing

2.49 With these various considerations in mind, it is submitted that:

- (1) A wide range of housing needs is capable of being met on an affordable basis;
- (2) A mixed and balanced community can be achieved; and
- (3) The scheme is capable of being delivered.

Highway and Transport Matters

2.50 The agreed statement on Highway and Transport Matters (CD196) records that the Appeal Site falls well within the sustainability indicators used by the Department for Transport for accessibility to key services and facilities. This confirms the views of previous Inspectors in relation to previous schemes, that the site is sustainable. Surrey County Council, as highway authority, has raised no, in principle, objections.

2.51 The ability of the Appeal Proposals to bring wider benefit to the local community is, once more, reflected, in the promotion, at the request of the County Council, of a Demand Responsive Transport System (DRT) through funding for the capital cost of a DRT vehicle, installed with suitable technology, together with bus stops/shelters and real time information display, plus additional revenue funding during the initial five year start-up period. DRT is now an established form of public transport in Surrey and the joint expectation of the County Council and the Appellants is that the DRT service, acting as in a complementary manner to existing bus routes, will provide a further useful non car mode of travel and be self funding after 5 years..

2.52 Although off-site highway improvements are proposed to accommodate the anticipated traffic movements from the Appeal Site, wider benefits to the local community will arise through junction and alignment improvements and the integration of shared footpath and cycle links.

2.53 The financial contribution towards the Runnymede Travel Initiative will also greatly assist the achievement of car transport reduction to local schools by, for example, the assistance with funding of the “yellow bus” provision in Runnymede.

2.54 These measures, together with proposed travel plan initiatives, provide the level of re-assurance that the Appeal Proposals will meet government transportation and accessibility objectives.

Nature Conservation Considerations⁸

2.55 Although this is the first proposal involving Thames Basin Heaths Special Protection Area issues that is being determined by the Secretary of State it must also be acknowledged that this is equally one of only a handful of proposals within the affected administrative areas that, currently, has been able to provide sufficient on-site mitigation provision.

2.56 Although the official status of English Nature is that of statutory adviser to the Secretary of State, the degree of zeal as well as endeavour with which it has overseen this issue highlights the significance of the SANGS solution that has been agreed in the instant circumstances.

⁸ This section of the appellants’ case takes material from the evidence presented by Mr Baxter of Aspect Ecology to re-inforce points made in closing.

Appropriate Assessment

- 2.57 As the relevant competent authority the Secretary of State must, herself, assess the implications of the Appeal Proposals under Regulation 48 of the Habitats Regulations 1994. The first step in the flow chart at Figure 1 of Circular 06/2005 (CD22) is whether the proposal is directly connected with or necessary to site management for nature conservation, which it is clearly not. This leads to the second step which asks if the proposals are likely to have a significant effect on the interest features (Annex 1 bird species) of the Special Protection Area, alone or in combination with other plans and projects.
- 2.58 English Nature confirmed at the Inquiry that the inclusion of the SANGS element of the Appeal Proposals fully avoids all effects on the Special Protection Area. English Nature has assessed the proposals upon that basis and has formed the view that an answer of “no” can be given to the question in the second box of the flow chart in the Circular and that this leads to the statement that ‘permission may be granted’.
- 2.59 The approach taken by David Tyldesley, English Nature’s consultant, in getting to this conclusion from a negative answer to the question in the second box is regarded as a novel one but the end result that ‘permission may be granted’ is supported by the separate findings of Mr Baxter. Even if English Nature’s interpretation were to be rejected the questions posed in the third, fourth and fifth boxes can all be answered in a manner that leads to a conclusion that permission may be granted subject to a planning condition securing the delivery of the SANGS.
- 2.60 Paragraphs 4.6, 4.7, 5.5, 5.6 and 5.7 of Mr Baxter’s evidence (FDA2.1) and appendix 12 in FDA2.2b present the detailed working out of the position being advanced by the appellants. The conservation objectives for the Thames Basin Heaths Special Protection Area are set out in Appendix 5 in FDA2.2a and summarised in paragraph 4.4 as: “to maintain, in favourable condition, the habitats for the populations of Annex 1 bird species of European importance, with particular reference to: lowland heathland”. Annex 1 bird species identified for Horsell Common are nightjar and woodlark, with Dartford warbler added in relation to Chobham Common.
- 2.61 An assessment of impacts is presented on Table 1 of FDA2.1 and is reproduced below. The position as summarised in paragraph 4.6.4 is that “the evidence shows that to date the Special Protection Area has a capacity to absorb indirect effects with no effect on the integrity of the Special Protection Area”. The overall conclusion reached at paragraph 4.6.5 is that the appeal proposals alone are not likely to have a significant effect on the Special Protection Area.

Table 2: Analysis of potential effects arising on the Thames Basin Heaths Special Protection Area from the appeal proposals (Table 1 from FDA2.1)

Effect	Comment	Likely significant
Reduction in area	Not relevant	No
Fragmentation of Heaths	The appeal proposals are not located between any section of heathland, so are not a contributor to fragmentation	No
Supporting habitats	Much of the appeal site has been previously worked for sand extraction. It does not include semi-natural habitats which support the SPA habitats or that are contiguous with the feeding range of the Annex 1 bird species	No
Pollution	Pollutants from overflows, spills, accidents or urban runoff would not reach the Special Protection Area	No
Sand and gravel working with landfill after-use	Not relevant	No

Predation	The appeal proposals are located 3.15km from the nearest SPA component. Predation pressure by cats typically arises from development within 400m of the SPA. Dog walkers generally seek sites in closer proximity to home than the SPA. However, any dogs walked on the SPA off of their leash may flush ground nesting birds leading to indirect increased risk of predation. However, the SPA is currently well used by dog walkers and Annex 1 bird species numbers are seen to be increasing. Accordingly, any additional effect from the appeal proposals alone would be insignificant	No
Disruption to Hydrology	The appeal proposals do not require the diversion of water supplies. Run-off from the appeal site will not reach the SPA	No
Enrichment	Dog excrement is deposited within a short distance of commencing a walk and around paths. Any effects are therefore very localised. Dumping of garden rubbish is typically associated with dwellings bordering the Special Protection Area	No
Roads	Not relevant	No
Service infrastructure both over and under heathland	Not relevant	No
Disturbance	Residents from the appeal site may enter the SPA for recreation. Effects are greatest from dog walkers although this group typically travels less than 3.15km to reach a recreational site. Other users are likely to be much smaller in number. Further, only small numbers of users are anticipated from the appeal site at any one time. Users will disperse over the large area of the heathland once on the SPA. The heathland is already subject to a baseline of disturbance against which Annex 1 bird numbers are increasing. Appeal proposals will not add significantly to this baseline	No
Trampling	Vast majority of heathland users keep to paths. Visitor management can ensure this is the case. Some erosion by trampling may be beneficial to invertebrates	No
Fire	Mostly set by local children. Appeal proposals are well removed from SPA. Children are unlikely to reach heathland unaccompanied	No
Vandalism	Mostly carried out by local children and youths. Appeal proposals are well removed from Special Protection Area	No
Public hostility	Not relevant	No
Management costs	Not relevant	No

2.62 Section 4.7 of FDA2.1 addresses the question raised in the second box of Figure 1 in Circular 06/2005 whether the appeal proposals in combination with other plans or projects are likely to have a significant effect on the Special Protection Area. Following advice in Circular 06/2005 that the “decision of whether to undertake an appropriate assessment is made on a precautionary basis”, the conclusion reached in paragraph 4.7.16 is that Appropriate Assessment should be undertaken because it cannot be ruled out that there is not likely to be a significant in-combination effect on the Special Protection Area.

2.63 Section 4.8 of FDA2.1 covers discussions and meetings between the Appellants ecologist and representatives of English Nature during the early months of 2006. These included discussion of works to provide mitigation for potential in-combination detrimental effects. In particular this involves the provision of a particular form and quantum of open space as a component part of the appeal proposals. The conclusion at paragraph 4.8.7 is as follows:

I share English Nature's view that, under the revised appeal proposals, Appropriate Assessment is unnecessary. However, it is for the Secretary of State as the Competent Authority to decide on the

need or not for Appropriate Assessment. Accordingly, should the Secretary of State decide that an Appropriate Assessment needs to be undertaken, I set out in the following chapter of my evidence the information required to inform such an assessment as well as testing the mitigation proposals put forward.

2.64 Chapter 5 of FDA2.1 identifies the following as the documents that set out the process for undertaking an Appropriate Assessment:

- PPS9 (CD12) and Circular 06/2005 (CD22);
- Assessment of plans and projects significantly affecting Natura 2000 sites – Methodology Guidance - European Commission: November 2001 (CD145); and
- Managing Natura 2000 sites ‘The Provisions of Article 6 of the ‘Habitats‘ Directive 92/43/EEC – European Commission : April 2000 (CD146)

2.65 Paragraph 5.5.1 deals with the impact of the appeal proposals. It concludes that the proposals on their own will not give rise to any likely significant effect on the integrity of the Special Protection Area. The rest of the chapter is an assessment of the effects of the appeal proposals in combination with other residential development proposed within the vicinity of the Thames Basin Heaths.

2.66 The conclusion reached in paragraph 5.5.18 is that:

The Habitats Regulations embody a precautionary principle in their approach to assessing potential effects on European sites and accordingly, given the likely increased levels of residential development across the SPA and the need to proceed under the precautionary principle, it is accepted that in-combination effects through an increase in recreational use of the SPA, particularly from dog walkers, could be significant such that it is relevant to consider mitigation.

2.67 It is submitted that the “precautionary principle” does not need to be further addressed since its practical as well as its procedural application has been sufficiently subsumed within the determination procedures set out in Figure 1 of Circular 06/2005.

2.68 Section 5.6 of FDA2.1 describes the approach taken to mitigation and the open space proposals brought forward on this site, designed to operate as SANGS for dog walkers and other walkers. Section 5.7 presents conclusions on the mitigation proposals and residual impacts. Paragraph 5.7.1 concludes that “The mitigation proposed fully addresses potentially significant cumulative impacts arising from the appeal proposals, namely that of recreational usage” and the final conclusions on the question of in-combination effects and the Appropriate Assessment in paragraph 5.7.4 are that:

... no reasonable scientific doubt remains as to the absence of such effects and accordingly the Secretary of State can be certain that the appeal proposals will not affect the integrity of the Thames Basin Heaths Special Protection Area.

2.69 In respect of other (non SPA) issues, English Nature has confirmed that there are no ecological constraints which would preclude the implementation of the Appeal Proposals. All matters under this heading, including the provision of buffer areas around the badger setts within the appeal site, are dealt with in Chapter 6 of FDA2.1.

Other Issues

2.70 In addition to points relating to the main considerations, two further matters that have been raised by Third Parties, use of Caxton Avenue and recreational use of the appeal site, require specific comment.

Rights of Way

- 2.71 The Park Farm part of the Appeal Site benefits from rights of way over Caxton Avenue and Chaucer Way granted under a 1951 Conveyance. These rights were specifically acknowledged by the Inspector in the second of the 2001 Decision Letters (CD193) and have been further set out in a recent letter from the Appellants' solicitors (FDA6.1). Although it is intended that the use of this route is limited to pedestrians and cyclists the Inspector can report, with confidence, as to the availability of it, and, to the wider benefits that will arise from the voluntary restriction (to pedestrian and cyclists) to be placed by condition on these access rights.

Existing Recreational and Visual Benefits and Future Recreational Benefits

- 2.72 It is apparent that the Appeal Site is currently used for unauthorised informal recreation as well as being perceived by some as a visual amenity. The securing of the boundary of the site and the signage clearly signal its status as private land which does not at present benefit from any lawful public access. It has been a reserve housing site, and, the subject of a variety of planning proposals and applications over the last 20 years. Particularly during the ownership of the current freeholder, it has been under active land management. Despite numerous attempts to maintain boundary security the site has been the subject of frequent trespass.
- 2.73 The delivery of the proposed SANGS, coupled with the other open space provision, will afford amenity benefits to the wider community. Although there is little or no shortfall in the Row Town area in a quantitative sense, the provision of on-site playing fields and a pavilion will generously facilitate another source of social inter-action as well as reduce the need to travel so far to current facilities.

Overall Conclusions

- 2.74 These are:
- That the release of the Appeal Site for 100 per cent affordable housing provision is permissible within the current development plan framework;
 - That harm will not be caused to the Council's general housing strategy;
 - That the Appeal Proposals will make a highly significant contribution towards meeting the Council's affordable housing targets;
 - That the Appeal Proposals will provide a necessary additional source of provision for those whose housing requirements are only capable of being met on an affordable basis;
 - That a mixed and balanced community can be achieved;
 - That the provision of on-site natural green space provision will fully address the recreational impacts of the Appeal Proposals on the Thames Basin Heaths Special Protection Area, thereby considerably help to maintain the integrity of the SPA; and
 - That significant additional benefits to the local community will arise from the development of the Appeal Site by way of formal and informal, managed, recreational provision, improvements in highway safety and the provision of the DRT bus service.
- 2.75 In consequence planning permission should be granted for the Appeal Proposals in accordance with such conditions as are considered to be appropriate and the tendered planning obligations.

THE CASE FOR RUNNYMEDE BOROUGH COUNCIL⁹

Introduction

- 3.1 The Decision Notice issued by Runnymede Borough Council raises the following issues:
1. whether the release of this safeguarded site, ahead of a need to do so, would lead to an over-provision of housing contrary to the Council's housing strategy designed to regulate housing supply and to safeguard the long term boundaries of the green belt;
 2. whether the release of the Appeal Site at this stage would be premature and prejudicial to the emerging Local Development Framework;
 3. whether the proposed tenure mix is unsatisfactory and contrary to Development Plan policy;
 4. whether the proposal for 100% Affordable Housing (if achieved) would create a large housing estate of similar characteristics contrary to policy for creating mixed and balanced communities;
 5. whether the grant of planning permission would create an undesirable precedent; and
 6. whether the development would adversely affect the integrity of the Thames Basin Heaths Special Protection Area.
- 3.2 An informative was included on the Decision Notice to the effect that reason for refusal number 6 may be overcome by the submission of mitigation measures which demonstrate that the proposed development alone and in combination with other residential development does not adversely affect the Thames Basin Heaths Special Protection Area. The Council relies upon English Nature in relation to this issue and does not present a case independent of that made by English Nature.

Housing Supply Issues

Introduction

- 3.3 The plan period (1991 – 2006) of the Runnymede Borough Local Plan 2001 'expired' on 31 March 2006, but under the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) Regulations 2004, all those policies material to this appeal have been 'saved' until February 2007 pending replacement by the Local Development Framework (LDF). The Appeal Site is one of the 6 remaining Reserve sites identified in and safeguarded by Policy HO7 of the Runnymede Borough Local Plan 2001 to meet the Borough's possible long-term (post 2006) housing needs. Two of the original Reserve sites, Chertsey Bridge Wharf and St Ann's Heath School, both Category 1 sites, have previously been released through planning permissions. Chertsey Bridge Wharf is currently under development but St Ann's Heath School has yet to commence.
- 3.4 Policy HO7 of the Runnymede Borough Local Plan 2001 sets out the 'mechanism' by which the Reserve sites were to be considered for release in the period up to 31 March 2006. Post 2006 the Local Plan indicates that release of the remaining safeguarded Reserve sites will be as part of a "county-wide study of similar sites". Since the Local Plan was adopted in 2001 there has been a new Structure Plan requiring all those remaining Reserve sites that were originally removed from the Green Belt, to be reassessed through the LDFs. All of Runnymede's 6 remaining Reserve sites, including Franklands Drive, fall to be so reassessed in the Borough's emerging LDF.

⁹ The case reported is taken from the local planning authority's closing submissions.

- 3.5 Mr Newlyn places great emphasis on the fact that the Franklands Drive and Wick Road safeguarded Reserve sites fall within the 'next category' for release under the Runnymede Borough Local Plan 2001 Policy HO6 'mechanism'. That sequential order was however only applicable within the period to 31 March 2006 and is now governed by the need to reassess those sites against the Spatial Strategy of the current Surrey Structure Plan in a comprehensive study through the LDF. That process is currently under way.

General Housing Need

The Borough's Overall Housing Requirements.

- 3.6 The housing figures used by the Council and the Appellants are based upon the situation as at 31 March 2005, these being agreed as the most up to date available statistics.
- 3.7 It is agreed that as at 31 March 2005 the Council had already met, and exceeded, the housing allocation requirement under the Local Plan for the Plan period of April 1991 – March 2006. The overall allocation for this period was 2400 units and as at 31 March 2005 a total of 2655 units had already been completed. The Runnymede Borough Local Plan 2001 was adopted in accordance with the Surrey Structure Plan 1994, which has now been superseded by the Surrey Structure Plan 2004.
- 3.8 The Surrey Structure Plan 2004 sets out the current housing requirement of 2030 dwellings within Runnymede over the period 1st April 2001 to 31 March 2016 (i.e. 135 units/year). This reflects the Regional housing requirement set out in Policy H2 of RPG9.
- 3.9 It is agreed that a total of 818 units (net) were completed between 1st April 2001 to 31 March 2005, thereby leaving 1212 units to be provided between 1st April 2005 to 31 March 2016 (11 Years) under the Surrey Structure Plan 2004, a residual annual building rate of 110 units/year.

5 Year Housing Supply

- 3.10 The agreed 5 year housing requirement (2005 – 2010) based upon the Surrey Structure Plan 2004 is set out in FDA1/HRT14 as 550 units. Whether one uses Mr Jenkins' or Mr Newlyn's calculation, it is agreed that Runnymede has a 5 year supply under the Surrey Structure Plan 2004, either a 7.3 year supply as estimated by Mr Jenkins or a 5.09 year supply as estimated by Mr Newlyn.
- 3.11 The Surrey Structure Plan 2004 will eventually be replaced by the South East Plan (SEP). This will also become the new Regional Planning Guidance and cover the twenty-year period 2006 – 2026. The submitted Draft SEP, which is scheduled for an EIP commencing in November 2006, sets out a requirement of 2900 units for Runnymede over that period (i.e., 145 units/year).
- 3.12 The Council and the Appellants agree that regard should be had to the emerging policies of the draft South East Plan, in particular the housing allocations. Mr Newlyn made the point that in his experience such housing allocations 'rarely go down'. If the draft South East Plan is 'factored in' to the housing requirement then according to Mr Jenkins' calculation the residual completion rate over the remaining Surrey Structure Plan 2004 period 2005 – 2016 is 120 units/year, for which the 5 year requirement (2005 – 2010) would be 600 units. This compares to Mr Newlyn's calculation of 138 units/year, which gives a 5 year requirement of 690 units.
- 3.13 Mr Newlyn's assessment however fails to have proper regard to the current 'overlap' of the Surrey Structure Plan 2004 period 2001 – 2016 with that of the draft South East Plan period 2006 – 2026. Mr Newlyn 'stops' the Surrey Structure Plan 2004 at 31 March 2006 and thereafter applies only the draft South East Plan. This ignores the fact that until formally

replaced by the South East Plan, the Surrey Structure Plan 2004 remains the adopted strategic plan, with the relevant plan period of 2001 – 2016 and which provides the basis for any housing requirement/supply assessments and indeed is the period reflected in all the current Housing Trajectories. Mr Jenkins does this and his calculation is therefore to be preferred.

General Housing Supply

- 3.14 In paragraph 7.5 of RBC14 Mr Jenkins calculates the 5 year housing supply for the period 2005 – 2010 to be 805 units. This comprises 342 units with planning permission on sites of 1ha and over, and an estimate of 463 units for small/medium windfall sites. At the combined Surrey Structure Plan 2004 and draft South East Plan residual rate of 120 units/year this represents a 6.7 year supply. Even at Mr Newlyn's "combined" rate of 138 units/year this still represents a 5.8 year supply.
- 3.15 Mr Newlyn calculates the 5 year (2005 – 2010) housing supply at 560 units. This comprises 285 units with planning permission on sites of 1ha and over (57 less than Mr Jenkins) and an estimate of 275 units for small/medium windfall sites (188 less than Mr Jenkins).
- 3.16 With regard to the outstanding planning permissions on sites over 1ha the difference of 57 units between Mr Jenkins and Mr Newlyn is accounted for by two sites: Roakes Avenue (23 units) and Pretoria Road ('Gas Works') (34 units). Mr Newlyn rejects Roakes Avenue on the basis of uncertainty over funding and dependency of decanting to the Painsfield Allotments development. He rejects Pretoria Road on the basis of 'access/ownership issues', the Thames Basin Heaths Special Protection Area and contamination issues. In his Supplementary Housing Round Table Proof Mr Jenkins gives his detailed reasons as to why he believes both these sites will come forward within the 5 year period 2005 – 2010. Roakes Avenue is a Council owned site for which Mr Jenkins confirms Housing Corporation funding has been secured and, that with Painsfield now complete, the development is due to commence early in 2007. Therefore Mr Newlyn's reasons for rejecting the 23 units at Roakes Avenue no longer have any foundation. With regard to Pretoria Road, Mr Jenkins explains that this site is now within the ownership of a House Builder who is actively pursuing a scheme for a larger number of units and seeking to address the Thames Basin Heaths Special Protection Area issues. Mr Newlyn's concerns regarding Pretoria Road therefore have or are already being addressed and there are very good prospects of at least 34 units being achieved on this site by 2010.
- 3.17 If Roakes Avenue and Pretoria Road are included within Mr Newlyn's estimated supply (560 + 23 + 34 = 617 units) then at Mr Jenkins' combined Surrey Structure Plan 2004 and draft South East Plan residual rate of 120 units/year this represents a 5.14 year supply.

Mr Newlyn's Small/Medium Windfall Sites Estimate

- 3.18 Mr Newlyn bases his revised small/medium windfall sites estimate of 275 units over a 5 year period on the 1998 Local Plan Inspector's recommendation of 55 units/year. Mr Jenkins in his Supplementary Housing Round Table Proof explains that the 1998 Local Plan Inspector's recommendation was adopted in Local Plan Policy HO5. Mr Jenkins then goes on to show that over the period 2000 – 2005 the actual rate of completions on small/medium windfall sites was 116 units/year, some 61 units/year or 110% more than that estimated under Policy HO5. PPG3 at paragraph 36 advises Councils to make allowance for windfalls on the basis of examining past trends of such sites coming forward for development. Mr Jenkins uses the Council's estimate of 93 units/year which is based upon the trend (116 units/year) since the Local Plan was adopted and discounted by 20%. To simply re-adopt the 1998 Local Plan Inspector's recommendation without having regard to subsequent trends as Mr Newlyn does is to ignore the advice in PPG3 and what is conventional practice. The Local Plan Inspector in coming to his recommendation

that a 25% discount be applied to past trends commented that this: “should remain for the time being”. He clearly did not intend his small/medium estimate or the level of discount, to continue long into the future without further consideration being given to actual performance. The Council’s small/medium sites estimate includes a discount for future performance (20%) similar to that adopted by the Local Plan Inspector (25%) and acknowledged by the Surrey Structure Plan EIP Panel (15%) in March 2004.

