

Town and Country Planning Act 1990

Town and Country Planning (Hearing Procedure) Rules (England) 2000

**Appeal by Angle Property (RLP Shepperton) LLP Against the Decision of
Spelthorne Borough Council, as Local Planning Authority, to Refuse to Grant
Outline Planning Permission in Respect of:**

**Outline application with approval sought for scale, access and siting, with
details of appearance and landscaping reserved, for the demolition of
existing buildings and structures, removal of waste transfer facility and the
redevelopment of the site for up to 80 residential units and the provision of
open space and a play area, plus associated works for landscaping, parking
areas, pedestrian, cycle and vehicular routes**

at:

**Land known as Bugle Nurseries, Upper Halliford Road,
Shepperton, TW17 8SN**

STATEMENT OF CASE OF SPELTHORNE BOROUGH COUNCIL

SEPTEMBER 2023

PLANNING INSPECTORATE REF: APP/Z3635/W/23/3325635

LOCAL PLANNING AUTHORITY REF. 22/01615/OUT

1 Introduction

1.1 The application the subject of this appeal proposed the:

“Outline application with approval sought for scale, access and siting, with details of layout, appearance and landscaping reserved, for the demolition of existing buildings and structures, removal of waste transfer facility and the redevelopment of the site for up to 80 residential units and the provision of open space and a play area, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.”

1.2 The extent of the application site is defined on the plan extract below:



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The Appeal Site

1.3 The appeal site comprises a former nursery site, that use ceased at site and the site has since been used for commercial purposes including outdoor storage. There is a residential bungalow located at site on the north eastern part of the site fronting Upper Halliford Road.

- 1.4 The appeal was submitted against the failure of the Council to determine the application. Subsequently, the application the subject of this appeal was considered by the Council, and they determined that had they been in a position to do so they would have refused to grant planning permission. The putative reasons for refusing planning permission are set out in the committee attached at **Appendix 1** and state:
1. *The development comprises inappropriate development in the Green Belt for which no other considerations sufficient to amount to very special circumstances have been demonstrated. It will result in the site having a more urban character, will diminish the openness of the Green Belt and conflict with the purposes of including land within it. In particular, it would fail to check the unrestricted sprawl of large built-up areas, fail to prevent neighbouring towns merging together and would not safeguard the countryside from encroachment. It is therefore contrary to Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 and Section 13 (Protecting Green Belt Land) of the Government's National Planning Policy Framework 2021.*
 2. *The number of smaller units (1 bed and 2 bed units) is 35 out of the total 80 units and equates to 43% of the total units, or not including the affordable units only 11 out of 40 which equates to 27.5%. Therefore, the proposal fails to comply with Policy HO4 which requires a majority of smaller units, of the Core Strategy and Policies Development Plan Document 2009.*
 3. *By reason of the location, scale and height of the proposed dwellings and their proximity to the boundaries, along the lack of detail shown on the siting and scale parameter plans, and details on the application form, it has not been demonstrated that the impact on neighbouring properties will be acceptable and as such it is not possible to enable scale and layout to be determined at this stage.*
- 1.5 The application was supported by plans and illustrative material intended to show how such a quantum of development as proposed could be accommodated on the appeal site.
- 1.6 The description of development outlined on the application form submitted with the application the subject of this appeal confirms that application to be in outline. In response to the question pertaining to which matters are for approval at this stage the appellant (applicant as was) has confirmed that they seek approval of:
- ◇ Access
 - ◇ Layout and
 - ◇ Scale
- 1.7 The Council's Committee Report is attached at **Appendix 1** and forms part of this statement of case.

2 Site and Surroundings

- 2.1 The appeal site comprises a former nursery site, part of the site has been used for commercial purposes and is occupied by a limited number of single storey buildings some now vacant and used for a variety of commercial purposes including vehicle repairs.



The Appeal Site 2020 © Google Earth (yellow dotted lines = public footpaths)

- 2.2 The land fronting Upper Halliford Road is largely open with a bungalow and its garden land occupying the half to the north of the existing access road and open land occupied by the frame remnants of some former poly tunnels occupying the land to the south of the access. The land to the west of the open frontage is occupied by a number of modest single storey buildings and is also used for parking vehicles and open storage.
- 2.3 Land to the west of the commercial use is open undeveloped land which runs up to a bund and the railway line beyond which comprises the western boundary of the site. That land was formerly used for grazing.
- 2.4 The south western corner of the site was previously used for waste transfer activities; however such a use has not operated from the site for some years and the land has become largely overgrown.

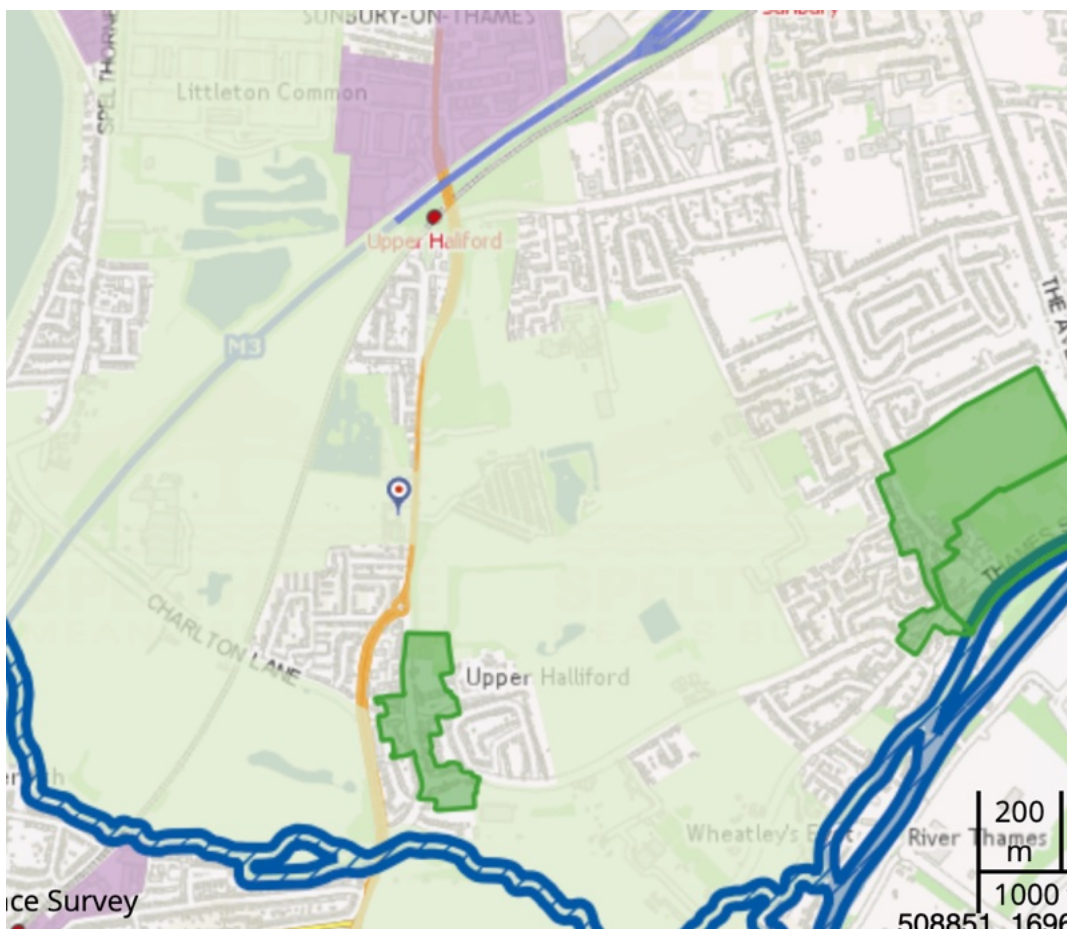
- 2.5 Approximately a third of the southern boundary is occupied by open allotments, the balance is to the rear garden boundaries of dwellinghouses in Halliford Close and a single storey garage court in Bramble Close.
- 2.6 The houses along the eastern part of the southern boundary fronting Halliford Close comprise two storey semi-detached dwellings which wrap around the junction with Upper Halliford Road. The southeast corner of the appeal site (which would otherwise comprise a rectangle) is excluded from the appeal site and is occupied by two bungalows¹.
- 2.7 Land to the rear (west) of the site beyond the railway line comprise open Green Belt countryside occupied in part by a waste transfer station and the M3 Motorway beyond. To the east of the appeal site is open Green Belt land comprising Halliford House Recreational Ground and a golf course. Within the open space is the Grange Farm Estate an estate of single storey chalet style dwellings.
- 2.8 The northern boundary of the site is delineated by Public Footpath 19. Fronting Upper Halliford Road is a block of 8 apartments developed on the site of the former Bugle Public House. To the rear of the apartments and comprising the majority of the northern boundary is open land largely occupied by a body of water used for fishing and nature conservation purposes.



The Appeal Site June 2019 © Google Earth

¹ 137 and 139 Upper Halliford Road

- 2.9 The appeal site is accessed by a driveway from Upper Halliford Road that runs between the bungalow and former polytunnels.



Site Centred on Extracts of the Proposals Map (Green Tint = Green Belt)

- 2.10 The site has an area of 4.8 hectares and is located within the Green Belt. The appeal site is also located within the Heathrow Airport noise contours (63 - 66 Leq. contour).
- 2.11 The site is part of a wider belt of open land that is identified on the Proposals Map of the Core Strategy.
- 2.12 The site frontage to Upper Halliford Road is open to the south of the existing access road and to the north of the access road the land is occupied by a bungalow and its open garden land.



