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planning

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 (AS AMENDED)

Farm View, Langley Vale Road, Epsom, Surrey, KT18 6AP

Appeal against the decision of Epsom & Ewell Borough Council to refuse outline planning permission for up to 110 dwellings, including affordable homes (all matters reserved except access from Langley Vale Road)

SUPPLEMENTARY PROOF OF EVIDENCE RELATING TO TOWN PLANNING MATTERS

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On Behalf of:
Fairfax Aspire Ltd

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1. INTRODUCTION

The Scope of My Evidence

- 1.1. This Supplementary Proof of Evidence addresses matters raised in the new NPPF (Aug 2026) (paragraph 1.6 of my Proof of Evidence refers (**CD6.2**)). Where necessary, I also reference the findings of the witnesses for Epsom & Ewell Borough Council ("EEWBC") and the Rule 6 Party ("R6P").
- 1.2. My Supplementary Proof is to be read alongside the Supplementary Proofs prepared on behalf of the Appellant as follows:
 - Ms Annie Gingell – Affordable Housing
 - Mr Paul Whitby – Ecology
 - Mr Phil Hamshaw – Highways & Transport
- 1.3. I have adopted their findings in preparing my Supplementary Proof of Evidence.
- 1.4. For the reasons I explain in my Main Proof, the Appeal Scheme falls to be positively determined in accordance with the presumption in favour of sustainable development on account of the Scheme satisfying Policies S3, S5, GB7 and GB8 of the NPPF.
- 1.5. Ultimately, although the Site is located beyond the settlement boundary as defined in the Core Strategy, because the Appeal Scheme is not inappropriate development in the Green Belt on account of satisfying Policy GB7(g), because (i) the Scheme makes efficient use of grey belt land, and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the Plan, (ii) there is an evidenced unmet need for the type of development proposed, (iii) the development would be in a sustainable location; and (iv) the development accords with the Golden Rules at Policy GB8 of the NPPF, the Appeal Scheme falls to be positively determined in accordance with the presumption of sustainable development at NPPF Policy S3(1)(b) and S5(5).

- 1.6. The presumption contained in the NPPF means that the Appeal Scheme should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects when assessed against the national decision-making policies in the NPPF (not those in Local Development Plans).
- 1.7. The Appeal Scheme satisfies the national decision-making policies in the NPPF and the adverse impacts relating to (i) conflict with an out of date Development Plan; (ii) localised landscape impacts; and (iii) loss of agricultural land do not substantially outweigh the benefits secured by the Scheme, which are significant and manifest.
- 1.8. As a matter of principle, either (i) the demonstrable lack of a five year housing land supply of deliverable housing land (the Council is only able to show a 1.6 year supply of deliverable housing land (a shortfall of 3,402 dwellings); or (ii) the Council's 2025 Housing Delivery Test result, which, at 33%, is the 13th worst performing Authority in the Country, provides the evidence of unmet need for the purpose of NPPF Policy GB7(g)(ii).
- 1.9. As the Site is grey belt and accords with all of the criteria at NPPF Policy GB7(1)(g), whilst the Scheme also satisfies the Golden Rules at NPPF Policy GB8(1), and also meets the applicable national decision-making policies in the NPPF, the Appeal should be positively determined in accordance with the presumption in favour of sustainable development.

2. ADDRESSING THE REVISED NPPF (AUG 2026)

General

- 2.1. The witnesses for the Appellant, including those listed at paragraph 1.2, have now had an opportunity to review the acceptability of the Appeal Scheme in relation to their respective discipline(s) against the policies contained in the updated NPPF (August 2026).
- 2.2. As those witnesses record in their Supplementary Proofs, they find that the Appeal Scheme satisfies the requirements of the new NPPF. This is particularly the case in relation to highways, which, in essence, is the only determinative issue that remains between the parties.

Green Belt

- 2.3. Because the Appeal Site is located in the Green Belt, my starting position has been to consider the merits of the Appeal Scheme in the context of chapter 13 of the NPPF.
- 2.4. In this instance, Policy GB7 is determinative. It provides gateway for the Inspector's determination of the Appeal Scheme.
- 2.5. If the Appeal Scheme is found to satisfy policies GB7(1)(g) and GB8(1), it is not inappropriate development in the Green Belt and is to be determined in the context of the presumption favour of sustainable development in policy S5(5). However, if, contrary to my evidence, the Inspector finds the Site and Appeal Scheme does not satisfy policies GB7(1)(g) and GB8(1), and is found to represent inappropriate development in the Green Belt, the Appeal Scheme falls to be determined within the prism of Policy GB6 (where the potential harm to the Green Belt and any other harm resulting from the proposal is clearly outweighed by other considerations).
- 2.6. As my evidence explains, the Appeal scheme satisfies Policies GB7(1)(g) because:
- (i) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan (which position is agreed with EEWBC);

- (ii) There is an evidenced unmet need for the type of development proposed (which position is agreed with EEWBC)
- (iii) The development would be in a sustainable location, with particular reference to policy TR3 of this Framework (as evidenced by Mr Hamshaw); and
- (iv) In the case of major development involving the provision of housing, the development proposed complies with policy GB8 (as agreed with EEWBC).