- 3.19 Mr Newlyn believes that a higher discount rate should be applied because of the issues surrounding the Thames Basin Heaths Special Protection Area, which have only relatively recently come to light. From both Mr Jenkins’ evidence and that of English Nature it is clear that these issues are being actively addressed. Mr Jenkins in his Further Supplementary Statement indicates what the Council is currently doing to bring forward mitigation in the form of SANGS on land within its ownership. Whilst it is acknowledged that the Thames Basin Heaths Special Protection Area will have some impact upon sites coming forward for development in Runnymede, this is likely to be a temporary phenomenon in relation to this borough, particularly having regard to the buoyant housing market and high land values in this part of Surrey. The Council believe the 20% discount built into the small/medium sites estimate of 93 units/year is sufficient to take account of the Thames Basin Heaths Special Protection Area issues.
- 3.20 Mr Jenkins drew attention to the fact that of the 515 units with planning permission on small/medium sites at 31 March 2005, some 492 units were not affected by the Thames Basin Heaths Special Protection Area by virtue of the fact that these were either outside the 5km ‘buffer’ zone, or were on sites where development had already been commenced. Those 492 units represent more than a 5 year supply in terms of small/medium site windfalls at the Council’s estimated rate of 93 units/year, or almost a 9 year supply at Mr Newlyn’s rate of 55 units/year. This can therefore be seen as providing something of a ‘contingency’ should further sites be delayed coming forward pending implementation of the delivery plans on mitigation for the Thames Basin Heaths Special Protection Area.
- 3.21 The Council’s and Mr Jenkins’ small/medium sites estimate of 93 units/year is therefore to be preferred to Mr Newlyn’s 55 units/year.
- 3.22 If, however, it were considered that the appropriate figure lay half way between the two, then at 74 units/year, the 5 year supply of small/medium windfall sites would be 370 units. If added to the 342 units of outstanding permissions on sites over 1ha (including Roakes Avenue and Pretoria Road) as at 31 March 2005, this would give a total of 712 units, which at Mr Jenkins’ rate of 120 units/year represents a 5.9 year supply and even at Mr Newlyn’s rate of 138 units/year is a 5.16 year supply.
- 3.23 It can therefore be safely concluded that Runnymede has a more than adequate 5 year supply of housing land and that on this basis there is no need to release any of the safeguarded Reserve sites in advance of the LDF process.

Longer Term Housing Supply

- 3.24 The Borough’s estimated housing supply as at 31 March 2005 of 2179 units exceeds the overall strategic housing requirement of the Surrey Structure Plan 2004 for the period 2001 to 2016 (2030 units) by some 149 units (7%). Of that estimated supply a total of 1675 units (82.5%) were in the form of completions (818 units) and planning permissions on all sites (857 units). That only leaves some 355 units (17.5%) (i.e. 2030 – 1675 = 355) to come forward within the remaining 11 years of the Plan period from 1st April 2005 to 31 March 2016. This residual component (355 units) can be expected to come from the continual development of previously

developed land within the Borough's urban area. The LDF's Core Strategy identifies some 312ha of the Borough's urban area (4%) wholly unconstrained by flood risk or affected by the Thames Basin Heaths Special Protection Area.

- 3.25 Therefore as at 31 March 2005 only some 4 years into the 2001 – 2016 Structure Plan period, some 82% of the Borough's overall Surrey Structure Plan 2004 housing requirement (2030 units) had already been built or has planning permission. The release of the Appeal Site at this stage would add another 350 units, thereby resulting in a heavy 'front loading' of the housing supply of some 99% for this period.
- 3.26 The emerging LDF has already identified two large 'brownfield' sites within Addlestone Town Centre at Aviator Park and the former Safeway site. These sites, which are unconstrained by flood risk and are not affected by the Thames Basin Heaths Special Protection Area, have a combined estimated capacity of between 300 and 400 dwellings. Both are within the ownership of development companies who have indicated their intentions to seek planning permission for such residential development within the near future. In addition, the Council has now (26th June 2006) granted outline planning permission for up to 150 units on land at the Civic Offices site in Addlestone Town Centre.
- 3.27 The Council's Housing Trajectory indicates the likely development of Aviator Park, the former Safeway site and the Civic Offices site within the Surrey Structure Plan 2004 period to 2016. The Council's Housing Trajectory indicates a potential over-supply of some 850 units (42%) of the Surrey Structure Plan 2004 requirement of 2030 units over the Plan period 2001 to 2016 (i.e., 2880 – 2030). The release of the Appeal Site now would increase the potential over-supply to 1200 units (59%).
- 3.28 The combined Surrey Structure Plan 2004 and draft South East Plan requirement over the period 2001 – 2016 is for 2125 units (2001 – 2006 @ 135 units/year + 2006 – 2016 @ 145 units/year). Against this, the Council's Housing Trajectory indicates a potential surplus of 755 units (35.5%) (i.e. 2880 – 2125). The release of the Appeal Site now would increase the potential over-supply to 1105 units (52%).
- 3.29 Mr Newlyn's Housing Trajectory, as corrected by the Council in RBC46, indicates a total housing supply over the 2001 – 2016 period of 2032 units, some 848 units (29%) less than the Council's Trajectory. Mr Newlyn achieves his lower trajectory by excluding certain sites and by reducing both the capacity of other sites and the small/medium windfall estimates.
- 3.30 The excluded sites are:
 - Pretoria Road ('Gas Works') – 100 units (Council's Housing Trajectory) – reason for inclusion within Council's Trajectory: within the ownership of a house builder actively seeking a redevelopment scheme.
 - Virginia Water Station – 145 units (Council's Housing Trajectory) – reason for inclusion within Council's Trajectory: within the ownership of the Borough Council and a redevelopment scheme is currently being prepared.
 - Civic Offices Site – 130 units (Council's Housing Trajectory): reason for inclusion within Council's Trajectory – outline planning permission has now been granted for up to 150 units.

The total number of units in Council's Housing Trajectory equals 375 units.

- 3.31 The reduced capacity sites are:

- Aviator Park – 200 units (Mr Newlyn’s Housing Trajectory) – 205 units in Council’s Housing Trajectory. Council’s reason for the number of units within the trajectory is that the owner has indicated a potential capacity of 207 units.
- Former Safeway Site – 100 units (Mr Newlyn’s Housing Trajectory) – 150 units (Council’s Housing Trajectory). The owner has indicated a maximum capacity of 244 units.

The total number of units under Mr Newlyn’s Housing Trajectory equals 300 and 355 units under the Council’s Housing Trajectory.

- 3.32 With regard to the small/medium sites Mr Newlyn’s estimate of 55 units/year is 38 units/year less than the Council’s at 93 units/year. The difference over the 11 year period 2005 – 2015 in the Trajectory being 418 units (11 x 38). The sites excluded by Mr Newlyn comprising those 375 units, plus the additional 55 units on Aviator Park and the former Safeway sites and the extra 418 units in the small/medium sites estimate account for the difference of the 848 units between the two Trajectories in respect of the total housing supply over the 2001 – 2016 period.
- 3.33 The SSP 2004 housing requirement for Runnymede over the Plan period 2001 – 2016 is 2030 units. Even if Mr Newlyn’s Housing Trajectory is accepted then this is 2 units in excess of that requirement (2030 – 2032). The combined Surrey Structure Plan 2004 and draft South East Plan requirement over the period 2001 – 2016 is for 2125 units (2001 – 2006 @ 135 units/year + 2006 – 2016 @ 145 units/year). Under Mr Newlyn’s Housing Trajectory the potential shortfall in supply would only be 93 units (2125 – 2032).
- 3.34 Mr Newlyn’s own Housing Trajectory manifestly does not support the need to release the Appeal Site on grounds of overall housing supply. It is quite apparent from the sites he excludes (Pretoria Road, the Civic Offices site and the Station Car Park site in Virginia Water) and the reduced capacity he assigns to other known sites (Aviator Park and the former Safeway’s site) that there is a significant additional capacity (430 units) with clear prospects of coming forward well within the period to 2016. In addition, Mr Newlyn’s flawed approach to the small/medium sites estimate has already been noted. The Council’s estimate for small/medium sites, which would produce an additional 418 units compared to Mr Newlyn’s, is to be preferred. The fact that Mr Newlyn seeks to continue to discount small/medium windfalls on the basis of the Thames Basin Heaths Special Protection Area over the whole period to 2016 is an indication of his flawed approach.
- 3.35 During the Housing Round Table session the Inspector commented that Runnymede appeared to rely heavily on windfalls. Mr Jenkins responded that this was very much the nature of the housing supply in Surrey – a housing supply that according to SEERA has made it the best performing County within the South East Region in delivering the housing requirements set out in RPG9. This is a reflection of the housing market in Surrey which the Surrey Structure Plan EIP Panel, who reported in March 2004, noted is “so strong ... that there is significant pressure to turn permissions into completed development”. With specific reference to small and medium sites estimates the EIP Panel found that “... there is no evidence that this source of supply is likely to dry up...”.
- 3.36 During the Housing Round Table session the Inspector also referred to the Barker Report and whether in that context, by ‘holding back’ the Reserve sites Runnymede was ‘under performing’ in terms of its overall housing capacity. In his Housing Round Table Session Proof Mr Newlyn referred to the Regional Monitoring Report 2005 published by SEERA and drew attention to the ‘Commentary’ on page 60 of the Report that states: “Overall since 2001 the region has provided 1,700 or 2% fewer homes than planned for in RPG9”. Mr Jenkins in his Supplementary

Housing Round Table Proof responded by pointing out that by contrast Surrey had in fact provided 2,042 or 21.6% more dwellings than planned for in RPG9 during that period. Indeed the Regional Monitoring Report acknowledges Surrey as being the only County within the Region where completions have constantly been at a higher rate than set out in RPG9. Furthermore in the same period Runnymede provided 279 or 34% more dwellings than required for under the RPG9 (135 dwellings/year), a considerably higher rate than that of Surrey as a whole. Runnymede cannot, therefore, be accused of ‘under performing’.

Consequences of Release of the Appeal Site

- 3.37 The Reserve sites form an important part of the Council’s planning and housing strategy which seek to secure the long term protection of the Green Belt in this part of Surrey and ensure the continuous supply of housing land. The importance of the Reserve sites in the Runnymede context has been consistently recognised by Inspectors who have conducted Runnymede’s Local Plan Inquiries and Inspectors and Secretaries of State at previous appeals in respect of the Franklands Drive site itself. The Government’s response to Kate Barker has not diminished the importance it continues to place upon the Green Belt.
- 3.38 Paragraph 30 of PPG3 advises that Planning Authorities “should only seek to identify sufficient land to meet the housing requirement set out as a result of the RPG and strategic planning process”. As the Surrey Structure Plan 2004 EIP Panel found, the housing market in Surrey is particularly strong, so much so that there is significant pressure to turn permissions into completed developments. In such areas, a heavily ‘front loaded’ housing supply will be quickly used up thereby undermining any attempt by Planning Authorities to adopt the ‘plan, monitor and manage’ approach to housing supply required by PPG3. This is reflected in the advice in draft PPS3 which continues the priority of developing brownfield land (paragraph 15) and which recognises the importance of phasing land in areas such as Runnymede where demand is high and where “growth above planned levels would have unacceptable impacts”. In areas such as Runnymede among those “unacceptable impacts” will be the need to release land from the Green Belt for housing development and increased pressure on an already strained infrastructure. This was recognised by the EIP Panel who in paragraph 1.5.10 of their report (CD47) commented that “the distinguishing features in North Surrey are the very high levels of demand for new development and the acute need for better infrastructure fuelled by proximity to London, which makes especially vulnerable the small fragmented parcels of Green Belt, and the current character of its built up environment”. The Panel went on to conclude in paragraph 1.5.12 that in this area “...policy should not seek in any way actively to promote development.” Indeed Mr Newlyn himself expressed concern that in Runnymede windfall developments are exerting undue pressure on infrastructure and service provision.
- 3.39 Runnymede’s Local Plan Inspector in 2001 in respect of the current Local Plan found it particularly important in an area such as Runnymede to manage the release of housing land and to minimise the amount of greenfield land being taken for development.
- 3.40 In dismissing the 2001 appeal for the release of the Franklands Drive site, the Secretary of State (CD192) agreed with his Inspector that this would deplete Runnymede’s reserve of safeguarded housing land which would ultimately lead to the release of Green Belt land earlier than would otherwise be required. He found the principle of safeguarding land for long-term development to be important in an area such as Runnymede constrained by the Green Belt, and that it was important for the Council to be able to manage and regulate the release of housing land as part of their approach to ensuring the permanence of Green Belt boundaries.

- 3.41 Even releasing only a small part of the Appeal Site (Park Farm) was found to be unacceptable by the Inspector in the second 2001 decision (CD193). That Inspector considered that it would set a precedent for development on the Reserves sites, the cumulative result of which would be to significantly disrupt the regulated supply of housing land thereby bringing additional or earlier pressure for the development of Green Belt for housing.
- 3.42 Mr Newlyn argues, however, that release of the Appeal Site now would not give rise to any need to release land from the Green Belt. He bases his argument on the Council's assessment of housing supply rather than his own. Mr Newlyn concludes that using the Council's approach, there would only be a small shortfall of 160 units in the period to 2026, which he says "may have to come from existing reserve sites" or "more likely" from further large windfall sites. Mr Newlyn ignores his own assessment of housing supply for the SEP period 2016 – 2026. From Mr Newlyn's Housing Trajectory his estimated supply comprises 1020 cumulative completions 2006 – 2016 plus 550 units on small/medium windfall sites from 2016 – 2026 (10 years x 55 units/yr), making a total supply of 1570 units. This represents a shortfall of 1330 units (46%) for the period to 2016 - 2026 (2900 – 1570). In addition, Mr Newlyn further ignores his comment in cross-examination that in his experience the housing requirement of the South East Plan is likely to increase. By his own admission and from his own assessment, therefore, Mr Newlyn cannot say with any degree of certainty that there will be no need to release further land to meet the Borough's long term strategic housing requirements. 2026 is still a very long way off. That is why the Council in the Core Strategy of the emerging LDF has sought to retain the Reserve sites, subject to re-assessment against the Spatial Strategy of the Surrey Structure Plan 2004, as a 'contingency' against such higher growth rates and possible underperformance of sites from within the urban area. This is the 'Alternative Option' in Core Strategy Policy CS20 (options for delivering the South East Plan Housing Requirement).
- 3.43 Mr Newlyn appears to argue that the capacity of the remaining Reserve sites is such that the 'loss' of Franklands Drive would be of little or no consequence. This argument fails to appreciate that there is no guarantee that any of the remaining Reserve sites will remain as 'Reserve Sites' following re-assessment against the Spatial Strategy of the Surrey Structure Plan 2004. Such re-assessment will employ the latest sustainability appraisal methodologies. As the EIP Panel commented in paragraph 1.3.5 of their report (CD47) "there are doubts about the sustainability of at least some of the reserve sites when judged on more recent policy criteria" and that "if not in a sustainable location ... such sites should be returned to the Green Belt".
- 3.44 Re-assessment of the Reserve sites is currently underway as part of the emerging LDF.

Affordable Housing Issues

- 3.45 The central thrust of the Appellants' argument for the release of the Appeal Site is that there is a pressing need for affordable housing in Runnymede. The Council acknowledge the need and importance of the provision of affordable housing and it is one of the Council's top priorities.
- 3.46 It is, nevertheless, one of a number of important issues that have to be considered and weighed in the planning balance. SEERA, who have assumed the role as the strategic planning authority for the South East, advise in the second bullet point in paragraph 6.2 of their consultation letter (CD 186) that "... the need to provide affordable housing does not override the need to make total housing provision at levels and in ways consistent with development plan policy".
- 3.47 The Council's current target is to provide 750 additional affordable housing units over the 5 year period 2001 to 2006 (July). This target was based on the results of the Housing Needs Survey undertaken in 2000/01.

- 3.48 As has been demonstrated in the Round Table session, the Council has made good progress in meeting this target. At the beginning of April 2006, some 664 units (88.5%) had been provided. Contrary to FDA 3.20, paragraph 1.15, the Key Worker Living Programme (which has existed for just 2 years) has provided 52 units (RBC 18).
- 3.49 The latest Runnymede Housing Needs Assessment was completed in April 2005 by Dr Fordham's consultancy. It covers the period to 2010. The Housing Needs Assessment (CD72) identified a significant increase in the need for affordable housing, estimated at some 522 dwellings per annum. Dr Fordham demonstrated that this was not in itself an unusually high figure compared with the majority of other Councils in the South East Region. As both Mr Jenkins and Dr Fordham pointed out, this scale of provision greatly exceeds both the Borough's overall annual strategic housing requirements and past construction rates. It can never be achieved and is not a target. The actual scale of housing to be provided to meet the local identified need will be established by the Borough Housing Strategy to be completed later this year.
- 3.50 From the vantage point of his considerable experience on affordable housing matters, Dr Fordham informed the inquiry that the need for affordable in Runnymede is not 'exceptional'. Indeed he went so far as describing Runnymede as 'very much ordinary' in this respect. At the same time he identified Runnymede to be one of the best performing Councils within Surrey for the provision of affordable housing. This was clearly shown in Mr Jenkins' Housing Round Table Proof at paragraph 2.4.
- 3.51 In the Round Table session, Mr Hinsley drew attention to RPG9 and the indication of the need for an affordable housing provision equivalent to between 46% - 48% of the new housing provision within the Region. Both the Surrey Structure Plan 2004 and the draft South East Plan seek 40% of all new housing to be affordable. In Runnymede the overall housing requirement under the Surrey Structure Plan 2004 is 2030 units between 2001 and 2016, which at 40% would require the provision of 812 affordable housing units, a rate of 54 units/year. If the additional housing requirements of the draft South East Plan are factored in this would give rise to a need for 850 affordable housing units over the same period, a rate of 57 units/year.
- 3.52 In the 5 year period 2001 to 2006 under the current Local Plan Policy HO4 which set a target of 25% Affordable Housing, the Council achieved 323 units of new build affordable housing.
- 3.53 Policy HO8 in the draft LDF Housing DPD, in line with the targets identified in both the Surrey Structure Plan 2004 and the draft South East Plan, seeks at least 40% of all new housing to be affordable. The emerging policy also proposes to reduce the thresholds for qualifying sites to sites of 0.5ha or 15 or more units. During the Round Table Session and in his Supplementary Statement, Mr Jenkins gave an indication of the potential such a policy change could have for increasing the supply of affordable housing. On the basis of outstanding planning permissions on small/medium sites as at 31 March 2005, an additional 94 units a year could be achieved from this source.
- 3.54 As at the beginning of April this year, the Council was in discussions in respect of sites which have a potential to provide 305 new build affordable housing units over the next 5 years. This represents 61 units/year compared with Mr Hinsley's 17 units/year. Mr Hinsley sets out and compares his assessment of the potential supply of affordable housing that might be expected from the estimates for small and medium windfall sites (9 units/year) with that of the Council (16 units/year). Mr Hinsley adopts Mr Newlyn's discounting of the small and medium site estimates, which is not accepted by the Council. Mr Hinsley concludes that over the next 5 years the Council will only be able to deliver 26 units per year of 'new build' affordable

housing. The Council's estimate for 'new build' is 77 units/year (61 + 16 units/year). Over a 5 year period this would produce 385 affordable housing units, which is 95 units (33%) more than the total number of new build affordable housing units required to be provided under the draft South East Plan over the same period (i.e., 40% of 725 = 290). This would more than accord with both the Surrey Structure Plan 2004 and the draft South East Plan.

- 3.55 New build, however, is not the only method of providing affordable housing. Councils are no longer bound by the constraints of the old style land-use planning. PPS 12 calls for Councils to adopt a spatial planning approach. PPS12 defines 'spatial planning' as going "...beyond traditional land use planning to bring together and integrate policies for the development of land and use of land with other policies and programmes which influence the nature of places and how they function, for example, by influencing the demands on or needs for development, but which are not capable of being delivered solely or mainly through the granting of planning permission and may be delivered through other means." That is why it is important not to ignore other methods of delivering affordable housing, such as those described by Mrs Blowers in the Round Table Session.
- 3.56 To supplement the new build provision, the Council still intends to provide affordable housing through the acquisition of existing properties. Thames Valley Housing Association has been allocated funds to assist applicants to purchase 700 units within Surrey over the next 2 years. The Council has also set aside £500,000 per annum within its overall capital programme to assist applicants who wish to purchase existing properties on a shared ownership basis. The level of acquisitions is declining but it is felt that these schemes will continue to make an important contribution to meeting the needs of applicants in Runnymede. Using these schemes it is estimated that 30-40 units per year can be secured for people working or living in Runnymede.
- 3.57 The Council also has a number of other initiatives that it pursues annually to increase the supply of affordable housing. These include the following:
1. The Cash Incentive Scheme. This scheme allows for a cash payment of £20,000 to be made to existing social housing tenants to enable them to purchase accommodation in the private sector, thus releasing social housing.
 2. The management of empty homes. The Council works closely with owners of private property to encourage them to bring the units back into use as affordable housing. It operates a Rent Deposit Scheme and employs a Housing Resettlement Officer whose task is to match households in need against private sector units.
 3. The Council is currently working with a local Housing Association who has surpluses of Key Worker accommodation to utilise the vacancies for those on the Housing Register
- 3.58 These are all important measures and ones which are to be taken fully into account under the spatial planning approach.

Tenure and Affordability

- 3.59 The measure of housing affordability is to be determined by looking at the price of accommodation in the area and comparing this against the incomes and savings of those in housing need. The Housing Needs Assessment (CD72) made this assessment for Runnymede, and concluded at page 90 that only social rented and intermediate housing below the cost of market housing was affordable.

- 3.60 The Housing Needs Assessment also concluded that housing that has a cost to the household (i.e. rent and/or mortgage) above the values in the table below would not be affordable to those in need.

Table 3

Affordable Housing Values		
Property Size	Sale Price	Rent per month
1 bedroom	£127,000	£600
2 bedrooms	£156,000	£765
3 bedrooms	£215,000	£985
4 bedrooms	£305,5000	£1410

- 3.61 The Housing Needs Assessment considered what proportion of people in housing need might be assisted with 'intermediate options'. Intermediate options would include shared ownership, and properties let at rents that are above social housing rents but below market rents. It concluded that only 22% of people in housing need would be assisted by intermediate housing options, and therefore some 78% of the affordable provision should be in the form of social rented accommodation.
- 3.62 With regard to key workers the main categories surveyed by the Housing Needs Assessment were nurses and other NHS staff, workers within residential care/nursing homes, teachers, police officers, prison service and probation service staff, public transport workers, social workers, other authority workers and fire officers. The definition of key workers will, however, be provided in the new Borough Housing Strategy later this year. The Housing Needs Assessment estimates a need for 107 dwellings per annum for key worker households, representing 19.9% of the total affordable requirement in the Borough. However, the Housing Needs Assessment estimates that only 11.3% of key worker households (i.e. 16 householder/year) in need of affordable housing can afford intermediate housing (properties let at below market rents and/or shared ownership, which are below the monthly price/rent levels identified by the Housing Needs Assessment). Not all of these households will be prepared to move to any part of the Borough and therefore there could be even fewer applicants for specific schemes.
- 3.63 Based upon research carried out for SEERA, the draft South East Plan identifies a need for 25% of the housing provision over the plan period (2006-2026) to be social rented accommodation, with a further 10% as intermediate housing. The emerging Regional Spatial Strategy is therefore seeking 71% of the affordable housing provision to be in the form of social rented accommodation.
- 3.64 Policy HO8 in the draft LDF Housing DPD, in line with the draft South East Plan, sees an overriding priority for the provision of social rented housing (78%) with intermediate schemes only to be provided on a small proportion of sites. Intermediate housing is not to exceed 22% of the overall affordable provision.
- 3.65 The appeal scheme (as revised) proposes 49% (170 units) as social rented accommodation and 51% (180 units) as intermediate housing ('NH Homebuy' and 'Intermediate Rent'). This is significantly at odds with the proportions identified as needed in the Council's own Housing Needs Assessment, in the draft South East Plan, and in the emerging LDF.