View along Upper Halliford Road looking north of the existing access

- 2.13 The plans submitted with the application include an existing site layout and details of the existing range of single storey buildings.
- 2.14 The Council will detail the extent of existing buildings and other structures at the appeal site as well as referring to aerial photography etc.
- 2.15 The boundaries of the appeal site include a 'gappy' hedgerow and a number of trees. An Oak tree in the north east corner of the appeal site is the subject of a Tree Preservation Order.



View along Upper Halliford Road looking south of the existing access



Frame to former poly tunnel (south of the entrance) in 2021

- 2.16 As noted, a number of the buildings and structures at the site comprise dilapidated structures. In the former polytunnels are in an advanced state of dilapidation. The photograph above illustrates the condition of existing structures at site in 2021 and the land has subsequently become overgrown.
- 2.17 Waste transfer activity at site ceased some time ago and the Inspector in determining an appeal for a widened access in January 2017² described the use as occupying a relatively small section of a field and described the waste transfer station: “[...] *this use appears to be relatively low key* [...]”. In 2021 when the previous appeal was determined the waste transfer activity had ceased.
- 2.18 The site is predominately open with a central section that appears to be used for a combination of storage purposes predominantly comprising the parking a number of vehicles. The levels of parking and storage at site varies over time (as would be expected on any storage site).
- 2.19 As illustrated on the aerial photography the site comprises part of a larger swathe of open Green Belt land that extends to the north, west and east and it provides connectivity between the parcels west of the appeal site beyond the railway lines and that east of Upper Halliford Road including Halliford Park and the golf course and footpath network from which the site is visible.



View of the Appeal Site from Halliford Park

² APP/Z3635/W/16/3155163

3 The Appeal Proposal and Planning History

- 3.1 The application details are included at section 1 and in the committee report at **Appendix 1**.
- 3.2 The proposal involves the redevelopment of the site from hardstanding and a limited number of single storey low key commercial buildings to a residential development comprising up to 80 dwellings (in the form of flats and houses with a maximum height of 9.5 metres).



The Indicative Proposed Site Plan³

- 3.3 The indicative layout plan shows 24 maisonettes of which 18 are one bed and 6 two bed units as well as eleven 2 bedroom houses, thirty four 3 bedroom houses and eleven 4 bedroom houses. The planning application form confirms this mixture of housing types and sizes. The form states that all 80 proposed dwellings are market houses. However, the CIL Application Form states that the proposals include affordable housing⁴.
- 3.4 The application form states that the proposals do not involve the loss, gain or change of use of any non-residential floorspace. That is wrong. They also state that there are no existing employees on site. Again, that is wrong.
- 3.5 The GIA of the existing buildings at site is stated on the existing floorplans to amount to 1086m² as shown on the Existing Site Buildings Plan⁵ (i.e. equivalent to the GEA of these single storey buildings).

³ A12146 D2600 P1

⁴ Q5(b) of the CIL Application Form dated 177/11/2022

⁵ A12146 F2500 P1 A11718 F1500 P1

- 3.6 The volume of the existing buildings at site is stated to be 3533m³.
- 3.7 The proposed buildings are represented in the CIL Application Form as having a GEA Floor area of 6948m². The indicative layout plan shows a footprint of dwellings at 3880m² (which is consistent with the Indicative Typical House Layouts Plan⁶) and equates to a GEA for these two storey dwellings of 7760m². The Council will note that the proposals include a range of other single storey buildings comprising 20 single garages at 23m² each⁷, five double garages at 44m² each⁸. As such, the Council will maintain that the GEA of the proposed dwellings and garages (i.e. excluding bin stores, cycles stores, sheds etc.) is approximately 8442m².
- 3.8 The Council estimate that the volume of the proposed dwellings and garages/ car ports to be approximately 29,000m³.
- 3.9 In addition, the indicative house type plans show bin stores to serve the 56 dwellinghouses at 1.2m² each⁹ and fifty six cycle stores at 1.5m² each¹⁰. To be added to this will be bin and cycle stores to serve the 24 proposed flats.

Relevant Planning History

- 3.10 The relevant planning history is detailed at Section 2 of the committee report which is attached at **Appendix 1** to this statement and set out in detail within the Statement of Common Ground.
- 3.11 The Council will draw particular attention to the 2 recent appeal schemes acknowledging the appeal for 31 dwellings that was allowed in July 2021¹¹ and contrast and compare the permitted outline application and the outline application the subject of this appeal whilst also noting that at the same time another application for 43 dwellings and a care home was dismissed at appeal¹².
- 3.12 The Council will note the extant planning permission granted at appeal had an approximate floorarea of 3000m² and a volume of 9800m³.
- 3.13 The Council will also describe the draft Local Plan and the draft allocation relating to the appeal site.

⁶ A12146 D2500 P1

⁷ i.e. a total GEA of 460m² for single garages

⁸ i.e. a total GEA of 220m² for double garages

⁹ i.e. a total GEA of 67m² for bin stores

¹⁰ i.e. a total GEA of 84m² for bin stores

¹¹ 20/00123/OUT, PINS Ref. APP/Z3635/W/21/3268661 dated 15 July 2021

¹² 19/01022/OUT, PINS Ref. APP/Z3635/W/20/3252420 dated 15 July 2021

4 Planning Policy

- 4.1 The development plan for the area comprises the Spelthorne Core Strategy and Policies Development Plan Document, which was adopted in February 2009, the Spelthorne Allocations DPD (2009) and the Saved Policies of the Spelthorne Local Plan (2001). The Putative Reasons refer to Policy GB1 of the Local Plan which states:

“The Green Belt shown on the Proposals Map will be permanent and within it development will not be permitted which would conflict with the purposes of the Green Belt and maintaining its openness. Subject to the above, development will not be permitted except for uses appropriate to the Green Belt, comprising: -

- (a) agriculture and forestry*
- (b) essential facilities for outdoor sport and recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it*
- (c) limited extension, alteration or replacement of existing dwellings*
- (d) appropriate re-use of buildings*
- (e) appropriate engineering and other operations.”*

- 4.2 I accept that the policy does not refer to the very special circumstances test that comprises a core element of the Framework at section 13 and its predecessor PPG2 (Green Belts). However, I consider that the Policy is broadly consistent with the Framework and as such carries the greater weight envisaged by the Framework. I also note that the putative reason also refers to section 13 of the NPPF 2019, which provides the up to date policy context for Green Belt planning, and decision making and states:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

- 4.3 In an appeal decision of 14 February 2018¹³, the Inspector found the development plan policies including Green Belt policies including GB1 (see DL-18 etc.) to be broadly consistent with the Framework, noting inter alia (DL-61):

“The appellant variously refers to the development plan as being out-of-date. The Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with its content (the closer the policies in the plan are to the policies in the Framework, the greater the weight that may be given) [...] I find the policies referred to above to be broadly consistent with the Framework and, accordingly, not to be out-of-date [...]”

¹³

Ref. APP/Z3635/W/17/3176212

- 4.4 In two more recent appeal decisions of 15 May 2020¹⁴ the Inspector again considered the consistency of Policy GB1 with the Framework and concluded:

“[...] Whilst Policy GB1 was prepared prior to publication of the Framework, and the policy itself does not expressly refer to the possibility of very special circumstances to outweigh harm to the Green Belt, this possibility is covered in its supporting text. The policy is otherwise broadly consistent with the Framework in respect of clauses most applicable to the appeal proposals. It should not therefore be regarded as out of date but afforded significant weight. The decision notices for both appeal applications also refer to Section 13 of the Framework (Protecting Green Belt land).”

- 4.5 However, in his decision of July 2021 the Inspector notes in respect of Policy GB1 at DL10:

“This Policy however pre-dates both the current Framework and the original 2012 version. Furthermore, whilst it shares some level of consistency with national Green Belt policy, it makes no reference to the balancing exercise established in the Framework. As a result, due to a general lack of consistency and in line with Paragraph 213 of the Framework, I consider that this policy is out of date. It is my duty to determine the scheme in accordance with the development plan unless material considerations indicate otherwise. However, where there is inconsistency between the SBLP and the exceptions identified in Paragraph 145 of the Framework, the Framework attracts more weight.”

- 4.6 In line with both the Framework and Policy GB1 the erection of new dwellings would normally be considered inappropriate development.

- 4.7 The exceptions to this are set out in paragraph 1 and I note at 149(g) an exception comprises:

“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

[...]

- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*

- 4.8 The Framework advises that inappropriate development should not be approved except in very special circumstances. Paragraphs 147 and 148 state:

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

¹⁴ APP/Z3635/W/19/3233509 and APP/ Z3635/W/19/3241856

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green belt unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations."

4.9 Paragraph 174(b) of the Framework requires decision makers to:

"recognising the intrinsic character and beauty of the countryside ..."

4.10 The Framework seeks to achieve well designed places and as set out at paragraph 130(f) seeks to provide high standards of amenity for existing and future users.

4.11 The Framework sets out the Government's economic, environmental and social planning policies for England. These policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. Section 9 promotes Sustainable Transport and Section 13 relates to Protection the Green Belt. Section 2 includes the presumption in favour of Sustainable Development, Section 5 relates to the delivery of a sufficient supply of homes, Section 12 relates to achieving well-designed places, Section 14 relates to meeting the demands of Climate change and flood mitigation and Section 15 relates to conserving and enhancing the Natural Environment.