2.7. In respect of the Golden Rules, the updated NPPF broadly reflects the previous rules which are agreed to be met. GB8(1)(c) adds further detail to the Golden Rule relating to green space, and again each of these requirements is met as evidenced by Mr Smith ("positive contribution to the landscape setting of the development") and Mr Whitby ("support nature recovery"). Compliance with the Golden Rules attracts substantial weight (as agreed with EEWBC).

The Presumption in Favour of Sustainable Development

- 2.8. Because the Appeal Scheme satisfies policies GB7(1)(g) and GB8(1), the proposal falls to be determined under the presumption of in favour of sustainable development at Policy S5(5), where *"proposals should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework, and applying paragraph 2 of this policy"*.
- 2.9. Paragraph 2 of the policy states: *"In applying this policy, the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances."*
- 2.10. There are a total of 15 national decision-making policies which state that development proposals should be refused in specific circumstances.
- 2.11. My assessment is included at **Appendix 1**, where I have assessed the Appeal Scheme against these policies and find no conflict with any of them.

- 2.12. In setting out my position, I also note that it forms no part of the Council's evidence or that prepared by the R6P, that the Appeal Scheme would fail to comply with any of the national decision-making policies which state that development proposals should be refused in specific circumstances.
- 2.13. For the reasons I have explained, the Appeal Scheme should be allowed in the context of the presumption in favour of sustainable development. Importantly, and as the evidence demonstrates, it is not the case here that the proposal would fail to comply with any of the national decision-making policies which state that development proposals should be refused in specific circumstances. Furthermore, paragraph seven of the NPPF is clear in explaining there are only limited circumstances in which it is expected that permission would be refused. This is not one of them. On the contrary, and for the reasons I have explained, the benefits secured by the proposal are substantial and manifest.
- 2.14. To conclude, the Appeal should be allowed because the benefits of granting planning permission would not be substantially outweighed by the adverse effects I have identified relating to (i) conflict with an out of date development plan; (ii) localised landscape impacts; and (iv) loss of agricultural land do not substantially outweigh the benefits secured by the Scheme, which are significant and manifest, particularly when the Appeal Scheme also satisfies the applicable national decision-making policies in the NPPF.
- 2.15. The Appeal Scheme would utilise grey belt land and would satisfy the Golden Rules. It is appropriate development in the green belt. Accordingly, the Appeal Scheme should be approved as the benefits of doing so are not substantially outweighed by any adverse effects, when assessed against the national decision making policies in the NPPF.
- 2.16. For those reasons I have explained, the Appeal should be allowed.

APPENDIX 1

Appendix 1

Assessment of the Appeal Scheme against the national decision-making policies which state that development proposals should be refused in specific circumstances. As I have identified, specific circumstances apply to the Appeal Scheme.

NPPF Policy	NPPF reason(s) to refuse development: specific circumstances	Assessment
DM4: Emerging development proposals within plan	Premature development that: Is so substantial that it would undermine the plan-making process, and; The emerging plan is at an advanced stage	This policy is not engaged, as the Appeal Scheme is not premature to the emerging Local Plan. In addition, and as agreed at paragraph 4.11 of the Planning SoCG (CD9.1), the emerging Local Plan carries only limited weight.
S4(c): Principle of development within settlements	Failure to comply with applicable national decision-making policies which state that development proposals should be refused in specific circumstances	This policy is not engaged as the Appeal Site is not within a settlement.
S5(2): Principle of development outside settlements	Failure to comply with applicable national decision-making policies which state that development proposals should be refused in specific circumstances	The Appeal Scheme is not contrary to any of the applicable national decision making policies which state that development proposals should be refused in specific circumstances.
TC3: Main town centre uses outside town centres	Failure to pass the retail sequential test Failure to meet criteria of Policy TC4 (if applicable)	Not applicable. The Appeal Scheme is not a 'main town centre use.
M5: Development involving peat, coal or onshore oil and gas	Proposals for the extraction of peat at new or extended sites Development involving surface or underground coal workings, or for onshore oil and gas extraction, should be refused.	Not applicable to the Appeal Scheme.