- 3.66 Dr Fordham has provided evidence to demonstrate that if intermediate housing is to be affordable the cost of such housing needs to be significantly below the cost of market housing. He has demonstrated that the Homebuy/shared ownership flats and houses proposed at Franklands Drive will not be affordable to those identified by the Housing Needs Assessment.
- 3.67 Of the total provision for the period January 2001 – March 2006, 321 units have been provided for people living or working in Runnymede by making existing homes affordable. This form of supply is often preferred by applicants in housing need as they are able to choose the exact type and location of property that they want. The mortgage and rental cost of shared ownership for existing properties has also been lower than that for new properties. Acquisition of properties through these schemes is not reliant on land and therefore a regular supply can also be maintained.
- 3.68 During the last 2 years a number of schemes have been provided for Key Workers in the South East and there is now a surplus of units and a shortage of Key Workers for such schemes. Appendices 3 and 5 of the Rebuttal Proof produced by Dr Fordham confirms this and demonstrates that the Government is now proposing to make Homebuy units built for this group available to other households.
- 3.69 It should also be noted that the Council is unusual in that it has a large stock of Key Worker accommodation in the Borough and has added 5 substantial key worker schemes to this stock within the last 2 years, providing a total of 132 units. These schemes are listed in CD18.
- 3.70 Respond commissioned research by the Cambridge Centre for Housing Research on Key Worker housing. Within this document it is clear that the needs of the Police have now diminished. It is also clear from page 11 that some of the key worker households that remain in need (teachers, probation officers and social workers) do not wish to live amongst their client group. The Key Worker Living Programme Market Homebuy provides a much more popular product amongst Key Workers, who prefer to acquire existing private accommodation in the market with some subsidy. It is anticipated that this will be the product that any remaining key workers in housing need will choose.
- 3.71 In conclusion there has been extensive provision of key worker housing in the area over recent years and there is no evidence to substantiate the need to make specific provision of intermediate housing for key workers. Indeed there is a risk that any additional units may add to the current surplus.

Unit Size and Mix

- 3.72 The Housing Needs Assessment shows surpluses of both owner-occupied and private rented housing to meet locally generated need. In terms of size requirements, the information suggests that in the owner-occupied sector there are shortfalls of 1 and 2 bedroom homes, with surpluses of larger accommodation. There is a greater supply of 2 bedroom homes (25.4% of the total) but the majority of households have 3 or more bedrooms, comprising 67.7% of the total owner-occupied sector.
- 3.73 The draft LDF Housing Development Plan Document seeks the provision of the following range of dwelling sizes on appropriate sites of 0.4ha and over 10 units and above:
- 35% 1 bedroom
 - 25% 2 bedroom
 - 25% 3 bedroom
 - 15% 4+ bedroom

- 3.74 With specific regard to affordable housing the Housing Needs Assessment identified a need for all sizes of accommodation, but notably 1 and 2 bedroom dwellings. This is indicated in Table 10.10 of the Housing Needs Assessment in respect of the social rented stock:

Table 10.10 Net annual need for affordable housing for each type of affordable housing			
Dwelling size	Type of housing		
	Intermediate housing	Social rented	TOTAL
1 bedroom	58	190	248
2 bedrooms	49	165	214
3 bedrooms	(4)	35	31
4+ bedrooms	9	20	29
TOTAL	112	410	522

- 3.75 The Housing Needs Survey also identified the type of accommodation for which there was the greatest shortfall. The Survey showed that for affordable housing there were shortages of all property types. The greatest demand was for 1 and 2 bedroom units and the Council will seek to provide 1 and 2 bedroom units on the majority of schemes. However on larger estates it will also wish to see some 3 and 4 bedroom units.

- 3.76 The Appellants' revised mix proposes:

50 :	1 bedroom units	(originally 56)
234:	2 bedroom units	(originally 270)
56 :	3 bedroom units	(originally 24)
10 :	4 bedroom units	(originally 0)

- 3.77 This is a slight improvement over the Appellants' original proposals. However, putting forward a total of only 66 larger units (19%) does not address the need for a range of affordable accommodation on such a large single development. The Council's suggested range for a 100% affordable scheme, which identifies 123 (35%), 3 and 4 bedroom units (RBC28), is to be preferred as providing a properly balanced range of accommodation which would better meet the Borough's affordable housing needs on an estate of this size and nature.

Conclusion

- 3.78 The Council is in a similar position to many authorities in the South East and will not be in a position to meet the entire affordable housing shortfall that has been identified. However it has a good track record of provision and has identified a number of methods of meeting future demand. The estimated supply of 'new build' affordable housing within Runnymede exceeds the strategic policy aspirations and this will be supplemented by other schemes and initiatives designed to secure affordable housing.

The Claim for 100% Affordability

Affordability Thresholds

- 3.79 Paragraph 4 of Circular 6/98 defines Affordable Housing as being for "people who cannot afford to rent or buy houses generally available on the open market". The term "housing need" has

been defined in “Local Housing Needs Assessment: A Guide to Good Practice” (CD199) published by the Department of the Environment, Transport and the Regions in 2000 as follows:

Housing need refers to households lacking their own housing or living in housing which is inadequate or unsuitable, who are unlikely to be able to meet their needs in the housing market without some assistance.

- 3.80 Dr Fordham has demonstrated that these two sets of guidance are essentially quite similar: the second clearly emerges from the first. The “needs” definition (set out in the Guide to Good Practice) is based on unsuitability and market entry; the “affordable” definition is based on being below market entry and requiring subsidy. Both relate to housing priced at below entry level. This is accepted by Mr Hinsley.
- 3.81 Dr Fordham further maintains that the Housing Need definition acts as a filter in access to Affordable Housing as it excludes (a) households who may have relatively low incomes but who are adequately housed, and (b) households whatever their aspirations who can at least afford market rents. This is where Mr Hinsley departs from Dr Fordham. In reliance upon the definition of Housing Needs in paragraph 6 of Annex A of draft PPS3 (CD11), which is repeated on page 5 of the Housing Market Assessments, draft practice guidance (CD32), Mr Hinsley has argued that the new definition of housing need does not require households to be in inadequate or unsuitable housing to qualify as being in housing need. He consequently has asserted that the level of need calculated in the Housing Needs Assessment is an underestimate.
- 3.82 Dr Fordham has demonstrated that Mr Hinsley’s assertion is incorrect. In the calculation of newly arising need presented in Chapter 8 of CD72, no account is taken as to whether the household is in unsuitable or inadequate housing. Contrary to Mr Hinsley’s case, therefore, this demonstrates that the Housing Needs Assessment assesses both those in unsuitable or inadequate housing and also the more general group of “households who are unable to access suitable housing without some financial assistance” as suggested in PPS3. It follows that the Housing Needs Assessment has included all households that could in terms of both existing and emerging Guidance be considered as being in housing need. Furthermore, the Housing Needs Assessment assesses need for different types of household: existing and newly arising. In accordance with guidance, the calculation of newly arising need excludes those households moving into owner-occupation. This is because newly arising need is an estimate made from past moves over the last 2 years. The Housing Needs Assessment states that “the data excludes households moving to owner occupation because these households at the time of their move (which is when we are interested in) could afford market housing” (CD 72 paragraph 8.2). Mr Hinsley suggests (FDA 3.20 paragraph 1.1) that such households may have had to spend more than the recommended proportion of their income on housing costs but provides no evidence to support this.
- 3.83 It is common ground that an important part of carrying out a Housing Needs Assessment is to identify the market entry-level costs of different sized accommodation. Mr Hinsley criticises the Housing Needs Assessment for referring to both purchase price and private rentals when setting an entry-level into the housing market. This criticism raises two questions: (1) should, as a matter of principle, the private rented sector be considered; and (2) given the reference in paragraph 4 of Circular 6/98 to “generally available on the open market”, does the private rented sector provide an adequate source of supply?
- 3.84 The first question must be answered in the affirmative. The Basic Needs Assessment Model (“BNAM”) in the Guide to Good Practice (CD199) makes clear reference at stages 3 and 9 on page 23 to those “unable to afford to buy or rent in the market”. Mr Hinsley is plainly wrong to say that it is “contrary to the guide” to use private rental levels. Further and in any event,

paragraph 4 of Circular 6/98 defined affordable housing as being for people who cannot afford “to rent or buy houses” generally available in the open market. Finally, the draft Housing Market Assessment sets out a definition of intermediate housing which refers to “below market prices or rents”. As a matter of principle, therefore, it is plainly appropriate to have regard to the private rented sector.

- 3.85 The second question set out above requires assessment of whether the private rented sector provides an adequate source of supply and is therefore part of the stock “generally available” in the market. Again, the answer is yes. Tables 2.2 and 2.3 in RBC15, which are in turn taken from the Housing Needs Assessment, show that over the 2 years preceding the study 3,151 households moved into an owner/occupied dwelling and 1,823 into a private rented dwelling. In short, 37% of moves were to or from the private rented sector. Furthermore, Table 3.1 in the Housing Needs Assessment shows that the private rented sector makes up 9.3% of all the housing stock.
- 3.86 In summary, the Housing Needs Assessment was perfectly correct to assess affordability in terms of both buying and renting. Such an approach accords with Government policy in Circular 6/98, as well as both the draft Housing Market Assessment and the draft Guide to Good Practice. And the supply of rented properties is plainly sufficient for it to be considered to be “generally available”. It is not difficult to identify the motivation for the position taken by Mr Hinsley. The argument that the private rented sector should be disregarded has the effect of greatly raising the market entry level since private rented housing is much cheaper than housing for sale within Runnymede. This has the effect, in turn, of making the appeal proposal seem affordable to a much greater extent than it really is. But the omission of the private rented sector cannot be defended.

The Housing Needs Assessment

- 3.87 Application of the Basic Needs Assessment Model suggests that 522 additional affordable dwellings are required per annum within the Borough. In terms of tenure, around 78% of the affordable housing should be social rented and 22% intermediate. Paragraph 12 (j) of draft PPS3 (CD11) states that LDFs should set out, where appropriate, targets for social rented and intermediate housing. Dr Fordham has drawn attention to the fact that this part of draft PPS3 has been consulted upon before in the Planning for Mixed Communities Consultation Paper of January 2005 and it may reasonably be assumed that the consultation responses were taken into account when draft PPS3 was subsequently published in December 2005. It follows that this part of draft PPS3 should be given more weight than those parts not previously consulted upon. The Housing Needs Assessment shows the justification in general for 78% social rented and 22% intermediate housing, indicating the mix that would best meet the housing needs in Runnymede and the kind of target draft PPS3 suggests may be set out in the LDF.
- 3.88 Table 10.7 of the Housing Needs Assessment shows the weekly outgoings for the market entry level in the right hand column - these are the entry threshold costs for market housing. Mr Hinsley’s second criticism of the Housing Needs Assessment is its use of minimum prices. Mr Hinsley argues that there may be only a few units at the minimum price, so that they cannot be described as “generally available”; and that the cheapest may be in poor condition and therefore should not be used as the draft Housing Market Assessments (CD32) advises. These criticisms misunderstand the methodology which underpins the Housing Needs Assessment. That methodology is set out in Appendix A 2.6 of the Housing Needs Assessment (CD72). The question asked of Estate Agents seeks the minimum price of properties for which there is a reasonable supply and which are in good condition. A further point taken by Mr Hinsley during his oral evidence was that the Housing Needs Assessment was flawed in its estimate of the level

of housing need because it was based only on a test of the costs of entry-level private rents as this is what had a cheaper outgoing. Mr Hinsley is wrong with this point as the Housing Needs Assessment uses a combined Affordability Test to assess whether households can afford both entry-level market rents and entry-level owner-occupied properties. The methodology is detailed in section 6.5 of the Housing Needs Assessment and is the subject of further analysis by Dr Fordham in his final rebuttal proof.

Analysis

- 3.89 The appeal scheme is for “350 affordable units”, of which 49% (170 units) are to be social rented and 51% (180 units) are intermediate housing. 40% (140 of the units) will be Homebuy units and 11% of them (40 properties) will be provided as rented accommodation for key workers. The intermediate housing forms the greatest proportion of the scheme and becomes even greater (80%, 279 units) if grant is not obtained and the full cascade clause in the draft Section 106 Obligation is invoked.
- 3.90 It is accepted that the proposed social rented accommodation is affordable to those in need. However, the important questions which remain to be answered are: is the proposed intermediate housing affordable; and if so to how many people in housing need.
- 3.91 There are three forms of intermediate housing within the current proposal:
1. Homebuy product at 50% of the equity;
 2. Homebuy product at 75% (within the cascade); and
 3. Intermediate rented accommodation for key workers.
- 3.92 Set out below are the cost of these different forms of intermediate housing and this is matched against a spectrum of housing costs. The Housing Needs Assessment data is used to determine how many people in housing need will be assisted by the units at the proposed cost level. This shows how many of these units will be “technically affordable” and also how many are “usefully affordable”.
- 3.93 To arrive at a spectrum of housing costs, Dr Fordham has taken a range between social housing rents and market entry level. Using the mid-point, Table 2 on RBC43 identifies 4 quartiles of intermediate housing costs. Table 3 on RBC43 then provides details of the number of people in housing need who will be assisted by housing priced at cost levels in Table 2. Tables 2 and 3 can now be used to assess the affordability of each of the proposed forms of intermediate housing.

New Build Homebuy at 50% Equity

- 3.94 The details below are taken from Mr Hinsley’s Supplementary Proof and are understood to be the proposed weekly costs based on current valuations. Mr Hinsley’s costs differ from those given in Mr Morton’s proof but under cross examination it was confirmed that these were the revised proposed monthly costs for rent and mortgage. Mr Morton has added a service charge of £32 per month to his costs and it is not known if Mr Hinsley’s costs also include this charge. For present purposes, therefore, it has been omitted. Using Mr Hinsley’s costs alone the new build Homebuy units at 50% equity sale and 2.5% rent have the following charges:
- 2 bedroom flat – total weekly cost £176; and
2 bedroom house – total weekly cost £196.
- 3.95 It can be seen from Table 2 on RBC43 that the 2 bedroom houses (60 units) are not within the range of costs that are technically affordable. In fact, they are £19 per week above market entry levels.

- 3.96 Assuming no service charge is to be added to the current costs, the 2 bedroom flats (80 units) are just technically affordable by £1. But Table 3 on RBC43 demonstrates that they will only be usefully affordable to 26 households. Of course, there is no guarantee that all of the 26 households will want to live in one part of the Borough. It is also possible that by the time the units are built their value will increase and they will become above the market entry level and out of reach even to these households.
- 3.97 In conclusion, Dr Fordham has demonstrated that only the 2 bedroom flats are technically affordable. However, these units are only usefully affordable to 26 households per annum and then only if service charges are not added and only by a very small margin that could soon be eroded.

New Build Homebuy at 75% Equity

- 3.98 The situation becomes even more unsatisfactory if grant is not obtained and the units have to be provided at 75% equity. Mr Morton has provided the monthly costs for the new build Homebuy at 75% equity and no rent in a letter dated 30 June 2006 and these have been converted to weekly costs as follows:
- 2 bedroom flat – total weekly cost £206;
 - 2 bedroom house – total weekly cost £228; and
 - 3 bedroom house – total weekly cost £356.
- 3.99 None of these units will be affordable, either technically or usefully. Indeed, it is to be noted that they will be £29, £51 and £29 per week respectively above the market entry levels. If service charges are to be excluded from account – which is not accepted, as these charges are an additional cost to residents – then all these units remain unaffordable by £21, £43 and £21 per week.
- 3.100 In conclusion, if no grant is received for the appeal proposal and the cascade clause proposed is triggered, then 244 units will be provided at 75% equity – none of which will be even technically affordable to those in need of affordable housing.

Intermediate Rented Housing for Key Workers

- 3.101 The proposed cost of the intermediate housing for key workers is set out by Mr Hinsley in his Supplementary Proof and has been calculated taking 80% of the open market valuation. In addition to the charges set out by Mr Hinsley, Mr Morton has indicated that a £20 service charge will be made. The details of these combined charges are reproduced by Dr Fordham on a weekly basis in his final rebuttal proof. When matched against the spectrum of housing costs, paragraph 31 of RBC51 demonstrates that the units fall within the top 2 quartiles. (Again, if service charges are to be excluded from account – which is not accepted for the reason given above – all the units will fall within the second highest quartile.) Although these units are technically and usefully affordable to households in need, they are to be provided specifically for key workers and will not be available to other households. It should also be noted that although Government have relaxed the Key Worker definition for home ownership products they have not done so for rented units. If grant is received for these units, they will therefore be restricted to Government defined Key Workers.
- 3.102 The Housing Needs Assessment has identified that, on a much broader definition of key workers, only 11.3% of those in housing need – just 16 households per annum – can afford intermediate housing options. It is not known if all of these households would wish to live within the Appeal Site area, or if they can afford the upper quartile prices of the units that are

proposed. There is a very real possibility that, like the Homebuy units, households will not be identified for these units.

- 3.103 There are a number of reasons why it is critically important to match affordable housing supply against need. The most obvious is to ensure that resources for affordable housing are not wasted and that units are not left empty. Schedule 1 of the current draft Section 106 Obligation sets out the level of grant that is to be used by Respond in the appeal scheme. From this it can be noted that over £4m of public subsidy will be needed for the intermediate housing. However, these units are priced at market levels and are therefore likely to be occupied by households that can afford property in the market. This means that a significant amount of Government subsidy will be used unnecessarily if this scheme is allowed to proceed. This is an important issue as it may be that grant is given at the expense of other schemes that are affordable, that do match need, and successfully tackle other issues such as homelessness.
- 3.104 Empty homes are a wasted resource both for the owners and for those in housing need. Government acknowledges this and have encouraged local authorities to ensure that empty properties do not stand empty. Indeed, every local authority has a Best Value Performance Indicator for empty homes on which it is required to report performance annually. If households cannot be found for the units at Franklands Drive, they will either have to stand empty or be sold as open market housing. Neither outcome is satisfactory.

The Concept of “Usefully Affordable” Housing

- 3.105 When pressed on why intermediate housing should be priced around half way between a social rent and market entry level, Dr Fordham responded that while anything cheaper than market entry was “technically affordable” in order to be “usefully affordable” within this Borough it had to be much cheaper than that. The background to this point was explained by Dr Fordham in the following way.
- 3.106 Affordable housing means housing that is cheaper than market housing. It is plain that house builders and land owners have a strong financial incentive to provide affordable housing at the highest feasible price in order to maximise profits. This means that intermediate housing offered by the private sector is often not actually cheaper than the market at all and hardly ever much below market entry. As a result, Government policy to extend homeownership is being frustrated. Instead of people being able to step up a ladder, they are faced with a first step that is actually above existing second hand purchase prices. Those who buy such “unaffordable” affordable housing are not extending homeownership at all because they could access the market anyway. Dr Fordham explained that the intermediate housing range is now very wide. The increase of market prices and rents for housing has meant that while in the early 1990s there was not much difference between the weekly cost of a social rent and market entry cost, the gap is now very significant for many households.
- 3.107 As the Housing Needs Assessment shows, there is little practical value in offering affordable housing that is only marginally cheaper than market housing (“technically affordable”) because it is useless to nearly everyone in housing need. Of the 522 households per annum falling into housing need within Runnymede, only 36 fall into the band 10% less than market entry. It is for this reason that Dr Fordham is plainly right to contend that intermediate housing should be priced around half way between the social rent and market entry levels – such “usefully affordable” housing would enable the large numbers of households in intermediate housing need to be properly housed.
- 3.108 The position can be summarised in the following way:

1. it is accepted that the proposed social rented accommodation (170 units, 49% of the scheme) is affordable to those in need;
2. of the new build Homebuy units at 50% equity –
 - a) the 2 bedroom houses (60 units) are above market entry levels and are therefore not even technically affordable; and
 - b) the 2 bedroom flats (80 units) are just technically affordable by £1, but will only be usefully affordable to 26 households;
3. in the event that grant is not obtained and the new build Homebuy units have to be provided at 75% equity in accordance with the cascade clause, none will be affordable - whether technically or usefully;
4. the 40 units proposed for intermediate rented housing for key workers are technically and usefully affordable but, if grant is received for these units, they will be restricted to Government defined key workers. On the much broader definition of key workers used by the Housing Needs Assessment, only 11.3% of those in housing need (16 households per annum) can afford intermediate housing options. There is a very real possibility that households will not be identified for these units.

Prospects for funding and the cascade mechanism

- 3.109 The appeal proposal is not in receipt of an allocation from the Housing Corporation for 2006-2008. Nor is the proposal on the reserve scheme list, and reserve schemes have priority for any slippage money. Mr Morton states that Respond is “in a position” to purchase the Appeal Site prior to obtaining grant funding. While the Housing Corporation do encourage RSLs to front fund land purchases, Mr Morton accepted that this is no guarantee that funding will be granted. The South East Regional Housing Strategy has placed the 67 local authorities in the region into one of three priority categories: Runnymede is in the lowest of these. In this year’s bid round, there was a significant emphasis on the provision of social rented accommodation, and a significant emphasis on the development of brownfield sites. Respond bid for funding for both shared ownership and rented on the Safeway site at Addlestone, but funding was only granted for the rented units – reflecting the Housing Corporation’s prioritisation of social rented units.
- 3.110 Schedule 1 to the draft Section 106 Obligation reveals that the total grant requirement to deliver the appeal proposals is now £13.3m. The Council’s total allocation for 2006-2008 is just £9m, which equates to £4.5m a year. Given that Runnymede is in the lowest of the three categories of priority in the South East Region, the prospects of the Franklands Drive proposal getting three times the Council’s annual allocation is highly remote. Even spread over three years, the scheme would swallow up effectively the whole of Runnymede’s annual allocation. The confidence expressed by Mr Morton as to the prospects for obtaining full grant funding is plainly misconceived.
- 3.111 In any event, clause 4.6.4 of the draft Section 106 Obligation provides that if the RSLs have not received notification of the level of grant funding within 6 months of the service of written notice upon the Council that the development is to be commenced, then Phase 1 of the development will only deliver 24 cross-subsidised social rented units, 5 key worker units, 5 new build Homebuy units (at 50% equity), and 80 shared equity units (75%). It is not known how many of the 5 new build Homebuy units at 50% equity will be 2 bed houses and, in the light of the submissions I have set out elsewhere, not even technically affordable. Leaving this point to one side, the shared equity units at 75% will all be technically unaffordable, representing 70% of the Phase 1 development.

- 3.112 Further and in any event, clause 4.6.7 of the draft Section 106 Obligation provides that, in the event that the level of grant funding for the remaining phases is zero, then the scheme will only deliver 47 cross-subsidised social rented units, 18 intermediate rent units, 7 new build Homebuy units (at 50% equity), and 164 shared equity units (at 75% equity). Again, leaving to one side the point about the affordability of the 7 new build Homebuy units, all the 164 shared equity units at 75% will be technically unaffordable, representing 69.5% of the remainder of the development.
- 3.113 Given the manifest uncertainties over the ability to attract grant funding – whether at the levels required to deliver the appeal scheme or at any level – the continued attempt to characterise the appeal as 100% affordable is extraordinary. In the event that no grant funding is attracted, the scheme is in fact 70% unaffordable. Structure Plan Policy in DN11 requires affordable housing targets to be included within Local Development Frameworks with the objective of achieving at least 40% of the total dwelling provision up to 2016 as affordable housing. The Appellants seek to justify the exceptional nature of the provision of 100% affordable housing on the Appeal Site, when – on analysis – the Appeal Site performs significantly more poorly than would be expected of any “normal” housing site.