4.12 Paragraph 8 sets out the three overarching objectives of sustainable development i.e.:

- a) ***"an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) ***a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations: and by fostering a well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) ***an environmental objective** –to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."*

4.13 Paragraph 11 sets out the approach to the presumption in favour of sustainable development and decision making in the context or the orthodox approach to decision making or applying the "tilted balance". In the context of the application of the tilted balance paragraph 11(d) advises:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

4.14 With regard to 11d(i) we are referred to footnote 7 for guidance, and it notes that inter alia:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: [...] land designated as Green Belt [...].”

4.15 As such, when considering planning decisions relating to land in the Green Belt it is necessary to determine whether Green Belt policies in the Framework provide a clear reason for refusal under paragraph 11(d)(i). If they do, the so called tilted balance in paragraph 11(d)(ii) of the Framework is disengaged.

4.16 No changes to this approach are proposed in the 2023 consultation version of the NPPF. Holgate J in **Monkhill**¹⁵ interpreted the meaning of the “clear reason for refusal” policy in the presumption in favour of sustainable development for decision-taking in 11(d)(i) of the NPPF. That judgement has been upheld by Lindblom LJ when the case was heard in the Court of Appeal¹⁶.

4.17 In terms of Green Belt policy the proposals for 80 dwellings and access roads and other development to facilitate the proposed housing comprises inappropriate development, unless it falls within an exception in paragraph 149 of the NPPF. The Council will demonstrate that the development does not fall within the exception to this in paragraph 145(g) of the Framework.

4.18 Putative Reason for Refusal 2 identifies Policy HO4 of the Core Strategy and Development Management Policies DPD (CSDM) which states:

“The Council will ensure that the size and type of housing reflects the needs of the community by:

- a) requiring developments, including conversions, that propose four or more dwellings to include at least 80% of their total as one or two bedroom units,*
- b) encouraging the provision of housing designed to meet the needs of older people, including the provision of 400 units of extra care housing on suitable sites over the period 2006 to 2026,*

¹⁵ **Monkhill Ltd v Secretary of State for Housing, Communities And Local Government** [2019] EWHC 1993 (Admin)

¹⁶ **Monkhill Ltd v Secretary of State for Housing, Communities And Local Government** [2021] EWCA Civ. 74

- c) *encouraging the inclusion within housing schemes of a proportion of dwellings that are capable of meeting the needs, as occupiers, of people with disabilities."*

4.19 Policy HO3 CSDM refers to the provision of Affordable Housing and states:

"The Council's target for affordable housing is that 40% of all net additional dwellings completed over the plan period, 2006-2026, should be affordable. This will be achieved by:

- a) *having regard to the circumstances of each site, negotiating for a proportion of up to 50% of housing on sites to be affordable where the development comprises 15 or more dwellings (gross) or the site is 0.5 hectares or larger irrespective of the number of dwellings. The Council will seek to maximise the contribution to affordable housing provision from each site having regard to the individual circumstances and viability, including the availability of any housing grant or other subsidy, of development on the site. Negotiation should be conducted on an 'open book' basis,*
- b) *encouraging registered social landlords to bring forward smaller sites of one to fourteen dwellings (gross) consisting wholly of affordable housing regardless of site size.*

Provision within any one scheme may include social rented and intermediate units, subject to the proportion of intermediate units not exceeding 35% of the total affordable housing component.

Where affordable housing is provided on any site the Council will seek to ensure that it is maintained in perpetuity, normally by means of a legal agreement, for the benefit of those groups requiring access to such housing. Where such a restriction is lifted, for any reason, the Council will require any subsidy to be recycled for alternative affordable housing provision. Where the Council considers a site is suitable for affordable housing and a reasonable provision could be made, planning permission will be refused if an applicant is unwilling to make such provision.

In proposals for housing development a financial contribution in lieu of provision for affordable housing will only be acceptable where on-site provision is not achievable and where equivalent provision cannot readily be provided by the developer on an alternative site.

Where, as a means of avoiding the requirement to provide affordable housing, a proposed development site is subdivided so as to be below the site size threshold, or is not developed to its full potential so as to be below the number of dwellings threshold, planning permission will be refused."

4.20 It is also considered that the following policies of the Core Strategy, which are not identified in the Decision Notice as policies which are conflicted by the development, are broadly relevant to the consideration of the planning merits of the appeal:

- SP1 (Location of Development) refers to the amount of employment land being maintained, and larger employment areas being retained and increased, it notes that residential redevelopment of poorly located (lawful) employment sites in residential areas may be supported;
 - SP6 (Maintaining and Improving the Environment) by ensuring new developments are attractive, respect their environment, protect areas of environmental quality and improve poor quality environments within urban and Green Belt areas;
 - EN8 (Protecting and Improving the Landscape and Biodiversity) by ensuring new development contributes to an improvement of landscape and biodiversity and refusing permission where harm occurs to landscape.
- 4.21 The Council has also adopted Supplementary Planning Documents including Design of Residential Extensions and New Residential Development SPD (2011) and the Housing Size and Type SPD (2012).
- 4.22 Other relevant policies of the CSDM include:
- LO1 (Flooding)
 - SP2 (Housing Provision)
 - HO1 (Providing for New Housing Development)
 - HO5 (Housing Density)
 - CO3 (Provision of Open Space for New Development)
 - EN1 (Design of New Development)
 - EN3 (Air Quality)
 - EN7 (Tree Protection)
 - EN15 (Development on Land Affected by Contamination)
 - SP7 (Climate Change and Transport)
 - CC1 (Renewable Energy, Energy Conservation and Sustainable Construction)
 - CC2 (Sustainable Travel)
 - CC3 (Parking Provision)
- 4.23 The Spelthorne Local Plan Preferred Options was published (Regulation 18) was published on Tuesday 5 November 2019 with the consultation period expiring on Tuesday 21 January 2020. The Call for Sites pursuant to the emerging Local Plan was launched on 20 January 2021 and it finished on 3 March 2021. The Regulation 19 Local plan ran from 15 June to 21 September 2022 alongside consultation of the Staines Development Framework.
- 4.24 The plan was submitted for examination and an Inspector was appointed. The examination commenced on Tuesday 23 May 2023 and the Local Development Scheme anticipated adoption in September 2023.

- 4.25 However, following an Extraordinary General Meeting of the newly constituted Spelthorne Borough Council following local elections a motion was agreed to pause the remainder of the Local Plan examination hearings on 6 June 2023, the Chief Executive wrote to the Planning Inspector to put forward this request on behalf of the Council and on 8 June 2023 the Examining Inspector, Mr Bridgewater, agreed the request.
- 4.26 It was agreed to appoint Catriona Riddell & Associates to provide ‘critical friend’ support to inform the options for taking the plan process forward. A final report setting out the conclusions from the critical friend review is scheduled to be referred to the Council on 14 September 2023.
- 4.27 The following emerging policies are considered relevant to the appeal proposal:
- ST1: Presumption in Favour of Sustainable Development
 - ST2: Planning for the Borough
 - PS1: Responding to the Climate Emergency
 - PS2: Designing Places and Spaces
 - SP4: Green Belt
 - H1: Homes for All
 - H2: Affordable Housing
 - E1: Green and Blue Infrastructure
 - E2: Biodiversity
 - E3: Managing Flood Risk
 - E5: Open Space and Recreation
 - ID1: Infrastructure and Delivery
 - ID2: Sustainable Transport for New Developments
- 4.28 The Council’s Emerging Plan identifies the site for allocation for Residential (C3): approximately 79 units (HS1/009 – Bugle Nurseries). There was no change to the proposed site allocation when the Pre-Submission Local Plan was submitted to the Planning Inspectorate on 25/11/22. The site was not identified as a potential allocation site at the Preferred Options Regulation 19 stage due to its Green Belt performance, however in consultation with Members, the Council agreed to amend its spatial strategy for the Regulation 19 Draft Local Plan stage, following a change in the spatial strategy with an altered approach to Green Belt and following the appeal being allowed on the PDL.
- 4.29 Given its stage of preparation the emerging plan carries only limited weight and is not relied on by the Council in this appeal. This weighting is consistent with the agreed position at a recent appeal at the former Debenhams site in Staines.
- 4.30 The Council will update the position regarding the eLP and the relevant emerging policies.

5 The Council's Case

- 5.1 The Council cannot demonstrate a five year supply of deliverable housing land, and the last published Housing Delivery Test (HDT) result for Spelthorne¹⁷ was 69% and thus in accordance with footnote 8 the most important policies of the plan are out of date and the so called tilted balance pursuant to 11(d)ii is engaged.
- 5.2 However, the Council will demonstrate that policies of the NPPF relating to the Green Belt provide clear reasons for refusing the development proposed, thus the presumption in NPPF 11(d)ii is therefore disengaged.
- 5.3 The Council will first consider whether the application can properly be considered to include adequate information to enable it to be determined, i.e. whether the information provided will allow the Inspector to properly determine the layout and scale of the proposed development given these matters are not reserved for future determination.
- 5.4 In that respect the Council understands that, contrary to the application forms, layout is no longer to be determined at outline stage. However, the Appellant has included in their description of development reference to siting. The Council will argue that if layout is to be reserved for future consideration, then any indication of siting can only be treated as indicative and cannot bind consideration of layout, a matter that is reserved for future consideration.
- 5.5 In terms of scale for any meaningful consideration to be given to such matters full details of the height of existing surrounding development and proposed footprint, ridge and eaves heights will need to be provided with any application. Scale cannot be considered (and thus not reserved) with simple reference to a maximum height of buildings.
- 5.6 In discussing the matters reserved and not reserved for future consideration the Council will refer to the Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

Green Belt – Inappropriate Development

- 5.7 The Council will demonstrate that the proposed development is inappropriate development in the Green Belt before considering what other harm arises to the Green Belt and any other matters.
- 5.8 The appeal site lies outside any existing settlement within the designated Green Belt as defined on the Proposals Map of the adopted Plan. Consistent with the Framework 2023 Policy 1 of the adopted Plan does not include a development incorporating 80 residential dwellings, access roads etc. as a form of development comprising an exception to the definition of inappropriate development.