L3: Achieving appropriate densities	Development that fails to make an efficient use of land for its context	The Appeal Scheme extends to approximately 5.21ha. The Scheme will result in a density of circa 22dph. This takes account of the policies in the NPPF (design, ecology, drainage, landscape, and heritage) and the context within which the Site is located; satisfying the approach at policy L3(2(b)).
DP3: Key principles for well-designed places	1) Failure of design to respond to local context 2) Failure to create a mixed & vibrant community 3) Failure to contribute toward climate change mitigation 4) Failure to incorporate/connect to multi-functioning green infrastructure networks 5) Failure to provide transport infrastructure and choices 6) Failure to optimize site's potential 7) Failure to create safe and inclusive public spaces 8) Failure to create attractive development	The Appeal Scheme design has been informed by a clear understanding of relevant planning policy considerations and the Site's context. As recorded at paragraph 16.6 in CD3.1, the Council's Professional Officers conclude in relation to the acceptability of the Appeal Scheme design as follows: <i>"Officers are satisfied that the illustrative masterplan demonstrates that a well design and high-quality residential scheme that responds well to the site's constraints and provides landscaped buffers to the sensitive boundaries can be accommodated on the site."</i>
TR6: Assessing transport impacts	If development would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety	The appeal scheme would not result in a severe adverse impact on the transport networked, which position is agreed with the Council and Surrey County Highways.
HC5: Hot food takeaways	Takeaways should be refused: 1) Within reasonable walking distance of schools and other places where children and young people congregate	Not applicable to the Appeal Scheme.

	2) In locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.	
F6: Development in areas at risk of flooding from rivers or the sea	In areas falling within flood zones 2, 3a, or 3b: 1) if the use is incompatible with the risk from river or sea flooding, as set out in Annex F, table 3; and 2) Where applicable, failure to pass the exception test	There is no objection to the Appeal Scheme from the Environment Agency ("EA") or the Lead Local Flood Authority "LLFA"). Paragraph 2.20 of the Planning SoCG (CD9.1) records as follows: <i>"The Site falls entirely within Flood Zone 1 of the Environment Agency (EA) Flood Map for Planning. EA mapping also confirms that the site is predominantly at very low risk of flooding from surface water save for a small section in the northwest corner of the Site along the frontage with Langley Vale Road. The Site is also at very low risk from river and reservoir sources of flooding."</i>
F7: Ensuring development is safe from flooding	Where development is proposed in a location known to be at risk from any form of flooding, now or in the future, it should be refused	There is no objection to the Appeal Scheme from the Environment Agency ("EA") or the Lead Local Flood Authority "LLFA"). Paragraph 5.11 of the Planning SoCG (CD9.1) records as follows: <i>"It is agreed that the Appeal Scheme is acceptable in drainage terms and can be made safe for its lifetime."</i>

N2: Improving the natural environment	Development that results in significant harm to biodiversity and cannot avoid, mitigate, or compensate for this.	Paragraph 5.12 of the Planning SoCG (CD9.1) records as follows: <i>"It is agreed that the Appeal Scheme is acceptable in relation to ecological matters, subject to ensuring the necessary mitigation."</i>
N4: Protected Landscapes	Major development within protected landscapes	The Appeal Site is not in a 'Protected Landscape'.
N6: Areas of particular importance for biodiversity and geodiversity	Development proposals affecting: 1) A site of international importance 2) A site of national importance 3) A site of local importance Development proposals resulting in: 4) Loss or deterioration of irreplaceable habitats	The Appeal Site is not within an 'Area of Particular Importance for Biodiversity and Geodiversity'. Paragraph 5.12 of the Planning SoCG (CD9.1) records as follows: <i>"It is agreed that the Appeal Scheme is acceptable in relation to ecological matters, subject to ensuring the necessary mitigation."</i>
HE6: Proposals affecting designated heritage assets	Where a development proposal would cause substantial harm to, or the total loss of, the significance of a designated heritage asset	The Appeal Scheme would not result in substantial harm to a designated heritage asset. Paragraphs 5.8, 5.9 and 5.10 in the Planning SoCG (CD9.1) confirm as follows: <i>"It is agreed that the Appeal Site is not within a Conservation Area nor are there any statutory or locally listed buildings upon the Site itself. The parties agree that in having regard to paragraph 215 of the NPPF, the public</i>

		<i>benefits of the proposed development would outweigh any purported harm to the setting of nearby Grade II listed buildings.</i> <i>It is the Council's case that the Appeal Scheme would result in less than substantial harm to the Wall Bordering North West and South Sides of The Warren, to a limited level on the spectrum. The Appellant's case is there will be no harm.</i> <i>Notwithstanding the 215 position above, in a circumstance where the development is concluded to be inappropriate development in the Green Belt, this harm needs to be ascribed weight as "other harm". "</i> The paragraph 215 reference is from the 2024 NPPF (Policy HE6 in the new NPPF).
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