Conclusion on Affordability

- 3.114 The appeal scheme is for “350 affordable units” and the Appellants repeatedly refer to this scheme as “100% affordable”. Dr Fordham demonstrates that the scheme is not correctly labelled. The Inspector has expressed surprise at finding Appellants who talked up the level of housing need rather than, as normal, the other way round and asked Dr Fordham why he thought the scheme had been so devised. Dr Fordham replied that many appeals for development of this site had been refused, and that the present scheme appeared to be a last ditch attempt to gain a consent on the basis that a 100% affordable scheme could not be refused. Dr Fordham could see no other logical explanation for the landowner giving up the extra profit that would accrue to a more standard mixed tenure housing scheme (such as illustrated in the first 2 rows of RBC9 Table 7.1).
- 3.115 A genuinely 100% affordable scheme would be extremely difficult to create. It would probably require about £20m of Social Housing Grant. Surrey Boroughs in general only get about £4m per annum. As a result of this high grant cost, the Appellants have in practice been obliged to compromise their offer.
- 3.116 Mr Hinsley has argued that the private rented sector is not the appropriate entry level, but instead wishes to use purchase as the entry level. This flies in the face of all Government Guidance – both Circular 6/98 and draft PPS3 stress “rent or buy” as the entry level test. Furthermore, the private rented sector is significant in this Borough. Most people want to buy, but in fact some will spend significant time and may remain permanently in the private rented sector. Such households should not be confused with those who can only afford social rented or intermediate housing. Ignoring the private rented sector as part of the housing market, which is encouraged by the Appellants, not only deprives the more hard pressed household of appropriate intermediate housing, but frustrates Government’s intention to develop a “ladder” up which those able to do so may “climb” to full owner occupation.
- 3.117 Despite the evidence that only 36 households out of the 522 annual arising need fall into the band 10% below market entry, the Appellants persist with the position that intermediate housing should only be technically affordable. Advocacy of a cascade is another way of avoiding the production of genuinely affordable housing. If funding is not fully available, the affordability of even the current offer will drop and the remaining housing would become even more

unaffordable to those in Government defined housing need. By these devices, the Appellants maintain the façade of a 100% affordable housing scheme.

Other Claimed Benefits

- 3.118 Mr Newlyn identifies a “package of benefits” that come forward with the development of the Appeal Site: affordable and accessible housing, provision of recreation and public open space, SANGS benefits, and transportation and highway improvements. As to the provision of accessible housing, “Lifetime Homes” has not been seen as a decisive factor at past appeals. Building Regulations (Part M) have increasingly embraced the accessible housing principles and most house builders incorporate these standards and more in their designs these days. ODPM Best Guidance on Planning Applications will soon make a statement on accessibility a pre-requisite of all outline planning applications.
- 3.119 While Mr Newlyn asserts that the provision of 12 ha of SANGS to meet the requirement of only 6 ha is significant, Mr Baxter clarified the position. It was explained that the SANGS has to accommodate a circular walk, and that the 12 ha was required in order for the SANGS to function in its own right. In any event, it appears that the significance given by Mr Newlyn to this issue arises from his claim that “windfall sites in the past and in the future that cannot contribute SANGS can benefit from the provision of this land”. In the absence of any formal mechanism by which such windfall sites can tap in to the SANGS provided at Franklands Drive, no material weight can be given to this claim. The proposed play and amenity areas shown on the indicative layout are acceptable to the Council.

Transportation and Highway Improvements

- 3.120 The following are comments on the various transportation and highway improvements identified as benefits by Mr Whittingham:
1. The pedestrian/cycle links are necessary to mitigate the increased number of traffic movements and pedestrian/cyclist movements from the development. Any benefits to existing pedestrians and cyclists will be offset by the fact that they will have to contend with the additional traffic generated by the development. The increase in the AM peak is from 24 to 120 vehicles per hour.
 2. The proposed traffic calming on Franklands Drive is necessary because of the increased traffic. It is mitigation, not a benefit, necessary to counterbalance the increase in traffic.
 3. The bus stop improvements do offer some benefit to existing passengers, but the improvements are necessary to encourage bus use by the new residents.
 4. The contribution to the Runnymede Travel Initiative is required to offset the increased potential of car travel to school. It may benefit some existing school journeys.
 5. The Demand Responsive Transport System is considered by the Highways Authority to be “the only feasible way of bringing the proposal into line with PPG13 sustainability policy”. It will be recalled that Mr Whittingham was unable to say that any assessment had been made of the long term viability of the DRT vehicle after expiry of the funding period. Given that DRT is the difference between the Highways Authority objecting and not objecting, and the difference between conflict and conformity with PPG13, the fact that the long term viability of the proposal is unknown must give the Secretary of State pause for thought. It would be unacceptable to grant planning permission for any scheme that merely postpones conflict with PPG13.

6. The off-site highway improvements are promoted to remedy an existing road safety issue.
7. The Travel Plan is no more than a promotion and awareness raising scheme. It would provide information to new residents only and would confer no wider benefit. It should be given little, if any, weight.

3.121 On analysis, the range of claimed benefits arising from the proposed development cannot serve either individually or cumulatively to override the very significant harm the Council has identified.

Prematurity and Prejudice to the Emerging Local Development Framework

3.122 Paragraphs 17 to 19 of “The Planning System: General Principles” (CD6), published in conjunction with PPS1 in 2005, set out the circumstances in which it is justifiable to refuse planning permission on grounds of prematurity.

3.123 The first precondition identified by paragraph 17 is that a DPD is being prepared or is under review but has not yet been adopted. This part of the policy is satisfied. The Council submitted both the Statement of Community Involvement and the Core Strategy DPD to the Secretary of State in February 2006, with their examination timetabled for September 2006. Paragraph 18 of “The Planning System: General Principles” states that the weight to be attached to policies in emerging DPDs depends upon the stage of preparation or review, increasing as successive stages are reached. In circumstances where a DPD has been submitted for examination, the weight to be attached to the relevant policies will depend on the nature of the representations made.

3.124 PPS12 (CD6) advises that the ‘key’ to the success of the LDF system is early identification of all the issues in the preparation of a DPD, with the early involvement and input from the community and all stakeholders. Such ‘Front Loading’, as paragraph 4.3 of PPS12 terms it, is particularly important when dealing with site allocations. Paragraphs 6.8 & 9 of Mr Jenkins’ main proof (RBC7) record that the overall community response to Draft Core Strategy has been support for the ‘Preferred Approach’ to housing provision, namely to focus new development in existing urban areas, with the Reserve sites being seen as a ‘contingency’ with the ‘Alternative Option’. Whilst the exact nature of any subsequent representations to the submitted Core Strategy are not yet known, it can be fairly assumed that if the ‘Preferred Approach’ is to be challenged then this is likely to be on the basis that it may not provide sufficient housing capacity. If such representations were to be upheld then it is clear that the Reserve Sites would be likely to assume an even more important role in the Core Strategy. This only serves to emphasise the need to avoid premature decisions at this time that would undermine those important strategic decisions that must be taken as part of the wider process which is the LDF. As Mr Newlyn himself acknowledged the Core Strategy is the “key framework” which “provides the building block or foundation for the Site Allocations DPD”.

3.125 The second precondition is that the proposed development should be substantial or have a significant cumulative effect. As Mr Newlyn conceded, a 350 unit scheme is properly to be regarded as substantial in the context of Runnymede Borough. That the proposal is truly substantial can be illustrated in the following way: As at 31 March 2005, only some 4 years into the Structure Plan period (2001 – 2016), 82% of the Council’s overall strategic housing requirement had already been built or been granted planning permission, while the release of the Appeal Site now would increase that to 99%.

3.126 The final condition precedent is that the grant of planning permission would prejudice the DPD by pre-determining decisions about: (a) the scale of new development, or (b) the location of new

development, or (c) the phasing of new development. Assessment of this precondition requires consideration of the extent to which decisions about the scale, location or phasing of new development are being addressed in the DPD submitted to the Secretary of State.

3.127 First, it is necessary to have regard to the tasks set for the LDF by the Structure Plan (CD48). The following references are relevant:

1. Paragraph 1.17 of the Surrey Structure Plan recognises that the North Surrey Sub-Area, within which the Appeal Site lies, is “the most pressurised part of the county”, where the Green Belt “has become fragmented” and where “it is even more important today in terms of separating the towns and villages in the area and preventing the further sprawl of London itself”.
2. Paragraph 2.34 recognises that a number of local plans “contain sites identified against the strategy of earlier structure plans to meet longer term housing needs. Many of these are greenfield sites within, or on the edge of, existing urban areas and some have been excluded from the Metropolitan Green Belt¹⁰. The release of these sites to meet the dwelling requirement set out in this policy is unlikely to be necessary before 2016. In accordance with the requirements of Policy LO4, all reserved sites should be reviewed through the production of local development frameworks. They should be assessed in terms of the sequential approach set out in Planning Policy Guidance Note on Housing (PPG3) and the Spatial Strategy of this Plan.”
3. Paragraph 2.34 continues to refer to Policy LO4 which states that land previously removed from the Metropolitan Green Belt to serve as a long term reserve for future development requirements should be reassessed against the Spatial Strategy of the Plan through local development frameworks.
4. Paragraph 2.20, part of the supporting text to Policy LO4, states that local development frameworks will “need to consider any consequential modifications to local Metropolitan Green Belt boundaries where land has previously been excluded from the MGB to meet possible future development requirements. Where the development of such land is not compatible with the Spatial Strategy or does not conform to principles of sustainability, its continued exclusion from the MGB is not justified.”

3.128 These references in the Structure Plan respond to the EIP Panel’s findings in relation to reserved sites. Paragraph 1.3.5 of the Panel Report (CD47) notes that many of these sites are in the North Surrey Sub-Area “where policy is to refrain from encouraging further development especially on greenfield sites. Based on that policy presumption, there is therefore no case in general for seeking to release those sites for development unless to meet a clear situation of local shortfall.” While Mr Newlyn relied upon this latter phrase, the EIP Panel indicate in paragraph 4.7.6 that in Runnymede such ‘local shortfalls’ relate more to situations where “infill sites and redevelopment options are exhausted”. But even then, with specific regard to the Reserve Sites in Runnymede the Panel said in paragraph 4.7.7, “it will be a matter for the District Council to determine the future role for these sites in the context of its local housing capacity study and local plan/LDF”. Therefore even if there was a “clear situation of local shortfall” the Panel intended that any release of Runnymede’s Reserve Sites should only be through the LDF. This is reinforced by the Panel’s comments in paragraph 1.3.5 about the Reserve Sites in general that

¹⁰ The Appeal Site is all three: it is greenfield, located on the edge of the existing urban area, and it was excluded from the Green Belt.

“there are doubts about the sustainability of at least some of the reserved sites when judged on more recent policy criteria. It seems to us that there is no case in principle for releasing any land for development if it is not in a sustainable location, unless the most exceptional circumstances were to apply. Such sites should be returned to the Green Belt.”

- 3.129 In terms of location, therefore, the Structure Plan sets the LDF the task of scrutinising whether reserved sites such as Franklands Drive (greenfield, edge of urban area, excluded from the Green Belt) are appropriate locations for meeting the Borough’s housing needs. They are to be assessed in terms of the sequential approach in PPG3, they are to be assessed in terms of the Spatial Strategy of the Structure Plan, and their sustainability is to be judged on up to date policy criteria. If the results of these assessments are adverse to any of the reserved sites, including the Appeal Site, then the site in question is to be returned to the Green Belt. Any decision to release the Appeal Site for development now would plainly prejudice the LDF process by predetermining decisions about the location of new development set by the EIP Panel and the Structure Plan for the DPD. Were the LDF process to conclude that the Appeal Site should no longer be excluded from the Green Belt but be returned to it, a decision to grant planning permission now would lose forever the opportunity to shore up the fragmented Green Belt in a part of the County where the Green Belt is even more important than ever in terms of preventing the coalescence of town and villages.
- 3.130 The Draft Core Strategy, published in September 2005, identified a number of options for delivering the Borough’s housing requirements under both the Structure Plan (to 2016) and the draft South East Plan (to 2026):
- Preferred Option – redevelop existing urban land;
 - Alternative Option 1 – redevelop existing urban land and then release reserve sites;
 - Rejected Option 2 – redevelop existing urban land and then either release reserve sites or extend development onto adjoining Green Belt land; and
 - Rejected Option 3 – redevelop existing urban land and develop a new settlement in the Green Belt.
- 3.131 Given the overall community response to support it, the Core Strategy submitted to the Secretary of State in February 2006 adopts the Preferred Option approach for both the Structure Plan and draft South East Plan periods. In the event that it may subsequently become necessary to accommodate higher rates of growth as a result of the final requirements of the South East plan, however, the submitted Core Strategy also retains the Alternative Option for the period to 2026.
- 3.132 Spatial Principle 1 of the Core Strategy (CD63) seeks “to ensure that development required for the aspirations of our communities recognises the resource needs for future generations”. Pursuant to this principle, the Core Strategy sets out a number of policy approaches. Policy CS1 requires new development in Runnymede to be “focussed in locations that perform best in sustainability terms”. Policy CS2 seeks the more efficient use of land by “optimising the re-use of previously developed urban land and other previously developed sites that are consistent with LDF policy, and the conversion and re-use of existing buildings”. Policy CS19 contains the preferred option for Structure Plan period to 2016, and the supporting text at paragraph 23.12 re-states the priority given to redevelopment of previously developed land. Policy CS20 contains the preferred and alternative options for the South East Plan period to 2026.

- 3.133 In relation to the Alternative Option, Policy CS20 states that “reserve sites will be released on the basis of a sequential release”. Paragraph 23.18 of the supporting text makes it clear that Policy CS20 contemplates an order of release in a predetermined sequence (“a sequential order of release”). The LDF consultation process has identified a number of large previously developed sites for housing development within the unconstrained urban area (outside the Green Belt, not liable to flood, and beyond the influence of the SPA) such as Aviator Park and the former Safeway site. The Council is to undertake a sustainability appraisal of all the potential reserve sites in order to assess their appropriateness for development, and whether they are in locations that perform best in sustainability terms. The Council will then identify a “sequential order for the release” of the reserve sites in the event that the Alternative Option is adopted under Policy CS20. Details of the reserved sites and their sequential order of release, will be provided in the Housing DPD, timetabled for submission in February 2007.
- 3.134 In summary, there are a number of significant issues that can only properly be resolved through the examination into the Core Strategy of the LDF, programmed for September this year:
1. whether the Preferred Option should be adopted for the Structure Plan Period to 2016;
 2. whether the Preferred or the Alternative Option should be adopted for the South East Plan Period to 2026;
 3. if the alternative option is to be adopted, which reserve sites should be designated; and
 4. the sequential order in which reserve sites will be released.
- 3.135 These are decisions “about the scale, location or phasing of new development which are being addressed in the policy in the DPD” as referred to in paragraph 17 of “The Planning System: General Principles” (CD6).
- 3.136 Mr Newlyn confirmed that Franklands Drive is a candidate site for the Alternative Option. Whether it should be a reserve site requires assessment of the following issues:
1. how the site performs, relative to other candidate reserve sites, in terms of the PPG3 sequential approach and the Structure Plan Spatial Strategy;
 2. how the site performs, relative to other candidate reserve sites, in terms of the Sustainability Appraisal of the appropriateness of the site for development and whether it is in a location that performs “best in sustainability terms” ; and
 3. if selected, its place in the sequential order of the release of the reserve sites;
- 3.137 None of these assessments can be carried out in a Section 78 Appeal; they involve consideration of issues that can only uniquely be analysed through the LDF process. The grant of planning permission on appeal now must therefore prejudice the LDF process: if planning permission is granted, the Appeal Site will no longer be a candidate site for the Alternative Option and other – potentially sequentially inferior sites – would be required to take its place. The grant of planning permission now would therefore prejudice decisions about the scale, location and phasing of new development which can only be taken through the LDF process. It is a very bad point to assert that these issues were resolved in the Second Alteration of the Local Plan. The 2004 Structure Plan, which post-dates the 2001 Second Alteration, requires all these issues to be revisited in the LDF.
- 3.138 Finally, paragraph 42 of draft PPS3 states that “local planning authorities should not refuse applications for planning permission simply on the grounds that the preparation or review of Site Allocation Development Plan Documents will be prejudiced”. The Council do not ask the Secretary of State to refuse planning permission on that simple ground. The prejudice identified is not to a Site Allocation DPD but to the fundamental components of the Core Strategy that I

have set out above. In Mr Newlyn's words, "the Core Strategy provides the key framework, spatial vision and strategic objectives for the area. It therefore provides the building block or foundation for the Site Allocations DPD". Paragraph 42 of draft PPS3 continues by stating that "local planning authorities should not grant applications for planning permission where it can be shown that to do so would clearly discourage the development of allocated developable brownfield sites". This aspect of the draft Guidance has been dealt with by Mr Jenkins. Aviator Park has an extant consent for office development and the development of the Appeal Site to provide 350 housing units may deter those who control Aviator Park from promoting its redevelopment for housing and instead choose to implement the office consent. Similarly, those who control the Safeway site may be discouraged from a housing redevelopment and instead promote a new retail scheme.

Mixed and Balanced Communities

- 3.139 Paragraph 2 of PPG3 (CD9) advises, inter alia, that local planning authorities should "seek to create mixed communities". Paragraph 10 of PPG3 goes on to advise:

The Government believes that it is important to help create mixed and inclusive communities, which offer a choice of housing and lifestyle. It does not accept that different types of housing and tenures make bad neighbours. Local planning authorities should encourage the development of mixed and balanced communities: they should ensure that new housing developments help secure a better social mix by avoiding the creation of large areas of housing of similar characteristics.

- 3.140 In summary, the need to avoid "large areas of housing of similar characteristics" is motivated by a desire to provide a choice of housing, to provide a choice of lifestyle, and to secure a better social mix – thereby securing a development which is mixed and inclusive. A mixed and inclusive community is no more achieved by a large estate of executive housing than by a large estate of 100% Affordable Housing: neither achieves a social mix or a choice of housing and lifestyle. If, on analysis, the appeal proposals fail to create a mixed and inclusive community, they will be in conflict with an important facet of Government policy, on which basis the appeal may properly be dismissed.

- 3.141 Annex D to PPG3 identifies further guidance and advice relevant to implementing the guidance within PPG3. "Better Places to Live: by Design" (CD10) is identified by Annex D to be relevant in relation to the layout and design of new development. This companion guide to PPG3 was published jointly in September 2001 by the Department for Transport, Local Government and the Regions and the Commission for Architecture and the Built Environment. The suggestion put to Mr Newlyn in re-examination that the advice in "Better Places to Live" is confined to design and architectural matters is plainly wrong. The passages I set out below in relation to the creation of successful residential environments go beyond mere design guidance and are plainly intended by the joint publishers to inform developers and decision makers on how a development which is mixed and socially inclusive may be secured. Prior to his re-examination of Mr Newlyn, the Appellants' advocate cross-examined Mr Jenkins on this premise.

- 3.142 The relevant advice from pages 34 to 37 of "Better Places to Live" can be summarised as:.

1. The creation of a successful residential environment is, in essence, about "providing a framework within which communities can become established and grow".
2. Mixed neighbourhoods entail –
 - (i) people of different ages, economic status, lifestyles, levels of mobility and independence;

- (ii) the provision of a range of housing in terms of dwelling size, type and affordability; and
 - (iii) successful integration of affordable housing with homes developed for private rent or sale.
3. A number of important community benefits result from mixed and balanced communities –
- (i) they can lead to a better balance of demand for community services and facilities;
 - (ii) they can provide opportunities for “lifetime communities” where people can move home without leaving a neighbourhood;
 - (iii) they can make neighbourhoods more robust by avoiding large concentrations of housing of the same type;
 - (iv) they can enable community self help; and
 - (v) they can assist community surveillance.

These factors can be adapted as a check list against which to assess whether or not the appeal proposals would create a successful residential environment.

- 3.143 The creation of a 350 unit housing estate, 81% of which (284 units) would be in the form of 1 and 2 bedroom units, would not offer a choice of housing or a range of the kind contemplated by PPG3 and “Better Places to Live”. This is not the kind of “lifetime community” where people can move home without leaving the neighbourhood. It plainly would be the kind of large concentration of housing of the same type deprecated by PPG3 and “Better Places to Live”. While reliance is placed by the Appellants upon a lettings plan, such a plan could not achieve a “social mix” of people of different economic status and lifestyle. A 350 unit estate of Affordable Housing will never be a socially inclusive community. The analysis presented by Dr Fordham in paragraphs 4.16-26 of his rebuttal proof demonstrates that future residents of the scheme at Franklands Drive would have incomes in the bottom quartile of the Borough.
- 3.144 There will be no integration of Affordable Housing with homes developed for private rent or sale. So the question posed on page 37 of “Better Places to Live” – “how successfully have different types of housing been integrated with each other?” – has to be answered “not at all”! The need to integrate affordable housing with homes developed for private rent or sale is a long standing and important policy imperative for Government. The Housing Green Paper published in April 2000 stated “we must seek to develop social housing alongside housing built for home ownership and private renting. Large social housing estates have proved unsustainable. If communities are to grow and prosper, people need opportunities to meet their aspirations, including home ownership, in the areas where they have grown up. At the same time, such communities must be able to attract new people to join them”. Very similar sentiments are now to be found in “Better Places to Live” in relation to the advice on creating “lifetime communities”. The Appeal Site would be a large social housing estate, offering no opportunities for those who grow up on the estate to aspire to home ownership or private renting. While shared ownership offers the faint prospect of “staircasing” to full ownership, it is doubtful that more than a tiny fraction of any shared ownership purchasers within Runnymede will be able to do so. To be affordable, they would need mostly to start at less than a 25% share of the equity – and that makes for a pretty steep “staircase”.

Overall Conclusions

- 3.145 The Borough has already met the housing provision for the previous Structure Plan (1994) period to 2006 and is meeting the new requirements of the Structure Plan 2004 for the period 2001-2016. The Borough has a more than adequate 5 year housing land supply. The release of

the Franklands Drive site ahead of a need to do so would conflict with the Council's phasing approach to housing development and be likely to lead to the unacceptable release of Green Belt land. Such regulation of land coming forward for development is fundamental to securing the continuous supply of housing land within a Borough such as Runnymede. The Surrey Structure Plan 2004 requires safeguarded 'Reserve' housing sites such as Franklands Drive to be reviewed in light of the new Spatial Strategy of that Plan through the LDF.

- 3.146 Following extensive and on-going community engagement and consultation, the Council has submitted to the Government for approval both the Statement of Community Involvement and the Core Strategy Development Plan Document of the LDF. The Core Strategy is the principal document of the LDF and the driver in delivering sustainable development within the Borough. Together with other plans, policies and programmes, the Core Strategy aims to set a clear vision for the pattern and location of development, and strategies to guide the right type of development in the right places, providing a 'spatial' approach to planning. Runnymede's Core Strategy is due for an Examination in Public in September 2006. The premature release of the Appeal Site at this important stage of the LDF, a stage which only two other Local Authorities in the Country have achieved, would seriously prejudice the emerging DPDs and undermine the LDF process.
- 3.147 The Appellants' case for Franklands Drive cannot outweigh the strong arguments against housing development on this site. The need for affordable housing is no more acute than in Southern England generally, and Runnymede has a good record of achieving affordable housing in the Surrey context. The Appellants' proposal differs from the Housing Needs Assessment indicated mix but no reasons are given. The likely reasons are financial, as the viability analysis shows. A significant amount of market housing would be required to make the scheme viable in the absence of Social Housing Grant. The scheme has been refused Social Housing Grant, and may never receive it. The Appellants' proposal is not as labelled: 100% affordable. Nor would such a scheme provide a balanced and sustainable community on this substantial site.