¹⁷ The 2021 Result published in January 2022

- 5.9 The Council will show that the proposal does not benefit from any of the exceptions pursuant to paragraph 149(g) NPPF 2023 given that the whole of the appeal site does not comprise previously developed land and in addition the proposed development would not comply with the two criteria.

Green Belt - Openness

- 5.10 The Framework identifies openness and permanence as the essential characteristics of the Green Belt with the fundamental aim of Green Belt policy to keep land permanently open. Green Belt policy is a spatial policy.
- 5.11 The Council will detail the correct approach to openness acknowledging that the visual component of openness is capable of being a material consideration, but it is not necessarily a consideration in every case.
- 5.12 With this in mind the Council will set out the lawful baseline for the site noting overall the site is relatively open with views achieved through the site with subdivision and boundaries achieved via open fencing.
- 5.13 The Council note that despite purporting to include layout and scale the proposals are vague and a number of assumptions have to be made to allow a meaningful comparison of footprint, floorarea and volume.
- 5.14 As detailed in section 3 I understand the proposed development will amount to circa 8300m² of Gross External floor area (GEA). However, in addition I expect there would be bin and cycle stores for the four apartment blocks.
- 5.15 The Council will demonstrate that there would be a significant increase in built form on the appeal site. In addition, the proposals will also increase the presence and prominence of built form noting that the development is at least two-storey throughout and could have a height of 9.5 metres.
- 5.16 The Council will describe the disposition of buildings and their solid appearance from outside and within the site and conclude that they will reduce openness in both a spatial and visual sense.
- 5.17 The Council will show that the site will appear substantially less open than the existing use of the site having regard to the solidity and enclosure that will result from the quantum and scale of proposed development. It will also show that the site will be substantially less open than the extant permitted scheme for the site.
- 5.18 Therefore the proposed development would substantially erode openness in both the spatial and visual contexts even having regard to the baseline and extant permission. The proposals will lead to substantial harm to openness and therefore the proposals would not comprise an exemption under 145(g) of the Framework. The Council will show that harm to the openness of the Green Belt is substantial and should carry substantial weight.

Green Belt - Purposes

- 5.19 The previous Inspector treated purposes (a) and (b) as conflicted by the dismissed scheme. The Council take that as their starting point but add conflict with purposes (c), because unlike the previous scheme the appeal proposals extend rearwards (west) onto the open grazing land.
- 5.20 In contrast to the open grazing land the proposal will result in a more prominent urban character to the appeal site.
- 5.21 The appeal site and area comprise a gap between Ashford / Sunbury-on- Thames / Stanwell and Upper Halliford, preventing development that, as a result of their close proximity, would result in the merging of these settlements. It also plays an important role in preventing further ribbon development along Upper Halliford Road and the continued sprawl of a large urban area.
- 5.22 Overall whilst acknowledging the previously developed nature of part of the appeal site the proposals, by reason of the at least two storey scale of development extending deep into the appeal site and closer to the site frontage, will visually erode the perceived narrow gap along the Upper Halliford Road and lead to the two pockets of development to the north and south appearing closer to one another.
- 5.23 Thus in both a spatial sense as well as a visual sense with the prominence of proposed development on the appeal site will add to the perception of sprawl and merger from Upper Halliford Road, the neighbouring park and the PROW network as well as failing to safeguard the countryside from encroachment.
- 5.24 Therefore, in the circumstances of this case conflict arises with the purposes.

The Housing Mix

- 5.25 The proposals comprise:
- 24 one and two bedroom flats;
11 two bedroom houses;
34 three bedroom houses; and
11 four bedroom houses.
- 5.26 Therefore 35 of the 80 proposed dwellings comprise one or two bedroom dwellings, that equates to 43.75% of the proposed dwellings. Policy HO4 requires developments, that propose four or more dwellings to include at least 80% of their total as one or two bedroom units.
- 5.27 The Council will also make reference to the adopted SPD Housing Size and Type (2012) and note conflict.

- 5.28 The Council will also make reference to the emerging plan evidence base and compare the proposed mix with those recommendations noting that the proposals would conflict with the SHMA which underpins the emerging less prescriptive draft policy
- 5.29 The proposals falls substantially short of the policy requirement of 80% and indeed does not provide a majority of units as one and two bedroom dwellings and therefore conflicts with Policy HO4.

Amenity of Neighbouring Properties

- 5.30 The proposal is considered to be capable of having an acceptable relationship and therefore an acceptable impact on the amenity of existing neighbouring residential properties, apart from those properties along Haliford Close. Insufficient detail has been provided in order for the Council to be satisfied that the proposed siting and scale will ensure a satisfactory relationship including sufficient separation distance and as such the proposal does not currently conform to the SPD and Policy EN1.
- 5.31 Had the description of development not referred to scale and siting and the application form included for consideration scale and layout then this matter could have been overcome. Such matters may be capable of resolution and the Council will consider any proposals submitted by the Appellant¹⁸.

¹⁸ Such as amendments to the description of development and amendments to the application forms

6 Consideration of the Appellant's Case

- 6.1 The Council will address paragraph 145(g) and conclude that the proposal would not comprise an exception under that provision as it is not confined to previously developed land, would have a greater impact on openness than the existing development and would lead to a substantial loss of openness to the Green Belt even if it was found to contribute to meeting an identified affordable housing need.
- 6.2 Therefore, the Council will maintain that the proposed development comprises inappropriate development in the Green Belt. It is well established that it is for the Appellant to demonstrate that very special circumstances exist to warrant overriding normal Green Belt presumptions. Such circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 6.3 In the context of Policy HO3 Affordable Housing the requirement is for up to 50% of housing on sites to be affordable where the development comprises 15 or more dwellings (gross) or the site is 0.5 hectares or larger irrespective of the number of dwellings¹⁹. Therefore the provision of 50% housing at the appeal site comprises the policy requirement and cannot rationally in that context be considered to comprise a contribution to affordable housing beyond any policy requirement.
- 6.4 The Council has historically fallen short of its housing targets and this is reflected in the HDT results for the Borough. It is common ground that the Council cannot demonstrate a five year supply of deliverable housing land. The Council can demonstrate a supply of 3.52 years.
- 6.5 The Council will describe the quantative difference in housing between the scheme allowed at appeal in July 2021 and the appeal scheme in ascribing weight to matters of housing delivery and affordable housing.
- 6.6 The Council will describe the draft allocation of the site in the emerging Local Plan and allocate weight to such matters as a material consideration noting that the allocation is subject to objection as well as support. In this context the Council will note the objections submitted in respect of the application the subject of this appeal.
- 6.7 The Council will also note the objection to the proposed wider spatial strategy of the emerging Local Plan in terms of the release of Green Belt land
- 6.8 The Appellant relies on the following factors (or "other considerations") which can be summarised as:
- The provision of additional housing and affordable housing over and above the extant scheme (4.4 – 2 – a & b)

¹⁹ It is factually wrong to characterise the Policy as requiring 40% provision on qualifying sites and thus the weight accorded by the Appellant has an incorrect foundation.

- The removal of a bad neighbour and remediation of the site (4.4 – 2 - c)
- Provision of public open Space (4.4 – 2 - d)
- Pedestrian Crossing
- Provision of a strategic gap (4.4 – 2 - e)
- Local support (4.4 – 2 - f)
- Emerging Local Plan strategy (4.4 – 4 & 5)

6.9 The Council do not consider that these matters when balanced against the identified harm amount to very special circumstances.

7 The Planning Balance

- 7.1 The proposals comprise inappropriate development and should be refused permission unless very special circumstances exist.
- 7.2 In order to amount to very special circumstances, the Appellant (see 6.8) has to demonstrate that the material considerations relied upon clearly outweigh the harm by way of inappropriateness and any other harm.
- 7.3 The council will show that the other considerations advanced by the Appellant do not clearly outweigh, the harm by way of inappropriateness and any other harm. Therefore, very special circumstances do not exist, and planning permission should not be granted.
- 7.4 For the reasons set out the proposal will lead to harm to Green Belt policies and thus consistent with footnote 7 and paragraph 11(d) of the Framework Green Belt policies in the Framework provide a clear reason for refusal under paragraph 11(d)(i) and the tilted balance would not apply in the circumstances of this Green Belt site.
- 7.5 The Council will therefore invite the Inspector to dismiss this appeal.