4 THE POSITION TAKEN BY ENGLISH NATURE ¹¹

Summary of English Nature's Position on the Franklands Drive Proposals

- 4.1 The appeal site lies approximately 3.4 kilometres from Horsell Common which is a part of the Thames Basin Heaths Special Protection Area. English Nature has been concerned to ensure that the proposed development does not have an adverse effect on the features of the Special Protection Area that are of conservation interest, namely Dartford warbler, nightjar and woodlark. Features of wildlife interest within the site have been suitably catered for within the development proposals now put forward.
- 4.2 The proposal for residential development of 350 dwellings at Franklands Drive has come forward in association with proposals for the laying out of some 11.8 hectares of open space and a 2.6 km circular walk. The open space and circular walk would be of a size and character that would function as a SANGS making provision for walkers and dog walkers who might otherwise increase levels of activity on those parts of the Thames Basin Heaths that are within 5 kilometres of the appeal site.
- 4.3 Subject to the satisfactory completion of a section 106 planning obligation or a Grampian style condition¹² as set out in FDA1.14 to guarantee implementation of the recreational provisions, the development, in the form put forward to the inquiry would not be likely to have an effect on

¹¹ Except where material is reproduced as quotation, the Inspector is solely responsible for this section of the report.

¹² This was agreed in answers to questions from Mr Pugh Smith.

the Thames Basin Heaths Special Protection Area. On this basis English Nature present no objection to the proposed development¹³.

- 4.4 English Nature has appraised the appeal proposals against the flow chart that is Figure 1 in Circular 06/2005 (CD22). The answer to the question in the first box is “no”. The answer to the question in the second box is also “no” and on that basis the Secretary of State as the competent authority in relation to the application of the Conservation (Natural Habitats &c) Regulations 1994 can proceed to grant planning permission without having to undertake an Appropriate Assessment.

English Nature’s Written Statements prior to the Inquiry:

- 4.5 In a letter from English Nature to Runnymede Borough Council, dated 19 January 2006, English Nature’s observations on an earlier and very similar proposal for residential development at Franklands Drive had been to point out that the site lies approximately 3.4 kilometres from the Thames Basin Heaths classified as a Special Protection Area on 9th March 2005 under the EC Birds Directive. The letter continued:

It is now widely recognised that increasing urbanisation of the area around the SPA has a continuing adverse effect on its interest features, namely nightjar, woodlark and Dartford warbler, the three internationally rare bird species for which it is classified.

Owing to the proximity of the site to the SPA, English Nature is of the opinion that the increased number of dwellings, in combination with other dwellings proposed near to the SPA, would be likely to have a significant effect on the SPA in the context of regulation 48 of the Conservation (Natural Habitats &c) Regulations 1994. Before granting planning permission the planning authority should undertake an appropriate assessment of the implications of the development, on the SPA, in light of the site’s conservation objectives.

- 4.6 English Nature has provided two further written statements that indicate that the above statement no longer reflects the position that they take in relation to this appeal. The first of these, EN1, is a letter of 26 April to the Planning Inspectorate from David Tyldesley of David Tyldesley Associates who is a consultant acting for English Nature in relation to Thames Basin Heaths matters. The second, EN3, is a Further Statement dated 10 May 2006 and produced in response to a letter, EN6, sent out by the Planning Inspectorate on 2 May seeking further explanation of English Nature’s position. The latter specifically requested an appraisal of the proposal in line with guidance in Circular 06/05 and a full explanation of how the appeal proposal sits in relation to the flow chart in Figure 1 of that Circular.
- 4.7 English Nature has corresponded with and met the appellant¹⁴ to discuss the provision of open space as part of the proposed development at Falklands Drive with the aim of achieving a style and extent of recreational provision that would absorb pressures from the proposed development that might otherwise have had an adverse effect on the Thames Basin Heaths Special Protection Area. The proposed open space provision and other measures described on the plan attached to Mr. Baxter’s letter of 20 April 2006, referenced SANGS Design Option 3, include 11.8ha of natural green space and accommodates a circular walk 2.6km long. A copy of this plan is included in EN1. The layout would meet the minimum requirement for informal open space provision that would, in English Nature’s opinion, avoid an effect on the Special Protection Area; residents of the proposed development would be likely to use the immediately adjacent open space for informal recreation in preference to the more distant heaths.

¹³ English Nature’s appearance at the inquiry was at the Inspector’s request to answer questions on English Nature’s position on the appeal proposal and on proper application of the Habitat Regulations.

¹⁴ Details of the meetings and correspondence are in FDA2.2 appendices 2.2.1 – 4, 6, 7 and 14-16.

- 4.8 As the interest features of the Horsell Common Site of Special Scientific Interest, likely to be affected by the development in absence of the provision of the SANGS are the same as the interest features for which the Special Protection Area is classified (Dartford warbler, nightjar and woodlark), it follows that the development, as now proposed with the open space, would not be likely to have an effect on the Site of Special Scientific Interest. English Nature has no objection to the development as now proposed in respect of section 28 of the Wildlife and Countryside Act 1981, as amended.

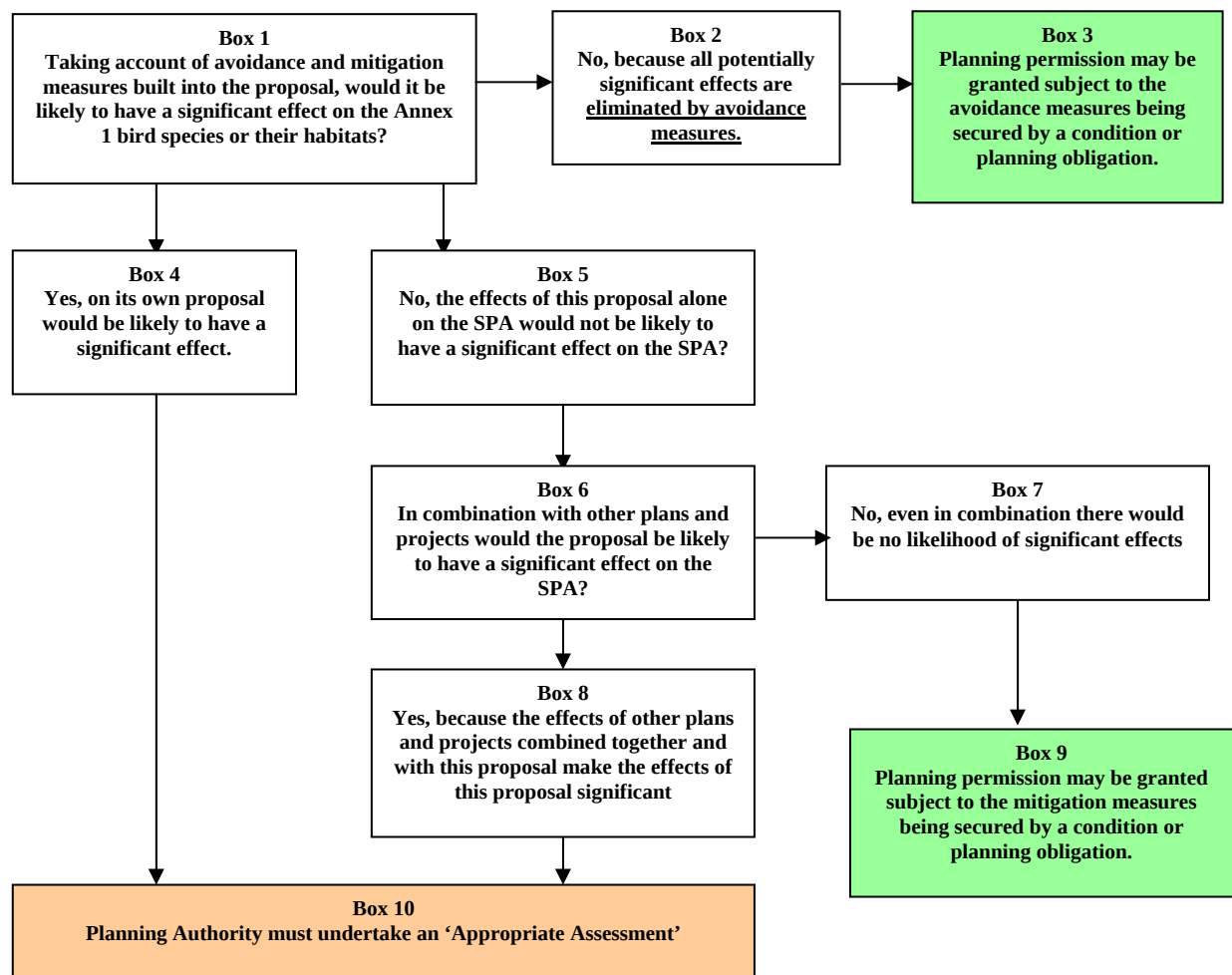
The Background to English Nature's Position

- 4.9 A more extensive exposition of the background to English Nature's position is set out in the 10 May Further Statement (EN3). This includes material on the wider context, on the way in which the Thames Basin Heaths Special Protection Area is to be approached, on proposals for systematic provision of new or upgraded suitable green space as an alternative to the Special Protection Area (the Delivery Plan) and on the Application of the Habitats Regulations. There is also a detailed appraisal of the open space proposed at Franklands Drive and an assessment of how this could prove satisfactory as a means of providing alternative green space in advance of the Delivery Plan, thus enabling planning permission to be granted.
- 4.10 English Nature's assessment of the proposal in relation to the flowchart in Circular 06/2005 (CD22) is set out in the third paragraph of the Introduction and in the Conclusion to EN3. In terms of the boxed questions presented in Figure 1 of Circular 06/2005 (CD22), the answer to the question in the first box is plainly "no", and so the decision maker must proceed to the question in the second box "is the proposal likely to have a significant effect on the internationally important interest features of the site, alone or in combination with other plans or projects?" The judgement of English Nature is that the proposal will have no effect on the SPA. As it will have no effect on the Special Protection Area, it cannot be likely to have a significant effect even in combination with other plans or projects; there are no effects to add to the effects of other plans or projects. The answer "no" to the second box is an indication that permission may be granted. In English Nature's opinion, the further provisions of Regulation 48(1) of the Conservation (Natural Habitats &c) Regulations 1994 do not apply and the planning appeal can be dealt with without further reference to the Regulations.
- 4.11 In relation to the Application of the Habitats Regulations, the argument advanced by English Nature is as follows:

Measures to avoid or reduce the effects of a development proposal on the SPA (here referred to as avoidance measures and mitigation measures respectively) can be proposed as part of the planning application and the decision maker should take these into account when considering if and how the Habitats Regulations apply in any particular case. Avoidance measures eliminate the likelihood of any effects on the SPA. Mitigation measures would be designed to reduce likely significant effects, to a level that is insignificant or in a way that makes them unlikely to occur.

The difference between avoidance and mitigation measures is not an academic one. If avoidance measures are proposed, and they are considered to be fully effective and guaranteed by way of legally enforceable conditions or obligations, then the proposal is not subject to the further tests of the Habitats Regulations. However, as explained below, because the Regulations require projects to be considered both on their own and in combination with other projects, to see if their combined effects would be likely to be significant, mitigation measures may not be enough to enable a proposal to pass the tests of the Regulations. The project's effects will still have to be combined with others and the combined effects may still be significant even though the mitigation measures reduced the effects of the one project to insignificant levels (see Figure 1, below)¹⁵.

¹⁵ On 15 May 2006, responding to a question by e-mail, David Tyldesley acknowledged that this figure is one of his own devising. The two e-mails are contained in EN5.

Tyldesley's Figure 1: Further detail on the early stages of Assessment under the Habitats Regulations.

So, in order for new residential development to proceed, it is necessary to ensure that before a planning application is decided, sufficient avoidance measures are included, including open space provision, to enable the decision maker to be confident that the proposal would not have any effect on the SPA. That is, owing to the avoidance measures proposed by way of a legally enforceable obligation, the proposed residential development will not have any effect on the SPA (boxes 1, 2 and 3 in Figure 1). It would not, therefore, be likely to have a significant effect in combination with other projects. If this can be established, the application would not be subject to Appropriate Assessment under the Habitats Regulations and the planning authority can proceed to determine the application in the normal way. Avoidance measures in this context may mean the practical provision of the measures themselves, or a commitment to make a contribution to the strategic provision of avoidance measures already being provided by the Council through a strategy of suitable accessible natural green space provision agreed with English Nature.

Testing of the Position taken by English Nature at the Inquiry

- 4.12 Having received English Nature's Further Statement of 10 May, there were further questions that I considered it appropriate to put to English Nature and these were communicated in two letters from the Inspectorate dated 15 May (EN4) and 6 June (EN7). Various other matters that had also been previously raised were re-iterated in the 6 June letter.
- 4.13 The questions and the responses to them from Mr Rob Cameron, Team Manager for English Nature's Thames and Chilterns Team, are set out in (EN9) which includes the statement that *"English Nature does not set policy other than to guide its internal actions. It is an advisor rather than a Government body. It helps to deliver the policy of Government and other*

partners.” In addition to this reply English Nature submitted a newly published document relating to the Thames Basin Heaths (EN8), taking the form of a draft template for a Supplementary Planning Document to be progressed by local planning authorities.

- 4.14 Additional points made orally at the inquiry were that the leaflet, Thames Basin Heaths, Pulling together for Access, Conservation and Development (INQ19), is intended to raise public awareness and understanding; and that the Delivery Plan is seen as one of the potential solutions to the issues that English Nature has raised.

Application of Figure 1 of Circular 06/2005

- 4.15 In a letter from the Inspectorate dated 15 May (EN4), the Inspector raised the following matter with English Nature in order to achieve greater understanding of the position adopted in relation to the flow chart that constitutes figure 1 of Circular 06/05:

... the conclusion that the proposal would not be likely to have a significant effect on the internationally important interest features of the site seems to be contradicted by the assessment that follows, since that draws upon an argument that the absence of effect is a result of the provision of open space in association with the scheme.

.. in order for new residential development to proceed, it is necessary to ensure that before a planning application is decided, sufficient avoidance measures are included, including open space provision, to enable the decision maker to be confident that the proposal would not have any effect on the Special Protection Area. (taken from EN3)

The Inspector’s understanding of that line of argument is that it reveals that English Nature’s position is that the development could satisfy the terms of the fifth box in the sequence of boxes in Figure 1; namely that it is a planning obligation related to the provision of open space that leads English Nature to the view that the proposal would not adversely affect the integrity of the site.

Clarification is sought as to whether English Nature’s position is that “Permission may be granted” because the answer to the question in Box 2 is “No” or that “Permission may be granted subject to an obligation having been entered into”, because the answer to the question in Box 4 is “No” and the answer to the question in Box 5 is “Yes”.

- 4.16 When this matter was raised at the inquiry, David Tyldesley, the consultant appearing for English Nature, maintained the position that he had previously taken that permission could be granted because the answer “No” could be given to the question in Box 2. His belief is that the only way that proposals in the vicinity of the Thames Basin Heaths can go forward in compliance with the Regulations is by not having an effect on the Special Protection Area. He went on to express the view that if one is taken into Box 4, he cannot see any way out because of “in combination” issues associated with cumulative assessment. He accepted that the Regulations do not explicitly state that an Appropriate Assessment is to be approached on an “in combination” basis but his view is that it should be.

Proportionality:

- 4.17 David Tyldesley was questioned as to how English Nature’s approach to issues relating to the Thames Basin Heaths Special Protection Area stands in relation to the legal principle of proportionality (INQ11).
- 4.18 Mr Tyldesley believes that the approach taken by English Nature in relation to the Thames Basin Heaths and the promotion of the Delivery Plan is proportional to the concern and said that nobody had come up with another way of addressing the issues that have been raised. Additional documents put into the inquiry, included a copy of Counsel’s Opinion produced for Surrey Heath Borough Council regarding the determination of planning applications and impact of development on the Thames Basin Heaths Special Protection Area (EN9) and notes of a meeting on the Thames Basin Heaths involving DEFRA and the ODPM in February 2006 identifying key messages (EN10).

THE CASES FOR OTHER PARTIES

Surrey County Council and SEERA

- 5.1 CD196 is an April 2006 Statement on Highway Matters as agreed by the appellants and by Surrey County Council in their role as highways authority. This confirms that agreement has been reached on highway access arrangements, internal highway arrangements and car parking provision, off-site highway works, on the level of accessibility to local facilities and to public transport, and on a sustainable transport package. The requirements of the County Council as highway authority can be met by a combination of conditions and a section 106 agreement.
- 5.2 Neither Surrey County Council nor the South East of England Regional Assembly (SEERA) made representations on the proposal from a planning perspective at the appeal stage. There were responses made to the Borough Council at the consultation stage. That from Surrey County Council is included as CD187 and from SEERA as CD186.
- 5.3 The County Council's conclusions on planning aspects are:
- ... the suitability of the site for residential development has been established in principle through the Local Plan process. Nevertheless, based on the requirement to properly husband the release of land in accordance with Local Plan policies and the requirements of the Structure Plan's spatial strategy, our view concerning the release of this land remains as before. Therefore, as the policies of the spatial strategy of the Structure Plan seek to resist further Greenfield development and to promote the more efficient use of urban land, the release of Franklands Drive for housing would be contrary to Policies LO1 and L02.
- It would also be premature in relation to housing supply under Policy L06 (and in relation to the emerging LDF for Runnymede), in that there is no overriding need in relation to the proposed housing allocation for the Borough to release this site.
- The LDF process will provide the framework for the identification of new land for housing and the future development, or continued safeguarding, of the reserve sites. However, there is a significant need for affordable and key worker housing within Runnymede and within the wider Surrey area. There may also be further, economic pressures on the Borough that would add to housing demands. If the Borough Council is satisfied that additional provision needs to be identified, prior to consideration through the LDF, to meet current and future housing needs, and that these needs cannot be satisfactorily met on sequentially preferable, previously developed sites, this would provide sufficient justification for bringing the Franklands Drive site forward as an exception to Policies LO1, L02 and L06. Lay-out and design principles can be incorporated satisfactorily in accordance with 'Surrey Design'. Satisfactory archaeological investigation should also be secured.
- 5.4 The views of SEERA as contained in the report to the Borough Council's Planning Committee (CD187) are as follows:
- (i) On the basis of the information provided it is considered that the proposed development does not reflect the spatial strategy or key development principles set out in RPG9;
 - (ii) The local authority should not grant permission for the proposed development unless they are satisfied that the release of this site is appropriate in the context of local housing land supply requirements, in line with the aims of Policy H2 (2360 dwellings per annum in Surrey) of RPG9. It is considered that the need to provide affordable housing does not override the need to make total housing provision at levels and in ways consistent with development plan policy;
 - (iii) If the local authority consider that the release of the application site may be appropriate in the context of local housing land supply, they should not grant permission unless they are satisfied that it has been demonstrated that the development of the site is sustainable and reflects a sequential approach to the release of housing land, in line with Policies Q1 (urban areas to be prime focus for new development) and Q4 (urban fringe land to be enhanced etc) of RPG9; and
 - (iv) The local authority should be satisfied that a wholly residential proposal is appropriate given the size and location of the site and that an appropriate mix of dwelling sizes and tenures will be provided, in line with Policy Q1, Q2 (enhancing the quality of life in urban areas) and H4 (range of dwelling types and sizes, including alternative forms of tenure. Affordable housing should be provided to meet locally assessed need).

SEERA's views continued:

if, notwithstanding the Assembly's objections, the Council was minded to grant permission, then:

- (i) They should be satisfied that the proposed development makes efficient use of land, in line with Policy Q3 (making more efficient use of land) of RPG9;
- (ii) They should seek information about parking provision and be satisfied that that appropriate parking provision is made, in accordance with Policy T12 of RPG9; and
- (iii) They should seek to secure, at the reserved matters stage, energy efficient design in line with INF4 of RPG9 (energy conservation).

- 5.5 CD196 is a Statement on Highway Matters, dated April 2006, that has been agreed between the appellants and Surrey County Council.

Fairview Homes

- 5.6 RPS Planning submitted a written statement to the inquiry (within INQ12) on behalf of Fairview Homes, the owners of a 3.4ha site at Wick Road, Englefield Green. With Franklands Drive, the Wick Road site is a Category 2 "reserve" site in terms of the application of Local Plan Policy HO6. With Structure Plan housing requirements for the period up to 2006 having been met, there is no formal policy basis to support the release of Category 2 sites. In previous appeal decisions relating to Franklands Drive, it has been decided that the benefits of retaining the land as a reserve site outweigh the advantages of its release for development.
- 5.7 The representation draws attention to the approach adopted through Policy LO4 in the Surrey Structure Plan that the housing land supply situation and how Structure Plan housing requirements are to be met is to be reviewed through the Local Development Framework process. In particular, land previously removed from the Green Belt to serve as a long term reserve is to be reassessed against the spatial strategy through the Local Development Frameworks. Franklands Drive falls into the category of reserve land previously excluded from the Green Belt.
- 5.8 The provision of 100% Affordable Housing on a large housing site would conflict with government policies on mixed and inclusive communities and with Structure Plan Policy DN10. As a result the provision of 100% Affordable Housing is not a sufficient benefit to outweigh the policy harm.
- 5.9 There may be a case for the release of greenfield land to provide a choice of housing sites, to assist in housing delivery and to meet Structure Plan requirements but such a decision should follow full consideration of the issues through the LDF process.

Philip Hammond MP

- 5.10 As constituency MP, Mr Hammond¹⁶ has been aware of the level of local concern supporting protection of Franklands Drive as an area of green land and as a strategic housing reserve for a long time.
- 5.11 Mr Hammond said that much of the support given to English Nature's objections based on the wildlife interest of the Thames Basin Heaths, is from people and groups whose main aim is to stymie or inhibit new development. He laid stress on the importance of a practical solution and for an early resolution of issues relating to the Thames Basin Heaths Special Protection Area. At

¹⁶ Mr Hammond appeared at the inquiry with the principal aim of expressing support for the Borough Council and A2 Housing Group over the proposals for redevelopment of Wapshott Road. I took advantage of his presence to ask questions about his position on the Franklands Drive appeal and, in particular, the significance of objections raised by English Nature in relation to impacts on the Thames Basin Heaths Special Protection Area.

present the issue is having a destabilising effect with particular consequences for small local building firms. It is unfortunate that the Government in implementing the Habitats Directive did not think through the consequences of the Conservation (Natural Habitats &c) Regulations 1994. While the Special Protection Area issues at present appear to be a major impediment to the delivery of targets for new house building over a wide area, he thinks that a solution, that will establish an appropriate level of mitigation of adverse impacts on the Thames Basin Heaths, will emerge.

Local Residents views

5.12 Representations made orally at the inquiry and copies of some of the letters of objection are included in INQ 12. These are in addition to over 180 letters of objection on the file from addresses close to the site. Most of these take the form of a standard letter which raises the following points as grounds for objection:

- Proximity to the Thames Basin Heaths Special Protection Area
- Development is unsustainable in relation to local services and transportation needs
- The proposals would not provide a balanced, mixed or sustainable community
- There is an adequate supply of housing land to meet allocations under the Surrey Structure Plan for the period 2001 to 2016
- Vehicular access is inadequate. There would be an increase in the volume of vehicles in Row Town and in Franklands Drive in particular. And works at the Row Town/Hare Hill Junction would have adverse effects on Sawpit Green.
- There would be extra pressures on hard pressed water supply and drainage systems
- There would be loss of Green Belt and of wildlife habitat.

5.13 Appearances at the inquiry by representatives of the West Addlestone Residents Association (WARA), emphasised the importance of the appeal site for wildlife and the level of local concern about the effects of traffic in Franklands Drive. The impact of traffic from the site on the surrounding area has not been sufficiently recognised by Inspectors in the previous appeals relating to this site and this proposal is for an even greater number of dwellings. Vehicles travelling through the estate to the recreation ground would cause disturbance and danger. WARA put in a petition containing 252 signatures.

5.14 In addition to making the standard points, a letter of 13 April 2006 from Chaucer Way Estate 2000 Ltd on behalf of residents of Chaucer Way raises concerns about any vehicular use of Chaucer Way and looks for an element of separation between the development and the backs of houses in Chaucer Way. These concerns were raised orally at the inquiry with a challenge to the appellants' position in relation to access rights over Caxton Avenue.

Representation Supporting the Appeal

5.15 Peter Anderson, a former Councillor, is concerned that, while lip service is being paid to the need for Affordable Housing, the supply of new housing is being unnecessarily constrained by the planning process. Figures in the Surrey Structure Plan do not reflect the need for new housing arising from the formation of new households and provide local councils with an excuse for not releasing their reserve housing sites.

CONDITIONS AND OBLIGATIONS

- 6.1 Conditions were the subject of discussion between the parties and at the inquiry. A set of conditions (INQ17) that had come out of discussions between the parties, was put before the inquiry. Further amendments that came out of discussion at the inquiry are included in FDA6.9.
- 6.2 FDA6.9 includes three conditions (numbers 38 to 40) relating to the SANGS. These have been brought forward from FDA1.14 and are based on input from English Nature's consultant, David Tyldesley. These conditions cover provision of the green area, a programme of maintenance works and arrangements for public access and contain detailed description of what these are to entail. A similar format of sets of conditions is also put forward for Amenity Space within the development and in relation to the proposed Recreation Ground.
- 6.3 It is part of the case presented at the inquiry by the appellants, that there should be legal agreements in relation to a range of matters, including:
- Arrangements for the Delivery of Affordable Housing;
 - Arrangements for the management and maintenance of public open space and recreational provision being made, including that being made to mitigate potential impact on the Thames Basin Heaths Special Protection Area;
 - Measures to promote sustainable transport practice.
- 6.4 While drafts of the legal undertakings were presented at the inquiry (FDA6.3 and FDA6.4) it was agreed that the signed documents would be put in after the close of the inquiry. The signed documents, INQ13 and INQ14 dated 31 August 2006, contain some detailed revisions. A letter of 31 August 2006 (INQ15) from the appellants' Solicitors, Shoosmith's, sets out the detailed ways in which the signed unilateral undertaking differs from the draft presented at the inquiry. It also provides formal notice from the FSA (INQ16) of the change of name on 3 July 2006 of the Surrey Heath Housing Association to Accent Peerless Ltd. Briefing notes, prepared by the appellant (FDA6.2 and FDA6.5-8), were put in at the inquiry to explain the matters covered within the legal agreements and the way in which they would operate.
- 6.5 A summary and overview of the terms of the Section 106 Agreement with Surrey County Council is given in FDA6.5. The Agreement deals with the following:
- (1) Payment of a contribution of £125,000 by the Owner towards implementation of a demand responsive transport bus service ('the DRT Service') to serve the Development's residents.
 - (2) Payment of five annual contributions (each of £60,000) to be used by Surrey County Council to operate and maintain the DRT Service.
 - (3) Securing of various highway works, set out at Schedule 2 of the Agreement, in respect of Franklands Drive, Row Town - Hare Hill and Ongar Hill. This is to be by way of a Section 278 Agreement entered into by the parties prior to the commencement of development and to be completed prior to occupation of the 100th residential unit.
 - (4) Implementation of and compliance with a Travel Plan detailing travel initiatives set out at Schedule 1 of the Agreement.
- 6.6 FDA6.7 is a note to provide a summary and overview of the terms of the Unilateral Undertaking. The following matters are contained within the Undertaking:

- (1) Provision of 100% affordable housing, with the tenure mix to be determined according to a "cascade" mechanism, depending upon the level of grant funding which may be achieved from the Housing Corporation. The undertaking adds that the unit mix may alter subject to what may be determined at the reserved matters stage. The RSL are also required to offer to enter into a Nominations Agreement and to meet certain standards including Lifetime Homes Standards, Scheme Development Standards and Eco-Homes "very good".
- (2) Adherence to a phasing plan ("the Overall Affordable Housing Phasing Plan") which sets out the minimum and maximum number of units which can be constructed on an annual basis following the grant of planning permission, receipt of all reserved matters approvals and the commencement of development.
- (3) The maintenance of the SANGS, the Amenity Areas and the Recreation Ground, the Recreation Ground Facilities and the Recreation Ground Access Road (together, "the Open Space Areas") by the Owner, with the exception of 3 of the LAPS which form part of the Amenity Areas, which are to be maintained by the RSLs.
- (4) The payment of a contribution of £130,000 towards the Runnymede Travel Initiative (the yellow school bus service).
- (5) The RSLs are to use all reasonable endeavours to comply with Schedule 2, which details various environmental and construction related commitments including the promotion of sustainability strategies and a target 5% reduction in carbon emissions.

6.7 FDA6.6 is a detailed note describing the Affordable Housing provisions, including the cascade mechanism. The unit mix is to be in accordance with the Affordable Housing Unit Mix Table. As the level of grant reduces increasing amounts of Shared Equity Units are introduced to cross subsidise the Social Rented Units. The inclusion of the cascade provisions is to reflect the guidance in paragraph 4.4.3 of the South East Regional Housing Strategy (CD 40) to ensure that affordable housing is secured in the event that the level of anticipated public subsidy is not forthcoming. It provides a "fall back" position in line with guidance.

6.8 The Affordable Housing Unit Mix Table, at Part 5 of Schedule 1, provides the proportions of each unit size for each of the types of Affordable Housing. In a "worst case" with no grant the types of Affordable Housing and sizes of units would be as in the Table below:

Unit Type	Social Rented Units	Key Worker Units	New Build Homebuy Units	Shared Equity Units	Total
1 bedroom flat	17	6		17	40
2 bedroom flat	13	7	7	90	117
2 bedroom house	17	7	5	112	141
3 bedroom house	20	3		25	48
4 bedroom house	4				4
Total	71	23	12	244	350

6.9 FDA6.2 is a detailed note describing the arrangements proposed for management of the SANGS, the amenity areas and the recreation ground and associated facilities. The arrangements, including the respective responsibilities of the registered social landlords and the

site owners are set out within the Unilateral Undertaking. Provision is made for the setting up of an escrow account, in the sum of just under £1.35 million to generate income for management and maintenance of Open Space in accordance with management plans for a period of 21 years.

- 6.10 FDA6.8 is a note explaining the background to the Unilateral Undertaking. It includes an account of correspondence with the Borough Council. It explains why the appellants have decided to proceed by way of a unilateral undertaking rather than by agreement and contains a response to points raised by the Borough Council in relation to Affordable Housing and in particular on the cascade mechanism.

INSPECTOR'S REASONING AND CONCLUSIONS ¹⁷

- 7.1 A wide range of issues has been identified by the parties, in part drawing on matters raised at the Pre-Inquiry Meeting and in the call-in letter for the Wapshott Road application. Evidence has been brought forward and is presented on all these matters within sections 2, 3 and 4 of this report.
- 7.2 The appeal site has an unusually extensive “planning history” and its merits as a site for housing development have been the subject of repeated Inspector led inquiries, both through the Local Plan process and as a result of section 78 appeals. While the site has been identified through the Local Plan making process as having potential for development of housing, there has been a history of refusals ^[1.16], with those in 1992, 1999 and August 2001 being Secretary of State decisions.
- 7.3 While the history of past decisions, is something to which the Secretary of State will want to have regard in making this decision, the following are particularly important themes in those decisions:
- 1) The site is identified for future development of housing under Policy HO7 of the adopted Local Plan ^[3.3] and the appeal decisions have been based on arguments, deriving particularly from housing figures in the Surrey Structure Plan, that release of the site for housing would not have been justified at the time that those decisions were being made, rather than that the site would not be suitable for housing development at some future time.
 - 2) In previous decisions, major importance has been attached to the site’s identification in the Local Plan within a list of “reserve” sites and to the argument that maintaining a future supply of building land helps to safeguard the Green Belt.
 - 3) Other arguments, including vehicular access, traffic and local disturbance, have not been held to be of great weight as grounds for objection.
- 7.4 In reaching a decision on the current appeal, in addition to considering whether there have been changes in circumstances that affect the issues previously identified, there are two important considerations to take into account that have not figured in the earlier appeal decisions:
- 1) This case is put forward on the basis that the proposal is for 100% Affordable Housing. ^[1.6, 6.7, 6.8] This is not only a new argument but it is one that is in dispute between the parties.
 - 2) The impact of housing development on this and other potential housing sites within five kilometres of the Thames Basin Heaths Special Protection Area has

¹⁷ Superscript figures in square brackets are references to earlier paragraphs of this report

been raised by English Nature as a matter to be evaluated through the application of the Conservation (Natural Habitats &c) Regulations 1994.^[4.5]

- 7.5 It seems to me that the concerns that will be of the greatest importance to the Secretary of State in determining this appeal lie within the following two areas:
- 1 Whether the appellants' claim that the proposal will be for 100 percent Affordable Housing stands up to scrutiny, and an associated concern, of whether a scheme for 100 percent Affordable Housing can be regarded as providing an adequate and suitable mix of development.
 - 2 How the proposal should be evaluated in the context of the concerns raised by English Nature over the implications of residential development within the vicinity of the Thames Basin Heaths Special Protection Area. This involves both substantive issues, relating to the proper application of the Conservation (Natural Habitats &c) Regulations 1994, and questions over the effect of Thames Basin Heaths issues on the planning context within which this housing proposal is being considered.
- 7.6 In both these areas, the appeal proposal raises issues that I regard as novel and of wide significance. Issues associated with the Thames Basin Heaths Special Protection Area have during 2006 begun to have a major effect on decisions over the provision of new housing over a wide area of Surrey, Hampshire and Berkshire. This is the first occasion on which these matters have been formally reported to the Secretary of State in the context of a section 78 appeal.

Affordable Housing

What significance attaches to the Provision of 100% Affordable Housing?

- 7.7 In a question, which I prefaced by expressing my surprise at being involved in an appeal where it was the Appellants rather than the local planning authority who were promoting 100% Affordable Housing, I asked Dr Fordham why he thought the scheme had been so devised. Dr Fordham's answer, as recorded in closing submissions, was that many appeals for development of this site had been refused and that the present scheme appeared to be a last ditch attempt to gain a consent on the basis that a 100% affordable scheme could not be refused.^[3.114]
- 7.8 While I do not agree that the argument, that a scheme that is 100% Affordable Housing would have to receive approval, is necessarily a conclusive one, I consider that Mr Fordham's response is indicative of the very great significance attaching to the Affordable Housing aspect of the proposal. The case presented by the Borough Council on their ability to meet the housing requirements of the Surrey Structure Plan was accepted by the appellants' leading planning witness, Mr Newlyn, following on from the discussion at the Housing Round Table Session. As a consequence, if it is held that the scheme would not represent 100% Affordable Housing, then Development Plan based arguments relating to supply and demand of housing that have been regarded as determining issues in earlier appeals would apply in this case also.
- 7.9 However, in place of an argument about the potential contribution that the site could make to meeting Structure Plan housing requirements, the case advanced by the appellants on this occasion is that the proposal would have significant benefits as a substantial quantity of additional housing within the affordable category.^[2.1] This is advanced as a major benefit in the context of broad strategic arguments, arising from the Barker Review, that not enough housing is being provided and that there is a pressing need to create circumstances in which housing becomes available at below the cost of current open market housing.^[2.6]
- 7.10 In my view, and particularly in light of the cases advanced by the parties at this inquiry, the question whether the development would secure the stated objective of achieving housing that

would be 100% within the affordable category is of very great significance to the outcome of this case. In addition to the value of the Affordable Housing itself, it has implications for the standing of the proposal in relation to the provisions of the Development Plan. If it is established that the scheme would be 100% Affordable Housing, then any arguments relating to the Structure Plan requirement, including issues of “front loading” and pressure for release of Green Belt land, and arguments about prematurity and of prejudice to the Core Strategy of the LDF are very significantly diminished. At the same time, the site’s identification in the adopted Local Plan as a site with potential for housing remains a significant support to the position that the scheme is in accordance with the Development Plan. In my view, a scheme for 100% Affordable Housing should be seen as being in accordance with the Development Plan.

Would the scheme be for 100% Affordable Housing

- 7.11 The appellants’ argument that this is 100% Affordable Housing is grounded on the facts that the proposal involves development by Respond, a consortium of three housing associations all recognised by the Housing Corporation as registered social landlords, and that, with land conveyed at substantially below the market value of land for open market housing, there is scope, even should Housing Corporation support not be forthcoming, for producing housing for occupation at prices that represent 20% less than the price of new build open market housing ^[2.27]. Given this state of affairs and the backing of the signed unilateral undertaking, the appellants’ proposition that the scheme would be 100% Affordable Housing holds up against the commonly used definition for Affordable Housing from Circular 06/98, Planning and Affordable Housing: “housing that will be available to people who cannot afford to rent or buy houses generally available on the open market”. On an interpretation of the phrase “access to suitable housing” that encompasses the promotion of homeownership, the proposition also stands up with the definition in Annex A to draft PPS3 (CD11) “households who are unable to access suitable housing without some financial assistance”.
- 7.12 The counter argument from the Borough Council is about “useful affordability” but this concept is not a necessary part of any generally accepted definition of Affordable Housing as that term is used in a planning context. I regard the debate on Affordable Housing at this inquiry as reflecting an element of confusion over what Affordable Housing is and, perhaps more significantly, what it ought to be. In particular how it is meant to relate to the Council’s Housing Needs Assessment and to local housing strategies.
- 7.13 The case advanced by the Borough Council was founded on the long established experience of the Council in grappling with issues of “housing need”. This has long been an area of concern for local authorities, initially through the active twentieth century tradition of Council House building and transformed, via the process of producing Housing Investment Programmes (HIPs), into a general concern with Social Housing and the production of local housing strategies. The direct link between such local housing strategies and assessment of “housing need” is made explicit within the Department of the Environment, Transport and the Regions’ “Local Housing Needs Assessment: A Guide to Good Practice” (CD199). This document published in 2000 remains the source of guidance for Runnymede’s January 2005 Housing Needs Assessment (CD72) carried out by Fordham Associates. However, while I recognise that this approach will have value in identifying groups most in need of assistance in realising their housing aspirations, I regard the approach as retaining a relatively narrow and unduly restrictive approach to the concept of what comes within the ambit of the term Affordable Housing.
- 7.14 My conclusion is that the whole development would come forward as Affordable Housing and consequently that the planning merits of this proposal should be assessed on that basis.

Would a scheme for 100% Affordable Housing provide an acceptable mix of development?

- 7.15 As far as I am aware the issue arising at this appeal of whether a scheme for 100% Affordable Housing would be compatible with objectives for avoiding uniform developments and achieving an appropriate degree of mixing of tenures and household types is not one that has previously been tested at appeal. This may be because, as a proposal for 350 dwellings, it is on a larger scale than is commonly encountered with other schemes that have been promoted as 100% Affordable Housing.
- 7.16 The range of different house types put forward is set out in Table 1 on page 3 of this report. This demonstrates that there would be a mixture of one and two bedroom flats and two, three and four bedroom houses. There is consequently no suggestion that the development would involve uniformity of house types.
- 7.17 The area of concern that has been raised by the Borough Council and by local residents is a result of the scheme being promoted as 100% Affordable Housing.^[3.143, 3.144, 5.12] A factor that I believe underlies such concern is the Council's argument, which I have already discounted, that Affordable Housing should and consequently would be made available exclusively to those who are identified as qualifying on the basis of housing need.^[3.81]
- 7.18 As I understand it, the key question for the Secretary of State is whether within the general heading of Affordable Housing, one can anticipate that the households residing in this development would be a sufficient mix of social and economic groups. In this context it is important to have regard to the mix of social rent, equity share and intermediate rent that the development is intended to achieve (Table 1 on page 2 of this report) and to take account of the mix that could result from the operation of the "cascade" within the unilateral undertaking (INQ14) (Table 3 on page 56 of this report).
- 7.19 My view is that newly forming households buying in to two bedroom shared equity flats and houses are likely to be no different in character from newly formed and expanding households that a decade (or less) ago would have been able to buy comparable new build housing on the open market.^[2.47] These equity sharing households constitute 40% of the intended mix. There would also be a range of types of social rented property (49%) and intermediate rent (11%) which are likely to accommodate households of differing character, such that the overall development would be accommodating a range and variety of households. Even if the mix of tenures being made available by the operation of the cascade mechanism, were to alter the balance of these tenure groups, the result would be to increase the proportion of equity sharing households and I see no reason to anticipate that there would be any unusual concentration of socially disadvantaged households.
- 7.20 The one potential area of concern that I have about this proposal for 100% Affordable Housing is that the scheme shows a relatively innovative approach, with the Respond consortium of RSLs setting out to develop a relatively large scale scheme of equity sharing and intermediate housing in association with a significant element of social rental housing. However such innovation would seem to me to be in step with Government policies, as expressed for example in the Secretary of State's 20 June 2006 speech (FDA3.18), looking to respond positively to the needs and opportunities for new housing development within an area with generally high house prices and with substantial, if not untypical, levels of demand for additional Affordable Housing.

Summary on Affordable Housing and the balance of planning arguments

- 7.21 The character of the present scheme as a proposal for 100% Affordable Housing has in my view altered the balance of the planning considerations in this case from that encountered at earlier appeals. In addition to providing strong reasons for saying that the site should be released for development, the change has weakened the force of arguments that have previously been deployed in favour of keeping the site as a “reserve” for future use.
- 7.22 In particular, I consider that the arguments relating to keeping in pace with the requirements of the Structure Plan have less weight in the context of a scheme that is contributing wholly and directly to addressing issues of Affordable Housing. Equally, I do not consider that release of this “reserve” site in the present circumstances would have any significant consequences for arguments over the release of Green Belt land for general housing or for the potential to consider returning other “reserve” sites to the Green Belt through the LDF process.
- 7.23 Other arguments, including vehicular access, traffic and local disturbance, that have been examined at previous appeals but have not been held to be of great weight as grounds for objection, are not of significantly different weight with this development proposal. In particular the scale of development proposed and the consequences in terms of generated traffic on local access roads would be very comparable with the greater number of dwellings being counterbalanced by a switch toward smaller scale units and away from “executive homes”. I acknowledge that residents of Franklands Drive will notice changes from increased use of a section of that road as the access to the development but this has not been held to be an impediment on previous occasions and in my view would still not warrant refusal of planning permission when set against the benefits arising from development of housing on this site.
- 7.24 The general suitability of the site for housing has been supported after examination through the Local Plan process and, as an extension of an established urban area, I consider that it continues to be an acceptable form of development in terms of sustainability criteria, especially with the support of the transport initiatives secured by the section 106 agreement (INQ13).^[6.57]
- 7.25 An additional aspect of the appeal proposal that sets it apart from earlier schemes at appeal is that the housing proposals have come forward in association with the implementation of an extensive area of “green space” on adjacent land, mostly lying outside the appeal site boundary, but within the control of the current owners of the appeal site.^[1.8, 2.69] This includes wildlife areas and an element of playing fields to be laid out as a recreation ground. This is principally of significance in the context of discussions with English Nature over a mitigation strategy related to potential impacts on the Special Protection Area. However, it would also be of benefit to the local area in providing local recreational opportunities and protecting wildlife interest, notably badgers. In addition, the land involved is within the Metropolitan Green Belt and these proposals would secure a future for this land that was fully consistent with Green Belt objectives.^[1.2, 1.4]
- 7.26 Before turning to the issues raised by the Thames Basin Heaths Special Protection Area and the proper application of the Conservation (Natural Habitats &c) Regulations 1994, the preliminary conclusion that I reach is that on this site, identified as a housing “reserve” site within the adopted Local Plan, the appeal scheme for 100% Affordable Housing presents a form and type of development that is in accordance with relevant policies in the Development Plan and should be assessed favourably at this time. I give consideration to what conditions should be imposed if permission is to be granted in paragraphs 7.64-67 below.

The Thames Basin Heaths Special Protection Area

- 7.27 The Thames Basin Heaths Special Protection Area is another consideration that has not featured in previous appeal decisions relating to the Franklands Drive site. It is a complex issue and was subject to close examination from me at the inquiry. No official party involved at the inquiry, including English Nature, advanced impact of the proposed development on the Thames Basin Heaths as a reason for refusal of the scheme brought forward at this inquiry, but many local residents who have declared themselves opposed to the Franklands Drive proposals have included the subject as one of the reasons why planning permission should be refused. ^[3.2, 4.3, 5.12]
- 7.28 Despite unanimity amongst the professionally represented parties that the Thames Basin Heaths issue is not to be regarded as a reason for refusal of the current proposals at Franklands Drive, it remains a significant issue in this appeal for at least two reasons:
- (1) because the issue has been raised, it is essential that the Secretary of State, as the competent authority in terms of the application of the Conservation (Natural Habitats &c) Regulations 1994, follows the correct assessment procedures.
 - (2) issues raised by the Thames Basin Heaths Special Protection Area have major implications for the development of other potential housing sites in Runnymede and adjoining District Councils to the west.
- 7.29 In this report I address both these points. I address the first point, which includes the matter of an Appropriate Assessment¹⁸, in order to advise the Secretary of State as the competent authority under the Habitat Regulations in relation to this appeal decision. I address the second point in order to assess the weight to be attached to the concerns raised by English Nature and the effects these are having on the planning context within which this proposal has come forward. To be in a position to report on this, I have considered it necessary and appropriate to undertake some testing of the rationale for the overall approach taken by English Nature towards residential development in the vicinity of the heaths. To this end, I asked English Nature to appear at the inquiry where they were subject to questioning both by the appellant and more extensively by me.

The Habitat Regulations and Appropriate Assessment

- 7.30 In this section of the report, I formally address questions set by Regulation 48 of the Conservation (Natural Habitats &c) Regulations 1994. I do this by setting out the individual elements of Regulation 48, in italics, and presenting my response to each one in turn. Regulation 48 is titled “Assessment of implications for European site” and comes under a heading “General provisions for protection of European Sites” within Part IV of the Regulations which is concerned with the adaptation of planning and other controls.
- 7.31 After that I proceed to examine the appeal proposal in the manner that I consider that Regulation 48 requires, carrying out in the words of Regulation 48 (1) “an appropriate assessment of the implications for the site” - in this case the Thames Basin Heaths Special Protection Area - “in view of that site's conservation objectives” – in this case, to maintain, in favourable condition, the habitats for the populations of Dartford warbler, nightjar and woodlark, with particular reference to lowland heathland. ^[2.60]
- 7.32 48. - *Assessment of implications for European site*
 (1) *A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which*

¹⁸ I use the term Appropriate Assessment with capital “A”s to indicate that this is an assessment carried out in accordance with the Habitat Regulations. Within the Regulations the term appears in lower case.

- (a) *is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and*
- (b) *is not directly connected with or necessary to the management of the site, shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.*

My response: There is no suggestion that the proposal is directly connected with or necessary to the management of the European site. It is not suggested that it would have a significant effect on its own but there is the possibility of an “in combination effect” and taking a cautious approach it is therefore acknowledged that the implications for the Thames Basin Heaths Special Protection Area should be assessed in relation to the features that are of conservation interest, namely the lowland heathland that is of particular importance as breeding habitats for rare European bird species: Dartford warbler, nightjar and woodlark.

- 7.33 *(2) A person applying for any such consent, permission or other authorisation shall provide such information as the competent authority may reasonably require for the purposes of the assessment.*

My response: This has been provided by the appellant in Table 1 and sections 4.6, 4.7, 5.5, 5.6 and 5.7 of Mr Baxter’s evidence (FDA2.1) and appendix 12 in FDA2.2b ^[2.60].

- 7.34 *(3) The competent authority shall for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify.*

My response: English Nature is the appropriate body. English Nature has been consulted and was involved in the inquiry. Their representations are set out at length in section 4 of this report.

- 7.35 *(4) They shall also, if they consider it appropriate, take the opinion of the general public; and if they do so, they shall take such steps for that purpose as they consider appropriate.*

My response: Local people have had an opportunity to make representations in writing and orally at the inquiry ^[5.11], so also has the Borough Council ^[3.2] and the local MP ^[5.12].