Appendix 1

Planning Committee

23 August 2023



Application No.	22/01615/OUT		
Site Address	Bugle Nurseries, Upper Halliford Road, Shepperton, TW17 8SN		
Applicant	Angle Property (RLP Shepperton) LLP		
Proposal	Outline application with approval sought for scale, access and siting, with details of layout, appearance and landscaping reserved, for the demolition of existing buildings and structures, removal of waste transfer facility and the redevelopment of the site for up to 80 residential units and the provision of open space and a play area, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.		
Officers	Paul Tomson/Kelly Walker		
Ward	Halliford and Sunbury West		
Call in details	N/A		
Application Dates	Valid: 21/11/2022	Expiry: 20/02/2023 Extension of time agreed until 14/07/2023. Appeal lodged.	Target: N/A
Executive Summary	<p>This outline planning application proposes the demolition of the existing buildings and structures and the redevelopment of the site for a residential development comprising up to 80 dwellings, provision of open space, (which includes the removal of the existing bungalow) and other associated works. Matters for determination are scale, access, and siting, with layout, appearance and landscaping being the reserved matters.</p> <p>The applicant has appealed against the proposal on the grounds that the Local Planning Authority (LPA) has failed to give notice of its decision within the relevant statutory period (known as a 'non-determination'). The appeal will be dealt with by means of a Public Inquiry which will commence on 28 November 2023 and is scheduled for five days. Therefore, the Planning Committee's views are being sought on what the decision would have been, had it been in a position to determine it. This will be used by the LPA at the appeal.</p> <p>The site is located within the Green Belt. The scale and extent of the buildings will be much greater than the existing buildings and the proposal constitutes '<i>inappropriate development</i>' in the Green Belt causing unacceptable loss of openness.</p>		

	It is noted that the proposal will result in the removal of the existing industrial uses and waste transfer station, and the associated noise and disturbance that they cause. It will provide new housing including a significant proportion of affordable housing. However, it is not considered the benefits of the scheme will clearly outweigh the substantial harm to the Green Belt. Consequently, there are no 'very special circumstances' to justify the development in the Green Belt.
Recommended Decision	If an appeal had not been lodged against non-determination, the application would have been recommended for refusal. The reasons for refusal will form the basis of the Council's case at the planning appeal.

MAIN REPORT

1. Development Plan

1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:

- SP1 (Location of Development)
- LO1 (Flooding)
- SP2 (Housing Provision)
- HO1 (Providing for New Housing Development)
- HO3 (Affordable Housing)
- HO4 (Housing Size and Type)
- HO5 (Housing Density)
- CO3 (Provision of Open Space for New Development)
- SP6 (Maintaining and Improving the Environment)
- EN1 (Design of New Development)
- EN3 (Air Quality)
- EN7 (Tree Protection)
- EN8 (Protecting and Improving the Landscape and Biodiversity)
- EN15 (Development on Land Affected by Contamination)
- SP7 (Climate Change and Transport)
- CC1 (Renewable Energy, Energy Conservation and Sustainable Construction)
- CC2 (Sustainable Travel)
- CC3 (Parking Provision)

1.2 It is also considered that the following Saved Local Plan policies are relevant to this proposal:

- GB1 (Green Belt)
- BE26 (Archaeology)

1.3 Also relevant are the following Supplementary Planning Documents/Guidance:

- SPD on Design of Residential Extensions and New Residential Development 2011
- SPG on Parking Standards Updated 2011
- SPD on Housing Size and Type 2012.

1.4 The policies contained within the National Planning Policy Framework (NPPF) 2021 are also relevant.

1.5 On 19 May 2022, Council agreed that the draft Local Plan be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version of the Local Plan ran from 15 June 2022 to 21 September 2022 and the local plan was submitted to the Planning Inspectorate under Regulation 19 on 25 November 2022. An Examination into the Local Plan commenced on 23 May 2023. However, on 6 June 2023, the Council resolved the following: *Spelthorne Borough Council formally requests the Planning Inspector to pause the Examination Hearings into the Local Plan for a period of three (3) months to allow time for the new council to understand and review the policies and implications of the Local Plan and after the three month pause the Council will decide what actions may be necessary before the Local Plan examination may proceed.* At the meeting of the Council on 19 July 2023, it was agreed that Catriona Riddell & Associates be appointed to provide 'critical friend' support to inform the options for taking the plan process forward. A final report setting out the conclusions from the critical friend review is currently scheduled to be referred to the Council on 14 September 2023.

As such the policies and allocation carry limited weight in the decision-making process of this current planning application.

1.6 The following policies of the Pre-Submission Spelthorne Local Plan 2022 – 2037 are of relevance:

- ST1: Presumption in Favour of Sustainable Development
- ST2: Planning for the Borough
- PS1: Responding to the Climate Emergency
- PS2: Designing Places and Spaces
- SP4: Green Belt

- H1: Homes for All
- H2: Affordable Housing
- E1: Green and Blue Infrastructure
- E2: Biodiversity
- E3: Managing Flood Risk
- E5: Open Space and Recreation
- ID1: Infrastructure and Delivery
- ID2: Sustainable Transport for New Developments

1.7 The Council's Emerging Plan identifies the site for allocation for Residential (C3): approximately 79 units (HS1/009 – Bugle Nurseries). There was no change to the proposed site allocation when the Pre-Submission Local Plan was submitted to the Planning Inspectorate on 25/11/22. The site was not identified as a potential allocation site at the Preferred Options Regulation 19 stage due to its Green Belt performance, however in consultation with Members, the Council agreed to amend its spatial strategy for the Regulation 19 Draft Local Plan stage, following a change in the spatial strategy with an altered approach to Green Belt and following the appeal being allowed on the PDL.

1.8 A total of 6 representations have been received in relation to the site allocation in the emerging local plan including one from the Environment Agency (EA), Surrey County Council (SCC) the applicant and one from Bellway Homes who has an option agreement for the site.

Issues raised include:

- Fallback position (previously approved consent)
- Provide public open space.
- This scheme will create a gap and a defined Green Belt boundary.
- Will be built out and deliver housing, once permission given
- Flood risk area, historic landfill
- Provides 50% affordable housing.
- The site contains mineral processing plant.
- Role of land to stop neighbouring towns from merging is overstated.
- Sustainable location
- Site close to Charlton Lane Community Recycling Centre which is within the Waste Consultation Area. (WCA)
- Inconsistencies with the Council's assessment of individual sites, with some site promoted for allocation and Green Belt performance.

2. Relevant Planning History

C/80/702	Residential development at a density of 19.35 units per acres (47.82 units per hectare).	Refused 14.01.1981 Appeal
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		Dismissed 16.12.1981
01/00816/FUL	Demolition of existing bungalow and erection of detached bungalow	Approved 15.12.2001
11/00101/CLD	Certificate of lawfulness for the retention of site buildings and hardstanding, together with the commercial uses of the land and buildings comprising a mix of parking and storage of motor vehicles, vehicle bodies and containers, industrial/workshop purposes with ancillary storage, general storage purposes, offices with ancillary storage, and use of hardstanding for access and parking.	Refused 01.10.2013
12/01060/SCC	Surrey County Council consultation for a certificate of lawfulness to use 0.91 hectares of land at Bugle Nurseries for importation, deposit and sorting of waste materials comprising soil, hardcore, concrete and timber together with the export of such processed materials.	No objection 18.09.2012
15/01528/FUL	Alterations to existing access onto Upper Halliford Road.	Refused 21.01.2016 Appeal Dismissed 06.01.2017
16/00320/FUL	Proposed six month temporary planning application extension for the retention of a 30m high mast with associated equipment	Approved 20.04.2016
16/01982/FUL	Temporary permission for the retention of a 30m high mast with associated equipment	Approved 09.02.2017
18/00591/OUT	Outline application with all matters reserved other than 'Access' for the demolition of existing buildings and structures and the redevelopment of the site for a residential led development including comprising up to 57 residential homes and a 72 bed care home plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes	Refused 30/07/2018
18/01561/OUT	Outline application with all matters reserved other than 'Access' for the demolition of the existing buildings and structures and the redevelopment of the site for a residential led development comprising up to 51 residential homes, a 72-bed care home and the provision of open space, plus associated works for	Withdrawn 05/02/2019

	landscaping, parking areas, pedestrian, cycle and vehicular routes	
19/01022/OUT	Outline application with all matters reserved other than 'Access' for the demolition of the existing buildings and structures and the redevelopment of the site for a residential led development comprising up to 43 residential homes, a 62-bed care home and the provision of open space, plus associated works for	Refused 13/11/2019 Appeal Dismissed 15/07/2021
20/00123/OUT	Outline planning application with all matters reserved other than 'Access' for the retention of existing dwelling and demolition of all other existing buildings and structures and the redevelopment of the site for up to 31 dwellings along with the provision of public open space and other associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.	Refused 13.11.2020 Appeal Allowed 15/07/2021

2.1 With regard to planning application C/80/702, this proposal involved the creation of a new residential development on the whole of the Bugle Nurseries site, including the land to the west of the current application site, comprising 243 dwellings. The application was refused for the following reasons:

1. The proposed development conflicts with the policies for the Preservation of the Metropolitan Green Belt.
2. The proposal would result in the coalescence of settlements and encourage further such a process in this locality.
3. The proposal is unacceptable as it would result in the loss of very good quality agricultural land, and if allowed, could lead to further similar applications for development on other land.
4. In any event the proposal is premature pending the completion of a Housing Land Availability Study in connection with Structure Plan requirements for Housing for this Borough.

In the subsequent appeal, the Inspector agreed with the Council's reasons for refusal and consequently dismissed the appeal.

2.2 With regard to planning application 15/01528/FUL for alterations to the existing access road onto Upper Halliford Road, this was refused on the grounds that the development would constitute inappropriate development in

the Green Belt for which no very special circumstances had been demonstrated. The subsequent appeal was dismissed for this reason.