- 7.36 *(5) In the light of the conclusions of the assessment, and subject to regulation 49, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.*

My response: The conclusion of the appellant ^[2.67] and of English Nature ^[4.10] is that the proposal will not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area. This is a matter that I address separately at greater length in the context of formal consideration of an Appropriate Assessment and of the guidance thereon within Circular 06/2005.

- 7.37 *(6) In considering whether a plan or project will adversely affect the integrity of the site, the authority shall have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.*

My response: The provision of in excess of 11 hectares of green space in association with the proposed housing development and the provision of a circular walk, over 2 kilometres in length ^[1.8 & 4.2], are put forward as measures to mitigate any adverse impacts on the Thames Basin Heaths Special Protection Area. This provision could be the subject of a Grampian style condition ^[6.2 & 6.9] and is also a matter covered within the signed unilateral undertaking. English Nature views this as a matter of major importance.

- 7.38 (7) *This regulation does not apply in relation to a site which is a European site by reason only of regulation 10(1)(c) (site protected in accordance with Article 5(4)).*

My response: The Thames Basin Heaths Special Protection Area is not such a site.

Appropriate Assessment

- 7.39 In my attempt to assist the Secretary of State in carrying out an Appropriate Assessment of the effects of this proposal on the features of nature conservation interest in the Thames Basin Heaths Special Protection Area that is in line with Regulation 48 of the Conservation (Natural Habitats &c) Regulations 1994, I have taken account of the guidance in paragraphs 9 to 22 of Circular 06/2005 (CD22) and of the flow chart that is Figure 1 in that Circular. I have taken note of the views expressed by English Nature's Consultant, but do not consider that the approach that he has followed is in line with the flow chart.
- 7.40 Figure 1 in Circular 06/2005 is a flow chart showing the approach to be taken in considering a development proposal that might affect an Internationally Designated Nature Conservation Site as a series of boxes. In this next section I consider the passage of the appeal proposal through the numerically ordered boxes in the flow chart.
- 7.41 The question in Box 1 is: *Is the proposal directly connected with or necessary to site management for nature conservation?* All parties who have considered this question are agreed that the answer is "NO".
- 7.42 The question in Box 2 is: *Is the proposal likely to have a significant effect on the internationally important interest features of the site, alone or in combination with other plans and projects?* Taken alone the answer is "NO". The backing for this answer is given by Mr Baxter in FDA2.1. His assessment which was not disputed by anyone at the inquiry is reproduced in summary form on pages 14 and 15 of this report. However, in advance of doing some sort of an assessment, I find it very difficult to see how the answer to the question posed as an in-combination effect can be anything other than "May-be". In arriving at a "NO" answer, David Tyldesley for English Nature has raised the question of what if there were mitigation measures in the form of provision of SANGS before asking the in-combination part of this question. This is not in line with the flow chart. In my view the answer, taking a cautious approach, has to be "May-be". This makes it necessary to enter box 3 and to undertake an assessment of the project and proceed from there to Box 4.
- 7.43 The task in Box 3 is to: *Assess the implications of the effects of the proposal for the site's conservation objectives, consult English Nature and, if appropriate, the public:* This process has been gone through via statutory consultation and the inquiry process.
- 7.44 Moving on to Box 4, the question is: *Can it be ascertained that the proposal will not adversely affect the integrity of the site?* The answer that I come to for reasons that I set out below in paragraphs 7.47 to 7.51 is "YES" it can be ascertained and it will not adversely affect the integrity of the site.
- 7.45 However if the answer to Box 4 were "NO", it cannot be ascertained and it is uncertain or it can be ascertained but the assessment shows that there would be an adverse effect then one goes to the next box.
- 7.46 It is at the stage of Box 5 that the flowchart introduces measures in mitigation by asking the question: *Would compliance with conditions or other restrictions, such as a planning obligation, enable it to be ascertained that the proposal would not adversely affect the integrity of the site?*

The answer given by English Nature is that works in mitigation through the provision of SANGS would be sufficient to mitigate any potential adverse impact and that permission could be granted subject to a Grampian-style condition. In my view this is a reasonable response to the question in Box 5 and sufficient to justify an answer of “YES” to this question. As a result one gets to the answer “Permission may be granted subject to a suitably drafted condition.”

Assessment of the effects of the proposal on the integrity of the Thames Basin Heaths Special Protection Area

- 7.47 There is guidance on the meaning of “integrity” in Circular 06/2005, at paragraph 20: The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified. Evidence provided by Mr Baxter^[2.60] (summarised in Table 2 on pages 14 &15) gives an assessment of the potential effects of the proposal on the Thames Basin Heaths Special Protection Area and leads me to conclude that the integrity of the site (in the terms in which that phrase is used in the Circular) is not going to be harmed by the proposal.
- 7.48 On the facts of this case and the assessment that has been carried out, my view is that the Secretary of State can be satisfied that the proposal would not harm the integrity of the Special Protection Area. I come to this conclusion, in the first place, on the basis of my understanding that an in-combination assessment of the proposal’s effects is not required by the Regulations. My advice on that basis is that it is open to the Secretary of State to determine that planning permission be granted and that she should make a decision to do so, if in her judgement the overall planning merits warrant it.
- 7.49 If it is determined that in-combination assessment should be undertaken as an integral part of the Appropriate Assessment, I am not convinced that there is evidence that in-combination effects are having any adverse effect on the integrity of the site, in the terms in which that phrase is used in the Circular and the Regulations. In this context it is important to recognise that the area of concern relates to an indirect effect on the Special Protection Area (the effect of disturbance to ground nesting birds on rates of predation) of an indirect effect of the development (decisions of persons living on the appeal site to own dogs and to exercise rights of access to common land). It is also important to recognise that there is a large existing population that is free to exercise dogs on the Thames Basin Heaths. The facts support the conclusion reached by Mr Baxter after a detailed appraisal of the situation that “the evidence shows that to date the SPA has a capacity to absorb indirect effects with no effect on the integrity of the SPA”. This conclusion is in line with the impression that I gained from my site visits to Chobham and Horsell Commons.
- 7.50 The Waddenzee judgement, is referred to in Circular 06/2005, and in applying the Regulations and taking account of guidance within the Circular, the Secretary of State will doubtless have regard to that judgement. However, in applying the Regulations to this case, the Secretary of State should also take account of the particular facts mentioned in the preceding paragraph that are directly relevant to concerns that have been raised in relation to proposed new housing within 5 kilometres of the Thames Basin Heaths Special Protection Area.
- 7.51 While there may well be circumstances in which indirect effects (and even indirect effects of indirect effects) might be found to have an impact on the integrity of a European site, the connection in this case is, firstly, tenuous and, secondly, demonstrably not having an adverse impact in terms of reducing populations of the relevant bird species. The evidence leads me to conclude that the integrity of the Thames Basin Heaths Special Protection Area is not at the

present time at risk to any significant degree from the effects of this proposal or from in-combination effects with other proposals related to it.

Overall Conclusion on the Appropriate Assessment

- 7.52 The answer that I come to following an Appropriate Assessment of the effects of this proposal on the features of nature conservation interest in the Thames Basin Heaths Special Protection Area is that there would be no adverse effect on the integrity of the Special Protection Area. Consequently it remains open to the Secretary of State to make a decision to grant planning permission.
- 7.53 This answer is arrived at by following through the flow chart that is Figure 1 in Circular 06/2005 and securing a positive answer to either Box 4 or, in the alternative, to Box 5. In this case the overall question of whether it is open to the Secretary of State to grant planning permission is not dependent on the answer that is given in relation to Box 4. Also in this particular case, the question of whether an Appropriate Assessment has to be made as an in-combination assessment with other related proposals does not affect the outcome of the overall assessment. The only consequence flowing from which of the two boxes the positive answer comes from is whether, in order to comply with the Habitat Regulations, a condition relating to provision of SANGS is or is not considered to be necessary to the grant of planning permission. I return to this particular question in paragraph 7.67 below.

The Thames Basin Heaths Special Protection Area and its effects on the Planning Context within which this Housing Proposal is to be Considered

- 7.54 This is not the first time that English Nature has presented evidence at inquiry on the potential impact of proposed residential development on the Thames Basin Heaths Special Protection Area. It is however the first occasion on which that evidence has been reported to the Secretary of State and as far as I am aware this is the first occasion on which the Secretary of State finds herself as the “competent authority” in relation to assessing the impact of a development on the Thames Basin Heaths Special Protection Area.
- 7.55 The significance of the Thames Basin Heaths issues has been recognised by the Planning Inspectorate and the Inspectorate website now contains a statement to inform the public of the approach being taken by Inspectors at appeal. I have read decisions taken by other Inspectors and it is apparent that in acting as the competent authority in relation to the application of the Habitats Regulations, they have to a very large extent accepted the arguments put to them by English Nature. There are however important questions that need to be asked, including the question of whether the Conservation (Natural Habitats &c) Regulations 1994 are being applied in an appropriate and proportionate manner.
- 7.56 Because of the break between the first two weeks and the third week of the inquiry, I was in a position to read a number of weighty documents that underlie English Nature’s approach (CD147 to 152). That approach is most clearly elaborated in the Thames Basin Heaths draft Delivery Plan (Appendix 3 in FDA2.2a). English Nature’s argument as set out in the Thames Basin Heaths Delivery Plan is that additional residential development within 5 km of the Thames Basin Heaths should not be allowed because of the potential adverse impact on ground nesting birds that could arise because new residents can be expected to include a proportion that are dog owners who will want to exercise their dogs on the Thames Basin Heaths. The argument is that without mitigation this would fall foul of the Conservation (Natural Habitats &c) Regulations 1994.

- 7.57 English Nature acknowledges that mitigation of recreational impacts can be achieved by on site access management, by on site habitat management and by off site mitigation in the form of alternative greenspace for recreation. It is the last of these that constitutes the Delivery Plan itself¹⁹. English Nature has proposed that in association with new residential development additional opportunities should be provided for dog walkers so that the pressure for such activity on the heaths will not be increased. Such areas are called suitable alternative natural green spaces (abbreviated as “SANGS”).
- 7.58 I was provided with Document EN9, Counsel’s opinion with regard to the effect of the Thames Basin Heaths Special Protection Area on the determination of applications for planning permission for housing development in Surrey Heath and other districts close to the SPA. EN9, as is to be expected of Counsel’s opinion, is not addressed to the underlying rationale of English Nature’s approach to the Thames Basin Heaths Special Protection Area. It is primarily advice to the district councils on how to react to English Nature’s areas of concern and formal objections within the legal context set by the Habitat Regulations. It is however noteworthy that at paragraph 38 Counsel has recorded that “The issue of the evidence base for English Nature’s approach does give rise to concerns”.
- 7.59 In considering effects of residential development on the Special Protection Area, the Conservation (Natural Habitats &c) Regulations 1994 direct the decision maker to examine the effect on the integrity of the site. In relation to the Thames Basin Heaths, there is evidence that the populations of the bird species that the Special Protection Area seeks to protect are thriving and this suggests to me that the integrity of the habitat, as defined in paragraph 20 of Circular 06/2005 (CD22), is not adversely affected by the level of disturbance from the recreational pressure currently experienced. This is a fundamental issue which requires authoritative determination.
- 7.60 Another issue in the Regulations which is currently unresolved is “cumulative impact”. In determining whether Appropriate Assessment is necessary, cumulative impact has to be taken into account. However the Regulations are silent as to whether the Appropriate Assessment itself is to be based on cumulative impact. My view is that carrying out the Appropriate Assessment on the basis of cumulative impacts would be a radical departure from the traditional approach taken in relation to planning applications and appeals that each case should be considered on its merits. However I cannot but acknowledge the view held by English Nature’s consultant David Tyldesley amongst others that, particularly in view of the Waldenree judgement, cumulative impacts should be considered as part of the Appropriate Assessment. This is one of the unresolved, and not easily resolved, matters involved in applying the Habitats Regulations. Taken together these difficult and as yet unresolved matters create a state of uncertainty.
- 7.61 The state of uncertainty is already inhibiting the progression of residential development proposals within five kilometres of the Thames Basin Heaths Special Protection Area. In consequence, whether or not the underlying issues raised by English Nature in relation to the Thames Basin Heaths are in themselves matters of real significance is not at this point the most pressing consideration. The uncertainty that has been created in relation to the Special Protection Area is itself an important factor in the planning context within which this proposal has come forward.
- 7.62 I consider that the existence of that state of uncertainty is an argument in favour of this particular proposal. This is because needed new housing that is being held up elsewhere because

¹⁹ Taken from paragraph 2.2.4 of the draft Delivery Plan, appendix 3 to FDA2.2a.

of the Thames Basin Heaths issue can be brought forward on this site. I attach considerable weight to this argument because, even though I do not consider that the underlying issue is incapable of resolution, I see no early prospect that the issues will be directly addressed and suitably resolved.

- 7.63 The weight to attach to this argument about the existence of a state of uncertainty over the progression of other housing sites is for the Secretary of State to determine. However unless a determined and direct effort is made to examine and address the issues arising from application of the Habitat Regulations in relation to the Thames Basin Heaths then my view is that the uncertainties raised by the Special Protection Area will have a very major impact on the rate and distribution of housing development in north east Surrey and adjoining districts to the west for a significant period of time. I understand that the wider issues in respect of the justification for the Delivery Plan and the need for and realism of the SANGS approach are to be tested in the context of the Examination in Public of the South East Plan. However, that process is unlikely to reach even a provisional outcome until well into 2007. Consequently, the ability for housing development on this site to proceed notwithstanding issues yet to be resolved in respect of the Thames Basin Heaths Special Protection Area is an additional factor of some weight in favour of allowing this development.

Conditions

- 7.64 The set of conditions (INQ16) presented on the closing day of the inquiry provides a generally sound basis on which the Secretary of State could decide to grant planning permission. They extend over the full range of matters that need to be covered but some are expressed at an excessive level of detail and prescription. Discussion at the inquiry led to a refinement of some details and these changes which I accept would improve wording and tighten the focus of conditions are reflected in FDA6.9.
- 7.65 At the inquiry, I indicated that there were matters within the conditions that appeared to be unsuitable as conditions but would come within the ambit of the proposed unilateral undertaking. This applied particularly to conditions that had been brought forward following communication with English Nature and relating to the SANGS and amenity space.
- 7.66 I have reviewed the suggested conditions in light of matters covered in the signed unilateral undertaking (INQ14). This amongst other matters addresses the subject of the Eco Homes “good” standard and arrangements for management and maintenance of the amenity space, the recreation ground and the SANGS. As a result I have omitted these topics from the list of conditions that I commend to the Secretary of State and that are set out in Annex A to this report.
- 7.67 The conditions that I have included are sufficient to ensure that amenity space, recreation provision and the SANGS would be implemented in conjunction with the scheme. It is my view, on the basis of the reasoning set out at paragraphs 7.47 to 7.51 above, that the issues raised by English Nature in relation to the impact of this development on the Thames Basin Heaths Special Protection Area are not of such significance as to warrant the provision of the SANGS area as an essential component of this proposal for 350 dwellings. This is a matter on which the Secretary of State should form her own judgement in light of her assessment and understanding of the correct application of the Conservation (Natural Habitats &c) Regulations 1994, in particular the answer to be given to the question posed in Box 4 of Figure 1 of Circular 06/2005. I include Conditions 39 to 41 in the Annex on the basis that is the form conditions should take if it is determined that any condition on SANGS should be imposed.

The Signed Section 106 Agreement and Unilateral Undertaking

- 7.68 I am satisfied that the section 106 agreement and the unilateral undertaking are expressed in a manner that is suitable to achieve the aims sought. The proposals within the section 106 agreement contribute to the promotion of sustainable transport and would result in a scheme for additional housing that is in line with the aims and objectives of PPG13.
- 7.69 The cascade arrangements within the unilateral undertaking provide for a situation where Housing Corporation support for the proposed Affordable Housing would not be at the level sought by Respond. I consider that they have been drawn up in a sensible and realistic fashion and that they would ensure that, even with a reduced level of public funding, the proposed housing would make a significant contribution to meeting the housing aspirations of households that are unable to afford the full price of open market housing.
- 7.70 It is important to recognise that under the terms of the unilateral undertaking, the landowner's commitment to financing maintenance costs of the SANGS will come to an end after a period of twenty-one years. I consider that this is an adequate level of commitment, especially given that the level of amenity and open space being provided in association with this scheme is exceptionally high. I consider that it would not be reasonable to found a strong objection to the housing proposal on the basis that the funding of open space maintenance beyond the twenty-one year period is unresolved.

Overall Conclusions

- 7.71 As competent authority in terms of the Conservation (Natural Habitats &c) Regulations 1994, it is for the Secretary of State to assess the proposals in relation to their effect on the integrity of the Thames Basin Heaths Special Protection Area. On the basis of the material presented and having assessed the proposals against Regulation 48 and Figure 1 in Circular 06/2005, my conclusion is that the Secretary of State can proceed to grant planning permission.
- 7.72 My overall conclusions are that the proposal should be regarded as a 100% Affordable Housing scheme and that as such it derives support from being substantially in accordance with relevant policies and proposals in the Development Plan. The prospect of a large scheme of 100% Affordable Housing raises unusual issues but the range of dwelling and tenure types to be provided within the Affordable Housing category would be likely to result in a mixed development, accommodating households of different sizes and with a variety of socio-economic characteristics. I consider that with the legal undertakings that have been entered into and, subject to the application of appropriate conditions, such a development would prove a sustainable and adequately integrated extension of the urban area. Moreover, arguments in favour of releasing this site now for residential development are given added weight because of the state of uncertainty over the progression of other housing sites as a result of issues relating to the Thames Basin Heaths Special Protection Area. My judgement is that the planning balance is weighted in favour of the release of this land for development of Affordable Housing and my recommendation is that planning permission should be granted.

RECOMMENDATION

- 7.73 I recommend that planning permission be granted subject to the conditions set out in the Annex to this report.

Simon E Gibbs

Inspector

APPEARANCES

FOR RUNNYMEDE BOROUGH COUNCIL (and in relation to Wapshott Road FOR A2 HOUSING GROUP):

Michael Druce of Counsel

instructed by Mr A M Pearson,
Director of Administration and Leisure.

He called in relation to Wapshott
Road and Franklands Drive

Peter Jenkins BSc DipTP MRTPI

Head of Planning at RBC

Ian Liddell BSc CEng MICE

Director, WSP Development and Transportation

in relation to Franklands Drive

Dr Richard Fordham MA PhD

Principal, Fordham Research

and in addition in relation to

Wapshott Road only

Deborah Blowers MCIH DMS

Director of Housing and Community Services,
RBC

Jane Gallifent

Director of Development, A2 Housing Group

David Dodd BA

Community Safety Manager, RBC

Robert Hanger CPFA

Assistant Director of Finance, RBC

Alastair Dale BSc PGDipEIA

Regional Director, Capita Symonds

MBHS MIAHR

FOR LOVE LANE and RESPOND (Appellants for Franklands Drive Appeal)

John Pugh-Smith of Counsel

instructed by Ian Gilbey, Partner with Shoosmiths
7th Floor, 125 Colmore Row, Birmingham B3 3SH

He called

Alistair Baxter BA MSc MIEEM

Aspect Ecology

CEnv

Stephen Hinsley BA MRTPI

Tetlow King

Peter Morton FCIH DMS

Elmbridge Housing Trust

Andrew Whittingham BSc MSc

Capita Symonds

CEnv MICE

Lee Newlyn BA FRTPI

Barton Willmore

FOR ENGLISH NATURE in relation to Franklands Drive Appeal)

David Tyldesley

of David Tyldesley Associates

He gave evidence and called

Rob Cameron

With English Nature

INTERESTED PERSONS in relation to Franklands Drive Appeal

Annie Wade

Vice-Chair, West Addlestone Residents Association, 26
Franklands Drive, Addlestone, Surrey, KT15 1EQ

Mike Twelftree

Secretary, West Addlestone Residents Association, 117
Rowtown, KT15 1HQ

David Parry

52 Franklands Drive, KT15 1EH

Joanne Collins
Peter Anderson
Philip Hammond MP

25 Caxton Avenue, Addlestone KT15 1HJ
48 Farleigh Road, Woodham, Addlestone, KT15 3HR
House of Commons, London SW1A 0AA

FOR THE ENVIRONMENT AGENCY :

Mark Beard of Counsel

Instructed by the Legal Department of Thames
Region of the Environment Agency

He called
Justine Glynn

Development Control, Thames Region of the
Environment Agency

INTERESTED PERSONS in relation to WAPSHOTT ROAD:

Simon Martin	Tenant Participatory Advisory Service, PO Box 29459, London NW1 3TG
Gill Warner	Secretary, Wapshott, Bowes and Cornwall Way & Coopers Close Tenants Association, 48 Wapshott Road, TW18 3EZ
Jenny Hill	Chairman, Runnymede Council Residents Association
Malcolm Loveday	Chertsey Society and Thames Awash, 10 Abbey Gardens, Chertsey, Surrey KT16 8RQ
Rev Susan Loveday	10 Abbey Gardens, Chertsey, Surrey KT16 8RQ
David Wheeler	51 St Anne's Road, Chertsey KT16 9BY
Cllr. Linda Gillham	Councillor for Thorpe Ward, c/o the Civic Offices, Station Road, Addlestone KT15 2AH
Sue Horrill	71 Bowes Road, Egham Hythe, TW18
Melanie Collins	14 Bowes Road, Staines TW18 3ET
Philip Hammond MP	House of Commons, London SW1A 0AA

DOCUMENTS

INQUIRY DOCUMENTS

INQ	1	List of persons present at the inquiry
INQ	2	Letter of Notification of Inquiry relating to Wapshott Road, Bowes Road & Cornwall Way, Egham
INQ	3	Letter of Notification of Inquiry relating to Franklands Drive
INQ	4	Correspondence from the Borough Council, dated 12 May 2006 identifying minor amendments made after consideration by Planning Committee
INQ	5	Inspector's recommended conditions for Wapshott Road shown as tracked changes to Borough Council's "Revised Conditions"
INQ	6	Statement of Common Ground for Franklands Drive Appeal (Planning et al)
INQ	7	Application for Franklands Drive, Addlestone, dated 4 August 2006
INQ	8	Inspector's Questions notified to English Nature prior to their appearance
INQ	9	The Precautionary Principle, Rio Declaration and extract from Wikipedia article

INQ	10	Communication from the Commission on the Precautionary Principle COM(2000) 1
INQ	11	Principle of Proportionality, including guidance from Inspector's Handbook
INQ	12	Green Folder with Letters and Representations regarding Franklands Drive Proposals
INQ	13	Signed Section 106 Agreement for Franklands Drive development
INQ	14	Signed Unilateral Undertaking for Franklands Drive development
INQ	15	Letter from Shoosmith's, dated 31 August 2006, giving details of changes between the draft version of the Unilateral Undertaking and the signed version
INQ	16	Notice from the FSA (3 July 2006) of change of name of Surrey Heath Housing Association to Accent Peerless Ltd.
INQ	17	Conditions as discussed on closing day of Inquiry
INQ	18	Inspector's Version of Franklands Drive Planning Conditions with Tracked Changes
INQ	19	Thames Basin Heaths Pulling together for Access, Conservation and Development