- 2.3 With regard to planning applications 19/01022/OUT and 20/00123/OUT these were both refused for the following reason:

1) The development represents inappropriate development in the Green Belt for which no very special circumstances have been demonstrated. It will result in the site having a more urban character, will diminish the openness of the Green Belt and conflict with the purposes of including land within it. In particular, it would not comply with the Green Belt purposes: to check the unrestricted sprawl of large built-up areas, and to prevent neighbouring towns merging together. It is therefore contrary to Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 and Section 13 (Protecting Green Belt Land) of the Government's National Planning Policy Framework 2019.

- 2.4 Both of the most recent applications were appealed against, and a decision was given on 15/07/2021 for both schemes following an Appeal Hearing. Application ref 19/01022/OUT, (Appeal A) for 43 residential homes and a 62-bed care home was dismissed, but the smaller scheme ref 20/00123/OUT for 31 dwellings (Appeal B) was allowed. In his assessment, of the appeals, the Inspector considered that Appeal B, would not constitute inappropriate development within the Green Belt and that it would fit into the exceptions test (Paragraph 145(g) of the NPPF which refers to limited infilling or the partial or complete redevelopment of previously developed land. The Inspector noted that *'The proposed development would contribute 31 dwellings towards the existing housing stock within the Borough, where there is no 5-year land supply. The proposal would also deliver a policy compliant level of affordable housing provision, along with other benefits in terms of the use of previously developed land and short-term economic benefits from the construction phase and longer-term economic impacts from the reliance of new residents on local facilities.'*

- 2.5 In paragraphs 38 and 39 of the Appeal decision, addressing inappropriate development, the Inspector concludes that in regard to Appeal B, *'...the proposal would have a more permanent appearance than the existing development and would result in the site having a more urban and developed feel. However, due to its layout and additional landscaping, its visibility from outside of the site would be limited. Furthermore, the existing openness along the eastern boundary of the site would be retained, with the exception of a small area of land to be used for the access, although, given the proposed use, this would still retain a sense of openness. The proposal would also not conflict with the purposes of the Green Belt.*

Overall, therefore, given its urbanising effect, the proposed development would harm the openness of the Green Belt. However, considering the above, this harm would be limited. As a consequence, given that the majority of the site would comprise previously developed land, and where it does not, the land would remain open, and that the proposal would meet an identified affordable housing need and it would not cause substantial harm to the openness of the Green Belt, I conclude that Appeal B would meet the

exceptions in Paragraph 145(g) of the Framework and would therefore not be inappropriate development’.

- 2.6 However, the Inspector concluded that the larger scheme of Appeal A would be inappropriate development in the Green Belt and that very special circumstances do not exist to overcome the harm to the Green Belt to justify the development. The current proposal is for more dwellings than both the allowed and dismissed schemes at 80 units. (dismissed scheme included 43 dwellings and a 62-bed care home). The allowed scheme was only for 31 units and the development was located only on the PDL. Like the current proposal, the refused scheme had elements of the built form which encroached into the paddock west of the industrial estate, as well as the area of open land to the south of the access road.

3. Description of Current Proposal

- 3.1 This planning application for residential development, is the fifth to be submitted over the last few years. The planning history above shows that two of these were appealed against following refusal, and the smaller scheme was allowed by the Planning Inspector. This current application is again an outline proposal, however this time ‘scale’ and ‘access’ are to be determined (not just ‘access’ as before in the two appeal schemes). In addition layout was ticked on the application form, however the applicant has since noted that layout is not under assessment but ‘siting’ is included in the description (this matter is discussed in more detail later in the report). It proposes the demolition of the existing buildings and structures and the redevelopment of the site for a residential led development comprising up to 80 residential homes and the provision of open space, plus associated works for landscaping, parking areas, pedestrian, cycle and vehicular routes.
- 3.2 The application site comprises an area of land of 4.84 ha and is located to the west of Upper Halliford Road. The site comprises open fields with paddocks, a residential bungalow and its garden, old nursery structures and other buildings and hardstanding in commercial use, including parking and access roads. The application includes the land to the west up to the railway line, which currently has a waste transfer station located on it in this area and a large bund on the western boundary with the railway. The applicant has provided details of earth works and landscaping to provide an open area accessible to the public. The submitted plans also show a pedestrian crossing on Upper Halliford Road. The existing buildings on the site are limited in number and scale, and as they are single storey only they therefore have a reduced impact on the visual amenity of the locality.
- 3.3 Currently, the site consists of shrubs and trees lining Upper Halliford Road and the remains of old nursery buildings/poly-tunnels to the front of the site. There is an Oak tree in the north-eastern corner of the site which has a Tree Preservation Order on it and will not be affected by the proposed development. There is an access road located centrally from Upper Halliford Road into the site and also one on the northern boundary. There is a detached bungalow on its own large plot surrounded by a garden and outbuildings. Centrally within the application site are areas of hardstanding and a number of buildings (accessed via the road) which have been used as

various commercial uses over recent years, with parking of many commercial vehicles. Further to the north is open grass land with paddocks and a number of trees both individual and in groups.

- 3.4 The site is currently located within the Green Belt.

Surrounding area

- 3.5 To the south on Upper Halliford Road are developments which are domestic in scale, with 2 storey semi-detached houses located along Halliford Close and no. 137 and 139 being bungalows. Immediately to the south east of the site are residential properties positioned at right angles within Halliford Close, whose rear gardens adjoin the application site. Further to the west, the garages of properties at Bramble Close and allotments adjoin the application site to the south. Directly to the north of the site is a public footpath and the site of the former Bugle Public House which has recently been rebuilt as a block of 8 apartments. Further to the north are other dwellings in a ribbon, fronting Upper Halliford Road, with open grass land behind and a large fishing lake to the north west of the site. Most of the existing dwellings are relatively small in scale and are mostly 2 storey and have gaps in the street scene between the built form providing views of the open land behind.
- 3.6 To the north-east, on the other side of Upper Halliford Road is Halliford Park, which comprises open grass land and mature trees. It also has a play area, and a car park.
- 3.7 There are many trees within the site, mostly close to the boundaries. The Council has previously issued a Tree Preservation Order on an Oak tree located in the north-eastern corner of the site.

Background

- 3.8 Planning permission was approved on 15 July 2021 following an appeal against the refusal of planning permission for the development of 31 homes on the previously developed part of the site (LPA Ref 20/00123/OUT) fronting Upper Halliford Road. This would involve a housing development sited on the Previously Developed Land (PDL), that would link the existing housing areas to the north and south of the site. The existing bungalow would be retained, and the remainder of the site frontage would be landscaped. Subsequently the Applicant has been in discussion with the Council's Strategic Planning Team regarding an alternative form of housing development including retaining an area of open/undeveloped Green Belt land to the north of the site, linking existing Green Belt to the west and east. This scheme has been put forward in the emerging Local Plan as allocation HS1/009 which identifies the site for approximately 79 dwellings. As such, this current application is being brought forward by the applicant at this stage although the plan is still at Examination stage and is yet to be adopted.

Proposal

- 3.9 This outline planning application proposes the demolition of the existing buildings and structures and the redevelopment of the site for a residential development comprising up to 80 dwellings, provision of open space, and other associated works. Matters reserved at this stage are layout,

appearance and landscaping with the matters under consideration being scale, access and siting. As noted, layout has been ticked on the application form and 'siting' has been used in the description, which is an element of the layout. The applicant has been asked to clarify what is under consideration at outline stage with this application and have noted that, *for the avoidance of doubt the following matters are for approval at outline stage:*

- Scale
- Access

The following matters would be determined as a reserved matter:

- Appearance
- Landscaping
- Layout

Clarifying that, *'...Notwithstanding that layout is ultimately a reserved matter, the description of development refers specifically to siting which corresponds with the proposed siting parameter plan (ref: D2005 P1)) that is for approval. The siting plan would secure the location of the units within the residential development zone which a future reserved matters application would need to comply with when presenting a detailed layout. For this reason, siting was included in the description of development.'* It should be noted that had the Council been in a position to determine the application it is considered that the layout and scale should be reserved matters as there is insufficient detail been provided to determine the application on these matters.

3.10 Four parameter plans showing the site access/egress, land use, siting and development zone heights, have been submitted for assessment and if approved would secure those details. In addition, indicative plans have been submitted showing details of the layout, design of the buildings, as well as the proposed parking provision and landscaping. These indicative plans are illustrative only and indicate one way in which the site could be developed with the exception of siting, scale and access.

3.11 The Town and Country Planning (Development Management Procedure) Order 2015 provides definition of "scale" "access", "layout", "appearance" and "landscaping" in relation to reserved matters associated with outline planning applications: -:

Scale – '...except in the term 'identified scale', means the height, width and length of each building proposed within the development in relation to its surroundings...'

Access - '...the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network...'

Layout- '...the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development...'

Appearance – ‘...the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture...’

Landscaping – ‘... the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features..’