CORE DOCUMENTS

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- CD31. Providing More Settled Homes” ODPM Policy Briefing : 11 June 2005
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- CD192. Franklands Drive Appeal Inspector's Report and Secretary of State's decision letter: 31 August 2001
- CD193. Park Farm Appeal Inspector's Decision Letter: 29 June 2001
- CD194. Franklands Drive - Pelham Homes Limited : Section 287 High Court Judgment : 20 May 1994
- CD195. Runnymede Borough Council Tree Preservation Order 216 of 1992 : Woodland to the rear of Franklands Drive
- CD196. Franklands Drive - Agreed Statement with Surrey County Council on Highway Matters : April 2006
- CD197. ----
- CD198. ----
- CD199. Local Housing Needs Assessment – A Guide to Good Practice - DETR : July 2000
- CD200. ----
- CD201. Runnymede Borough Council - Franklands Drive Thames Basin Heaths Special Protection Area: Appropriate Assessment Report (Regulation 48 of the Habitat Regulations 1994) : 3 March 2006
- CD202. Surrey County Council - A Parking Strategy for Surrey, Supplementary Planning Guidance: March 2003
- CD203. Runnymede Borough Council Supplementary Planning Guidance on Car Parking : October 2001
- CD204. By Design - Urban Design in the Planning System Towards Better Practice DTLR : May 2000
- CD205. Safer Places - The Planning System and Crime Prevention - ODPM : February 2004
- CD206. Planning and Access for Disabled People: A Good Practice Guide - ODPM
- CD207. South East Region Social Inclusion Statement
- CD208. Eco Homes - The Environmental Rating for Homes : The Guidance – BRE Limited
- CD209. The English Indices of Deprivation Summary- ODPM : June 2004 and Runnymede Output Areas Plan
- CD210. ----
- CD211. Fuel Poverty Indicator - Predicting fuel poverty in England at local level – Centre for Sustainable Energy
- CD212. ----
- CD213. Government’s Public Service Agreement Targets : 2005 - 2008
- CD214. Runnymede Borough Council - A Homelessness Strategy for Runnymede : 2003-2006
- CD215. Sustainable Communities - Building for the Future – Department for Communities and Local Government
- CD216. Delivering Decent Homes - Options Appraisal ODPM : June 2003

- CD217. National Affordable Housing Programme 2006/08 Invitation to Bid - Housing Corporation
- CD218. Surrey Major Incident Plan – Third Edition : June 2004
- CD219. Surrey County Council - The County Emergency Scheme : January 2004
- CD220. Runnymede Borough Council - Civil Contingencies Emergency Plan 2006
- CD221. Runnymede Borough Council - Civil Contingencies Operations and Logistics Plan 2006
- CD222. Runnymede Borough Council - Civil Contingencies Welfare Plan 2006
- CD223. Runnymede Borough Council - Civil Contingencies Media and Communications Plan 2006

DOCUMENTS FROM RUNNYMEDE BOROUGH COUNCIL (and A2 HOUSING GROUP)

- RBC1 Peter Jenkins (Wapshott - Planning) Proof of Evidence
- RBC1A Peter Jenkins (Wapshott - Planning) Appendices
- RBC1S Peter Jenkins (Wapshott - Planning) Summary Proof
- RBC2 Alistair Dale (Wapshott – Flooding) Proof of Evidence
- RBC2A Alistair Dale (Wapshott – Flooding) Appendices
- RBC2S Alistair Dale (Wapshott – Flooding) Summary Proof
- RBC3 Deborah Blowers (Wapshott - Housing) Proof of Evidence
- RBC3A Deborah Blowers (Wapshott - Housing) Appendices
- RBC3S Deborah Blowers (Wapshott - Housing) Summary Proof
- RBC4 Jane Gallifent (Wapshott – Development) Proof of Evidence and Appendices
- RBC4S Jane Gallifent (Wapshott – Development) Summary Proof
- RBC5 David Dodd (Wapshott - Emergency Planning) Proof of Evidence and Appendices
- RBC5S David Dodd (Wapshott - Emergency Planning) Summary Proof
- RBC6 Robert Hanger (Wapshott – Council Finances) Proof of Evidence and Appendices
- RBC6S Robert Hanger (Wapshott – Council Finances) Summary Proof
- RBC7 Peter Jenkins (Franklands Drive - Planning) Proof of Evidence
- RBC7A Peter Jenkins (Franklands Drive - Planning) Appendices
- RBC7S Peter Jenkins (Franklands Drive - Planning) Summary Proof
- RBC8 Ian Liddell (Franklands Drive/Wapshott – Transportation) Proof of Evidence
- RBC8A Ian Liddell (Franklands Drive/Wapshott – Transportation) Appendices
- RBC8S Ian Liddell (Franklands Drive/Wapshott – Transportation) Summary Proof
- RBC9 Dr Richard Fordham (Franklands Drive – Affordability) Proof of Evidence, Appendices and Summary
- RBC10 Peter Jenkins (Statement for Housing Round Table)
- RBC11 Set of Wapshott Plans
- RBC12 Statement of Common Ground (Wapshott - Drainage Issues)
- RBC13 Statement of Common Ground (Transportation Issues)
- RBC14 Peter Jenkins (Supplementary Housing Round Table Statement)
- RBC14A Appendices
- RBC15 Dr Richard Fordham (Supplementary Proof - Affordability)
- RBC16 Alistair Dale (Supplementary Proof – Flood Depths / Velocity)
- RBC17 Robert Hanger (List of Errata - Council Finances)

RBC18	Affordable Housing Programme (As At 01.04.06)
RBC19	Letter 23 May 2006 – Dr Richard Fordham to Stephen Hinsley relating to Affordability issues
RBC20	Ian Liddell (Comparative Assessment – Wapshott/Franklands Drive)
RBC21	Statement of Common Ground (Access Distances - Transportation)
RBC22	Jane Gallifent (Insurance Details – Wapshott)
RBC23	Statement of Common Ground (Flooding – Wapshott)
RBC24	Note – (Computer Model of Flooding in the Wapshott Estate – Overview of Animation)
RBC25	Extract From Flood Risks To People Phase 2 ; Guidance Document (Environment Agency & DEFRA)
RBC26	Extract From Flood Risks To People : FD2321/TR1 Methodology (Environment Agency & DEFRA)
RBC27	Peter Jenkins: Corrections To RBC1 & RBC14
RBC28	Peter Jenkins: Tenure And Size Mix (Franklands Drive)
RBC29	Peter Jenkins – Plan Showing Planning Constraints
RBC30	Dr Richard Fordham – Extract from Basic Needs Assessment Model
RBC31	Dr Richard Fordham – Rejoinder Proof (Franklands Drive)
RBC32	Strategy For Flood Risk Management (2003/4 – 2007/8) – Environment Agency (Wapshott)
RBC33	Indicative Plan of Underfloor Void Grille/Gate (Wapshott)
RBC34	Note on Evolution of Runnymede Local Plan Flooding Policies
RBC35	Draft Planning Conditions (Wapshott)
RBC36	Site Plans Showing Locations of Affordable Housing Sites
RBC37	Note of RBC's Position in Respect of Figure 1 – Consideration of Development Proposals Affecting Internationally Designated Conservation Sites (Page 7 ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)
RBC38	Dr Richard Fordham – Definition and Relationship of Housing Need and Affordable Housing
RBC39	Dr Richard Fordham – The Concept of Usefully Affordable Housing
RBC40	Dr Richard Fordham – Government Definition Of Affordable Housing
RBC41	Peter Jenkins – Supplementary Statement : Affordable Housing (Franklands Drive)
RBC42	Peter Jenkins – Existing Reserve Sites : Current Position (Franklands Drive)
RBC43	Dr Richard Fordham – Affordability Profile
RBC44	Peter Jenkins – Further Supplementary Statement (Franklands Drive)
RBC45	Peter Jenkins – Clarification Of Number Of New Build Affordable Housing Units Completed 2001 – 2006
RBC46	Peter Jenkins – Runnymede's Housing Trajectory 2005 (FDA1/HRT10) as amended by Barton Willmore – Corrected by RBC)
RBC47	Deborah Blowers – Note to Inspector Re Residents Presentation (Residents)
RBC48	Deborah Blowers - Note to Inspector Re Making Space for Water Flood Resilience Measures (Wapshott)
RBC49	Deborah Blowers - Note to Inspector Re Fox Lane Chertsey Development (Franklands Drive)

RBC50	Deborah Blowers – Note To Inspector Re Off The Shelf/Street Property Schemes (Franklands Drive)
RBC51	Dr Richard Fordham – Final Rebuttal Proof Of Evidence (Franklands Drive)
RBC52	Section 106 Agreement Dated 7 July 2006 (Wapshott)
RBC53	Joint Note Prepared by BWP/RBC of Housing Round Table Session – 23 May 2006
RBC54	Joint Note Prepared by BWP/RBC of Affordable Housing Round Table Session – 23/24 May 2006
RBC55	RBC and A2 Housing Group Development Agreement dated 14 July 2006 (Wapshott)
RBC56	Letter Dated 4 July 2006 – Environment Agency to A2 Housing Group/RBC relating to Conditions (Franklands Drive)
RBC57	Closing Submissions from Michael Druce on behalf of A2 Housing Group and Runnymede Borough Council in the matter of Wapshott Road, Egham
RBC58	Closing Submissions from Michael Druce on behalf of Runnymede Borough Council in the matter of Franklands Drive, Addlestone

Documents from Love Lane Investments/Respond

FDA 1/HRT 1	Lee Newlyn's Proof of Evidence for Housing Roundtable Session
FDA 1/HRT 2 - FDA 1/HRT 5	Volume of Appendices to Lee Newlyn's Proof of Evidence on Housing Roundtable Session
FDA 1/HRT 6	Lee Newlyn's Supplementary Statement on Housing Round Table Session
FDA 1/HRT 7 – FDA 1/HRT 13	Volume of Appendices Lee Newlyn's Proof of Evidence on Housing Round Table Session
FDA1/HRT12A	Lee Newlyn's Further supplementary statement in connection with Woking Borough Council Safeguarded Sites at Brookwood Farm/Moor Lane
FDA 1/HRT 14	Newlyn/Jenkins Summary of the Record on 5 Years Housing Supply
FDA 1.1	Summary and Proof of Evidence of Lee James Newlyn on Planning Matters
FDA 1.2A – FDA 1.9	Volume of Appendices to the Proof of Evidence of Lee James Newlyn
FDA 1.10	Further Supplementary Statement of Lee James Newlyn
FDA 1.10B	Supplementary to Lee Newlyn's FDA1.10B including appendix document FDA1.10D.
FDA 1.11	Appeal Document List
FDA 1.12	Lee Newlyn's Response to Statement Submitted by RPS Planning on behalf of Fairview Homes
FDA 1.13	Draft Section 106 Agreement (as at 13 June 2006)
FDA 1.14	Draft Grampian Condition (SANGS)

FDA 1.15	Note for Inspector from Lee Newlyn arising from cross-examination
FDA 2.1	Summary and Proof of Evidence of Alistair Baxter
FDA 2.2a (Volume 1)	Volume of Appendices to the Proof of Evidence of Alistair Baxter
FDA 2.2b (Volume 2)	Volume of Appendices to the Proof of Evidence of Alistair Baxter
FDA 2.3	Supplementary Proof of Evidence of Alistair Baxter
FDA 2.4	Letter from English Nature to Alistair Baxter of Aspect Ecology dated 19 June 2006 regarding non SPA ecological issues
FDA 3.1	Proof of Evidence of Stephen Hinsley on Affordable Housing
FDA 3.2 – 3.14	Volume of Appendices to Proof of Evidence of Stephen Hinsley
FDA 3.15	Summary Proof of Stephen Hinsley
FDA 3.16	Supplementary Proof of Evidence of Stephen Hinsley
FDA 3.17	Further Supplementary Proof of Evidence of Stephen Hinsley
FDA 3.18	Housing Community and Opportunity – a speech by Ruth Kelly on 20 June 2006
FDA 3.19	Letter from Mr A Gardiner of RBC to Shoosmiths dated 30 May 2006 re draft Section 106 Agreement
FDA 3.20	Final Comment by Stephen Hinsley on RBC 51 and D Blowers' notes on Fox Lane (RBC 49) and Street Properties (RBC 50)
FDA 4.1	Proof of Evidence of Peter Morton on housing matters
FDA 4.2A	Analysis of the National Affordable Housing Programme 2006 – 2008
FDA 4.3	Development in Elmbridge – Occupation of Shared Owners
FDA 4.4	Letter from Kate Turner of Shoosmiths to Paul Druce dated 21 June 2006 re: the definition of Lettings Plan
FDA 4.5	Extract from Contract for Sustainable Communities (National Housing Federation)
FDA 4.6A	Letter from Peter Morton of Elmbridge Housing Trust to Paul Druce of Runnymede Borough Council dated 30 June 2006 clarifying a number of points raised at the planning inquiry
FDA 4.7A	Letter from Peter Morton of Elmbridge Housing Trust to Andrew Gardiner of Runnymede Borough Council re : Service Charges
FDA 5.1	Proof of Evidence of Andrew Whittingham on transportation matters
FDA 5.2 – 5.10	Volume of Appendices to Proof of Evidence of Andrew Whittingham
FDA 5.11	Summary of Proof of Evidence
FDA 5.12	Response to Evidence of Mr Ian Liddell (version as at 2/6/06)
FDA 5.13	Residential Travel Plan (RTP)
FDA 6.1	Letter from Shoosmiths to the Inspector dated 7 July attaching 1951 Conveyance
FDA 6.2	Note on the provision for the Maintenance of SANGS, Recreation Ground, Amenity Area and Play Spaces

FDA 6.3	Draft Unilateral Undertaking
FDA 6.4	County Council Section 106 Agreement
FDA 6.5	Note on the County Council Section 106 Agreement
FDA 6.6	Note on the Affordable Housing Provisions of the Unilateral Undertaking
FDA 6.7	Summary Note on Unilateral Undertaking
FDA 6.8	Note on the Communications with the Council in relation to the Section 106 Obligations
FDA 6.9	Planning Conditions (Consolidated) Franklands Drive

Documents from English Nature

EN1	Letter of 26 April 2006 to the Planning Inspectorate from David Tyldesley of David Tyldesley Associates
EN2	Letter from the Planning Inspectorate to English Nature dated 9 May 2006
EN3	Further Statement from David Tyldesley of David Tyldesley Associates for English Nature, dated 10 May 2006
EN4	Letter from the Planning Inspectorate, 10 May 2006, to English Nature
EN5	e-mails between the Planning Inspectorate and English Nature relating to the Further Statement of 10 May and other matters.
EN6	Letter from the Planning Inspectorate, 2 May 2006, to English Nature
EN7	Letter from the Planning Inspectorate, 6 June 2006, to English Nature
EN8	Draft Template for a Supplementary Planning Document relating to the Thames Basin Heaths Special Protection Area
EN9	Counsel's Opinion produced for Surrey Heath Borough Council regarding to determination of planning applications and impact of development on the Thames Basin Heaths Special Protection Area
EN10	Key Messages from DEFRA/ODPM meeting dated 16 February 2006

Documents for the Environment Agency relating to the Wapshott Road called-in application and are not recorded on this report.

Annex

FRANKLANDS DRIVE PLANNING CONDITIONS

1. Approval of the details of the siting, design and external appearance of the building(s) and the landscaping of the site (hereinafter called “the reserved matters”) shall be obtained from the Planning Authority before the development commences.
2.
 - a) Application for approval of the reserved matters shall be made to the Planning Authority for the whole development or, if the development is to be phased, for the first phase of the development before the expiration of three years from the date of the permission.
 - b) Reserved matters for subsequent phases of the development shall be made to the Planning Authority no later than one year from the date of approval of the previous reserved matter application or the last of the reserved matters to be approved, whichever is the later.
 - c) The Development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the reserved matters for the first phase of the development, whichever is the later.

Development Details:

3. The development hereby permitted shall not exceed a total of 350 dwelling units.
4. No building on any part of the development hereby permitted shall exceed 3 storeys in height, unless otherwise agreed, in writing, by the Local Planning Authority.
5. No development shall take place, or if the development is to be phased no development shall take place within a particular phase, until samples of the materials to be used in the construction of the external surfaces of the development, or that particular phase of the

development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), the garages hereby permitted shall not be used for any purpose other than the parking of cars.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no fences, gates, or wall shall be erected within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a road.
8. Details of the siting and screening of any above ground utility installations or equipment (e.g. electricity sub-stations, street lighting) shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development or if the development is to be phased prior to the commencement of that particular phase.
9. No development shall take place or if the development is to be phased no development shall take place within a particular phase until details of the refuse storage and recycling facilities to be provided for the development or for that particular phase of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
10. A scheme for the generation of ten percent of the predicted energy requirement for the development hereby permitted shall be submitted and approved by the Local Planning Authority prior to commencement of the development and the scheme that is approved shall be implemented in association with phased development of the site.

Landscaping & Ecology:

11. Details of soft and hard landscape works within the net developable area shown on drawing FDA1.10A to be submitted for approval pursuant to condition (1) above shall

include the treatment of all hard surfaced areas; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate; the construction of any ponds or any wetland features; and an implementation programme including any phasing.

12. All hard and soft landscape works within the net developable area shown on drawing FDA1.10A shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme including any phasing agreed with the Local Planning Authority.
13. No development shall take place or if the development is to be phased no development shall take place within a particular phase, until details of any earthworks for the development or for that particular phase of the development have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to the existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.
14. The Translocation of Turf/Soil:
 - i) No development hereby approved shall take place or if the development is to be phased no development shall take place within a particular phase, until a method statement of the translocation of turf/soil from the unimproved/species rich acid grassland habitats within the development footprint of the development shown on Aspect Ecology drawings FDA 2.3.2 and FDA 2.2.4 or of that particular phase of the development has been submitted to and approved in writing by the Local Planning Authority.
 - ii) The method statement shall include details of the measures required to prepare the receptor areas; the methods to be used to translocate the turf/soil and the aftercare of the translocated turf/soil.

- iii) No development hereby approved shall take place or if the development is to be phased no development shall take place within a particular phase until the detailed measures in the method statement as approved in accordance with condition 14(i) have been carried out.
15. A landscape management plan for the area identified as the net developable area on drawing FDA1.10A , including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens shall be submitted to and approved by the Local Planning Authority prior to the occupation of the first phase of the development.
16. No development shall take place or if the development is to be phased no development shall take place within a particular phase until a schedule of landscape maintenance for a minimum period of 5 years for the development or for that particular phase of the development has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
17. In this condition “retained tree” means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date when the final dwelling is first occupied.
- (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard [3998 (Tree Work)].
- (b) If any retained tree is removed, uprooted or destroyed, or dies another tree shall be planted at the same place and that tree shall be of such size and species, and shall be placed at such time, as may be specified in writing by the Local Planning Authority.
18. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be

maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

19. Prior to the commencement of the development hereby permitted, the appellant or their agents or successors in title shall carry out a further programme of investigation by an appropriate person to determine the existence of badgers, bats, reptiles [and amphibians] on the site, following such investigation a programme for remedial action shall be submitted to and approved by the Local Planning Authority; that programme shall then be implemented prior to any development.

Archaeology:

20. No development shall take place within the application site until the appellants or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by the Planning Authority.

Contamination:

21. Development shall not begin until a scheme building on previous work to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority.
22. The scheme referred to in Condition (21) above shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the environment when the site is developed.
23. Development shall not commence until the measures approved in the scheme pursuant to Conditions (21) and (22) above have been implemented and a validation report detailing any such work has been submitted to and approved, in writing, by the Local Planning Authority.

Drainage:

24. The construction of the surface water drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences and shall ensure that, among other matters :-
- a) no solid matter shall be deposited so that it passes or is likely to pass into any watercourse;
 - b) no soakaways shall be constructed such that they penetrate the water table and they shall not in any event exceed 2 metres in depth below existing ground level;
 - c) no soakaways shall be constructed in contaminated ground; and
 - d) to prevent the discharge of water onto the public highway.

Highways & Construction Access:

25. No development shall take place until the new access road, including its junction with Franklands Drive, has been constructed in accordance with the scheme shown on Buccannan drawing H3111/23C. No development shall begin before that junction and 30m of the new road have been completed and the visibility zones included in the design shall be part of the new road and shall not be included in any plot or other sub-division of the site.
26. (a) Prior to the occupation of the site, the cycle and pedestrian links from the site to Franklands Drive and Caxton Avenue shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
- (b) All redundant accesses from the site to Franklands Drive shall first be permanently closed and any kerbs, verge, footway, fully reinstated by the appellant, in a manner to be agreed in writing with the Local Planning Authority, and thereafter maintained as such.
27. No dwelling shall be occupied until space has been laid out within the site for cars at an overall maximum provision of 1.5 spaces per dwelling to be parked, and those parking spaces shall only be used for the parking of vehicles incidental and ancillary to the residential use of the dwellings hereby permitted and shall thereafter be maintained solely for parking purposes and made available to the occupiers of those properties at all

times for such purposes unless the Local Planning Authority otherwise first agrees in writing. In any event the parking spaces shall not be used for the parking/storage of boats, caravans or trailers.

28. No development shall take place or if the development is to be phased no development shall take place within a particular phase until a Method of Construction Statement for the development or for that particular phase of the development, to include details of :-
- a) Parking for vehicles or site personnel, operatives and visitors
 - b) Loading and unloading of plant and materials
 - c) Storage of plant and materials
 - d) Programme of works (including measures for traffic management)
 - e) Provision of boundary hoarding
- has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.
29. Caxton Avenue shall be used for pedestrian and cycle access only.
30. No development or delivery of materials shall take place at the site except between the hours of 07.30 to 18.00 weekdays or 08.30 to 13.00 hours Saturdays. No development or demolition work or deliveries of materials shall take place on Sundays or Public Holidays.
31. Prior to occupation of the 100th dwelling the off-site highway works shown on Buchanan drawing H3111/23C shall be completed.

Amenity Areas, Recreation Ground :

- 32 No development hereby approved shall take place until details of the Amenity Areas as shown generally on Barton Willmore drawing number 12661.007 have been submitted to and approved in writing by the Local Planning Authority. Such Amenity Areas shall for the avoidance of doubt comprise 5 Local Areas of Play (“LAP”) of approximately 100m², 1 amenity area space of approximately 900m² within which shall be located 1 Local Equipped Area of Play (“LEAP”) of approximately 400m² (together “the Amenity Areas”).

33. The 150th dwelling on the development hereby approved shall not be occupied until the amenity area, LEAP and 2 of the LAPs have been laid out in accordance with the details submitted and approved under Condition 32.
34. The 250th dwelling on the development hereby approved shall not be occupied until the remaining 3 LAPs forming part of the Amenity Areas have been laid out in accordance with the details submitted and approved under Condition 32.
35. No dwelling on the development hereby approved shall be occupied until an access statement detailing the arrangements for members of the public to have permissive access to the Amenity Areas has been submitted to and approved in writing by the Local Planning Authority.
36. No development hereby approved shall take place until details of the recreation ground and access road thereto as shown generally on Barton Willmore drawing number 009 has been submitted to and approved in writing by the Local Planning Authority.
37. The 250th dwelling on the development hereby approved shall not be occupied until the recreation ground and access road thereto have been laid out in accordance with the details submitted to and agreed in writing by the Local Planning Authority
38. No dwelling on the development hereby approved shall be occupied until an access statement detailing the arrangements for members of the public to have permissive access to the Amenity recreation ground has been submitted and approved in writing by the Local Planning Authority.

Suitable Accessible Natural Green Space:

39. No development hereby permitted shall begin until details of the Suitable Accessible Natural Green Space (“the SANGS”) as shown generally on Aspect Ecology drawing

number FDA 2.2.3 have been submitted to and approved in writing by the Local Planning Authority.

40. No dwelling on the development hereby permitted shall be occupied until the SANGS has been laid out in accordance with the details approved in accordance with condition 39, except with the written agreement of the Local Planning Authority.
41. No dwelling on the development hereby permitted shall be occupied until an access statement detailing the arrangements for members of the public to have permissive access in SANGS has been submitted to and approved in writing by the Local Planning Authority.
-