- 3.12 As such the proposal shows the access and position of the proposed roads on the site, which are to be assessed at this outline stage, as well as some details of the scale and siting, consisting of the siting of the proposed buildings, with their width and length and their maximum height. As noted above, parameter plans have been submitted to agree certain detail, with indicative plans used to inform the actual layout and design (which are not currently under assessment). The submitted siting parameter plan, under assessment, shows part of the layout including the position of the proposed buildings, but does not include full details of spaces around the buildings including the actual position of gardens and parking spaces, this is why layout is not under consideration at this stage. As also noted, limited detail on the scale parameter plan is provided, just a maximum height of 9.5m which is at least 2 storeys. The proposal includes 80 dwellings, providing 18 no. 1 bed flats, 17 no. 2 bed units (6 flats and 11 houses), 34 no. 3 bed houses and 11 no. 4 bed houses.
- 3.13 There is also shown to be a small play area to the north of the proposed dwellings, in the open space, which will be accessible by residents of the proposed scheme and members of the public.
- 3.14 The indicative plans show that a total of 158 parking spaces will be provided. Parking is illustrative and to be provided mainly to the front of the buildings. The proposal also includes areas of landscaping, refuse and cycling parking facilities. Some of the existing trees on site appear to be removed/affected by the proposal.
- 3.15 The application also includes the land to the west up to the railway line and land to the north up to the public footpath. The proposal includes the removal of the existing bungalow fronting Upper Halliford Road along with details of earth works and landscaping to provide an open area accessible to the public, keeping a link to existing Green Belt land to the west and east.
- 3.16 The proposed site layout is provided as an Appendix.

Residential

- 3.17 A total of 80 dwellings are shown to be provided, comprising 18 no. 1 bed flats, 17 no. 2 bed units (6 flats and 11 houses) 34 no. 3 bed houses and 11

no. 4 bed houses. The applicant is also proposing that 30 units will be affordable, with an additional 10 units as First homes.

4 Consultations

4.1 The following table shows those bodies consulted and their response.

Consultee	Comment
County Highway Authority	No objection. Recommend conditions
Environment Agency	No comments
Group Head-Neighbourhood Services	No comments received; no objection previously raised
Surrey County Council (Minerals and Waste)	No objection
Sustainability Officer	Raises concerns as the proposal currently no details have been submitted to show how the 10% renewable energy requirement will be met. (Officer note: as the application is an outline this can be agreed at reserved matters stage)
Local Lead Flood Authority (Surrey County Council)	Following further details being submitted, no objection subject to conditions.
County Archaeologist	No objection. Recommends a condition
Crime Prevention Officer	No objection
Countryside Access Officer (Surrey County Council)	No objection
Natural England	No comments received, also no comments with previous application
Surrey Wildlife Trust	No objection subject to conditions
Network Rail	Ongoing correspondence with applicant in relation to making the railway crossing safe for users of the footpath.
Tree Officer	No objection
Surrey Fire Safety	No objection
National Grid	No comments received, also no comments with previous application
Environmental Health (Contaminated land)	No objection subject to conditions
Environmental Health (Air Quality)	No objection subject to conditions

5. Public Consultation

- 5.1 The NPPF seeks to encourage pre-application engagement and front loading and advises that *“early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.”* The Council’s own Statement of Community Involvement states that the *“Council will encourage applicants and developers to undertake pre-application consultation and discuss their proposals with their neighbours or the community before submitting their formal application.”*
- 5.2 The applicant notes that a newsletters was distributed to 1,019 nearby residents, stakeholders and businesses outlining the proposals and inviting them to a public consultation event. This was held on Friday 10th June 2022 at the Alan Freeman Trust Hall, Upper Halliford, Shepperton, TW17 8SE. Information on the proposal was available for attendees to review and the consultant team were available to answer questions. A dedicated freephone consultation line, freepost address and email address were also available. A total of 12 feedback slips were received prior to the engagement event following the delivery of the newsletter. A total of 28 people (including three councillors) attended the public engagement event, and 11 feedback forms were received.
- 5.3 78 properties were notified of the planning application. Furthermore, a statutory site notice was displayed, and the application was advertised in the local press. Letters of representation were received from 11 properties (including one from Shepperton Residents Association) objecting to the application.
- 5.4 Reasons for objecting include: -
- Substantially larger than previously approved scheme
 - Strongly performing Green Belt
 - Overdevelopment
 - Parking and traffic congestion
 - Lack of infrastructure
 - Too many houses on small piece of land
 - Density and massing,
 - Encroachment onto open land
 - Not on previously developed land
 - No Very Special circumstances
 - Access by garages is not owned by application for access to open land.

Also noted if approved: -

- 40% affordable needed and not negotiable
- substation should not be in open area, near park but in built up area.

6. Planning Issues

- Housing Land Supply
- Principle of the development
- Green Belt
- Housing density
- Design and appearance
- Neighbouring Residential amenity
- Amenity space provision
- Proposed dwelling sizes
- Highway issues
- Parking provision
- Affordable housing
- Flooding
- Renewable Energy
- Ecology
- Open space
- Dwelling mix
- Archaeology
- Impact on trees
- Contaminated Land
- Air quality
- Crime and design

7. Planning Considerations

Background

- 7.1 In 2017, the applicant made a formal request to the Council's Strategic Planning section for the entire Bugle Nurseries site to be allocated for housing in the proposed new Local Plan (in response to the Council's "Call for Sites" exercise). The applicant submitted two separate plans to illustrate the development potential of the site. The first plan showed a scheme similar to the 2018 refused application (18/00591/OUT) with the new housing and care home located towards the eastern side of the site. The second plan showed a larger scheme covering the whole of the Bugle Nurseries site comprising 116 dwellings and a care home. The area is classified as 'strongly performing' in the Council's Borough-wide Green Belt Assessment 2017 Stage 1 and therefore the site was considered unsuitable for development. As such the site was classified within the Council's updated Strategic Land Available Assessment (SLAA) as 'not developable' (see Need for Housing below). It is relevant to note that the site was also considered unsuitable for development in the Green Belt Assessment Stage 2 published in December 2018. The Assessment stated that the Sub-Area 396 (which covers the site) plays a fundamental role with respect to the wider Green Belt Local Area, and its release would harm the performance and integrity of the wider strategic Green Belt.
- 7.2 The Council completed its 'Preferred Options Consultation' (Regulation 18) in January 2020 as part of its preparation for a new Local Plan for the Borough. Whilst the Preferred Options Consultation Document proposed a number of sites within the Borough to be allocated for housing and employment development (including some sites currently located within the Green Belt), the site at Bugle Nurseries was not put forward as one of these proposed site

allocations. Indeed, the site is referred to in the Council's 'Rejected Site Allocations – Officer Site Assessment document 2019'. It stated that the site being part of a wider area of strongly performing Green Belt is considered to outweigh the opportunity to meet housing needs on the basis that development could weaken the wider strategic Green Belt. Consequently, the site was not taken forward for further consideration at this time and was, excluded as a housing allocation in the emerging Local Plan at that stage.

7.3 The site was not identified as a potential allocation site at the Preferred Options Regulation 19 stage due to its Green Belt performance, however in consultation with Members, the Council agreed to amend its spatial strategy for the Regulation 19 Draft Local Plan stage. The allocation of the Bugle Nurseries site rests on the maintenance of the strategic buffer between the settlements of Upper Halliford and Sunbury. This would mean that development would be situated on the southern part of the site and the performance against NPPF para 138, (b) be maintained.

7.4 In the development of the Regulation 19 draft Local Plan, the Council amended its spatial strategy with an altered approach to Green Belt. The following criterion were assessed:

- Weakly performing Green Belt
- Higher proportion of PDL
- Additional benefits to the community
- Feedback from the Preferred Options consultation
- Smaller sites
- Sustainability of location

7.5 The Council utilised these criteria to determine which Green Belt sites performed well against the spatial strategy. As set out in the [Draft Local Plan Reg 19: Site Allocations – Officer Site Assessments](#), the following overall conclusions were drawn:

The site is not subject to any major constraints, although potential contamination and any waste implications resulting from the existing site use require investigation.

The site already has planning consent for a smaller scheme of 31 units (granted on appeal). The proposed allocation development offers the opportunity to include development of a higher quantity but also retain a strategic gap in the Green Belt through the reorientation of the site. The allocation of the site would offer the Council more control over the proposals and would help to mitigate impacts on the Green Belt with the gap between the two settlement areas preserved. An area of open space for public use has also been included in the proposals. The existing use is considered to be somewhat of a bad neighbour therefore residential development could aid regeneration and improve its visual appeal and impact on the wider area.

The Sustainability Appraisal shows that the site would deliver new homes and would provide the opportunity to meet a mix of community needs. New open space would also be of benefit to the environment and to health and wellbeing. The site would however result in some negative environmental

impacts as it is Green Belt, although it is previously developed land in a bad neighbour use therefore development would reduce noise pollution.

The site is identified as part of an area of strongly performing Green Belt through Stages 1 and 2 of the Green Belt Assessment. The site is predominately previously developed land, and its current use is considered to be incompatible with the wider local area. The site already has planning consent however allocation would lead to more control over the development proposals and its delivery. The retention of a strategic Green Belt gap and a public open space are considered to be strong benefits not offered by the consented scheme therefore it is appropriate to consider further.

As per the allocation set out in the submission Local Plan, only part A would be released from the Green Belt and Part B would be retained in the designation.

- 7.6 The Spelthorne Local Plan was submitted to the Secretary of State for Levelling Up, Housing and Communities for Examination on 25 November 2022. The spatial strategy is centred on an efficient use of brownfield land in the urban area and a small amount of Green Belt release to meet specific needs of the community. The Bugle Nurseries site has been identified as an allocation (HS1/009) for approximately 79 units along with the provision of a publicly accessible open space. As noted above, the assessment of the site for allocation, took into account the PDL and the 'fall back' position of the approved planning application for 31 units, despite the site being strongly performing Green Belt land. If the site were to be allocated, as noted above, part A would no longer be within the Green Belt and the Green Belt boundary is proposed to be revised as part of the Local Plan.
- 7.7 Whilst the Council is supportive of this site as an allocation through the Local Plan, the site is currently designated Green Belt in its adopted development plan and at its current stage, the emerging Spelthorne Local Plan carries limited weight in decision making as its soundness has not yet been subject to examination by an independent planning inspector. Officers have reviewed representations on the allocation site, some in support and some objecting. In addition, policies are subject to a wide range of representations and objections.
- 7.8 Whilst a limited level of response was received in relation to the site, a notable number of comments were received in relation to the wider strategy and the proposed level of Green Belt release. The officer responses as well as the proposed changes have been passed to the Planning Inspectorate however it is not yet known whether the site will be allocated, or if modifications will be required through the examination process. As the Local Plan progresses through to examination and adoption, additional weight can be given to it. This is set out in paragraphs 47-50 of the NPPF. Para 48 states: '*...Local planning authorities may give weight to relevant policies in emerging plans according to:*
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).*

- b) *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

"49. However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

(a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

(b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

*50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; * or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process".*

*officer emphasis

- 7.9 As the proposed allocation sites have not yet been examined and adopted as part of the Spelthorne Local Plan, the Bugle Nurseries site remains in the Green Belt and must be considered against national Green Belt policy. Whilst the Council is currently unable to demonstrate a five year housing land supply, paragraph 11 of the NPPF and footnote 7 identify Green Belt as a protected area where development should be restricted. This is explained in more detail in the Green Belt section below. As such very special circumstances must be demonstrated to justify development proposals. Until the Local Plan is adopted by the Council, the land remains as Green Belt.

Housing Land supply

- 710 When considering planning applications for housing, local planning authorities should have regard to the government's requirement that they significantly boost the supply of housing and meet the full objectively assessed need for market and affordable housing in their housing area so far as is consistent policies set out in the National Planning Policy Framework (NPPF) 2021.
- 7.11 The Council has embarked on a review of its Local Plan and acknowledges that the housing target in its Core Strategy and Policies DPD February 2009 of 166 dwellings per annum is more than five years old and therefore the five-year housing land supply should be measured against the area's local

housing need calculated using the Government's standard method¹. The standard method for calculating housing need is based on the 2014 household growth projections and local affordability. This equates to a need of 618 dwellings per annum in Spelthorne. This figure forms the basis for calculating the five-year supply of deliverable sites.

- 7.12 The Council has considered its supply of deliverable sites, in line with the NPPF definition, as set out in Annex 2. The five-year time period runs from 1 April 2023 to 31 March 2028. A 20% buffer is required to be added for Spelthorne in accordance with Government requirements and this should be applied to this full period. A 20% buffer applied to 618 results in a figure of 742 dwellings per annum, or 3,708 over five years.
- 7.13 In using the objectively assessed need figure of 742 as the starting point for the calculation of a five-year supply it must be borne in mind that this does not represent a target as it is based on unconstrained need. Through the Local Plan review, the Borough's housing supply will be assessed in light of the Borough's constraints, which will be used to consider options for meeting need. The Council has now published its Strategic Land Availability Assessment (SLAA) which identifies potential sites for future housing development over the plan period.
- 7.14 The sites identified in the SLAA as being deliverable within the first five years and subsequent updates from landowners have been used as the basis for a revised five-year housing land supply figure. Spelthorne has identified sites to deliver approximately 2,615 dwellings in the five-year period.
- 7.15 The effect of this increased requirement with the application of a 20% buffer is that the identified sites only represent a 3.52 year supply and accordingly the Council cannot at present demonstrate a five year supply of deliverable housing sites. There is, therefore, a presumption in favour of sustainable development, which is disengaged given the site falls within an area of restraint and policies of the NPPF indicate that permission should be refused.
- 7.16 Government guidance (NPPF para 74) requires the application of a 20% buffer "where there has been significant under delivery of housing over the previous three years". In addition, guidance on the Housing Delivery Test indicates that where housing delivery falls below 85%, a buffer of 20% should be applied to the local authority's five-year land supply and a presumption in favour of sustainable development if the figure is below 75%. The Housing Delivery Test result for Spelthorne Borough Council was published by the Secretary of State in January 2022, with a score of 69%. This means that less housing has been delivered when compared to need over the previous three years. As a consequence, there is a presumption in favour of sustainable development because the test score of 69% is less than the 75% specified in the regulations. The figure of 69% compares with 50% last year and 60% in 2020. The Council's Housing Delivery Test Action Plan will be updated to reflect this. The current action plan positively responds to the challenge of increasing its housing delivery and sets out actions to improve delivery within the Borough.

¹ Planning Practice Guidance Reference ID: 68-005-20190722

- 7.17 As a result, current decisions on planning applications for housing development need to be based on the ‘tilted balance’ approach set out in paragraph 11 of the NPPF (2021). This requires that planning permission should be granted unless *‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.’*
- 7.18 Government guidance (NPPF para 74) requires the application of a 20% buffer “where there has been significant under delivery of housing over the previous three years”. In addition, guidance on the Housing Delivery Test indicates that where housing delivery falls below 85%, a buffer of 20% should be applied to the local authority’s five year land supply and a presumption in favour of sustainable development if the figure is below 75%. The Housing Delivery Test result for Spelthorne Borough Council was published by the Secretary of State in January 2022, with a score of 69%. This means that less housing has been delivered when compared to need over the previous three years. As a consequence, there is a presumption in favour of sustainable development because the test score of 69% is less than the 75% specified in the regulations. The figure of 69% compares with 50% last year and 60% in 2020. The Council’s Housing Delivery Test Action Plan will be updated to reflect this. The current action plan positively responds to the challenge of increasing its housing delivery and sets out actions to improve delivery within the Borough.
- 7.19 Usually as a result of the above position in Spelthorne relating to the 5 year housing land supply and the recent Housing Delivery Test, current decisions on planning applications for housing development need to be based on the ‘tilted balance’ approach set out in paragraph 11 of the NPPF (2021). This requires that planning permission should be granted unless ‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole’. However, the NPPF at para 11d) i) makes clear that the presumption in favour of development does not apply where, *‘...: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed...’*
- 7.20 However, it is important to note that the NPPF at footnote 6 confirms that the “tilted balance” approach should not be applied to protected areas such as land designated as Green Belt (as is the case in this particular application), Local Green Spaces, Areas of Outstanding Natural Beauty, etc. As the Bugle Nurseries site is located within the Green Belt, and there are clear reasons for refusing the planning application on Green Belt grounds (as demonstrated later in the report), it is considered that the “tilted balance” is disengaged in this particular case. In the Green Belt the correct decision-making matrix indicates that one identifies harm by way of inappropriateness and any other harm including, but not restricted to, other harm to the Green Belt and allocate substantial weight to harm to the Green Belt. Then in balancing the benefits of any material considerations very special circumstances will only exist if the benefits clearly outweigh the harm by way of inappropriateness and any other harm.

- 7.21 Taking into account the above and adopted Policy HO1, which encourages new housing development in urban sites for additional housing to meet our Borough's needs, it is not considered that this is a sustainable form of development, and it is not in the urban area, (it is a Green Belt site). New housing should be provided in the urban area, on sustainable sites, which have been previously used, not on Green Belt sites such as this.
- 7.22 Policies HO1 and HO2 set the framework for the spatial strategy and the strategic approach to decision making in the current development plan. Policy HO1 relates to providing for new housing development and sets out ways in which Spelthorne will meet this need. Para 6.11 states that, '*...The policy defines a range of measures including the promotion of specific sites through Allocations DPDs, producing planning briefs, encouraging housing generally on suitable sites, including mixed use scheme, using poorly located employment land, using land effectively and resisting the loss of housing.*' Policy HO2 states that there is no contingency to release Green Belt land for housing and notes a reason for this is because it is against national Green Belt policy which expects Green Belts to be permanent. Policy HO2 does also suggest that should housing need change, then Green Belt release may need to be considered and further assessed which has more recently been carried out.

As noted above, the application site was not initially put forward as one of the proposed site allocations as the site is part of a wider area of strongly performing Green Belt and therefore this was considered to outweigh the opportunity to meet housing needs on the basis that development could weaken the wider strategic Green Belt. However, and as noted above, in the development of the Regulation 19 draft Local Plan, the Council amended its spatial strategy with an altered approach to Green Belt assessment giving more weight to PDL and this along with the approved planning application, resulted in the site becoming more favourable for allocation.

Principle of the development

- 7.23 As noted above, Policy HO1 of the Local Plan is concerned with new housing development in the Borough. HO1 (c) encourages housing development on all sustainable sites, taking into account policy objectives and HO1 (g) states that this should be done by:

"Ensuring effective use is made of urban land for housing by applying Policy HO5 on density of development and opposing proposals that would impede development of suitable sites for housing." (underlining is officer's emphasis)

- 7.24 This is also reflected in the NPPF paragraph 117 which emphasises the need for the effective use of land in meeting the need for homes, whilst safeguarding the environment. However, the site is in the Green Belt and is not urban land or considered to be sustainable development. Therefore, the principle of housing at this Green Belt site is considered to be unacceptable, which is discussed further below. It is noted that Policies HO1 and HO2 are out of date, insofar as they do not deliver the current housing needs of the Borough. However, the policies still provide the spatial strategy and strategic

approach to decision making and it is considered that they are still particularly relevant and have significant weight.

Green Belt

7.25 The site is located within the Green Belt. Section 13 of the NPPF sets out the Government's policy with regard to protecting Green Belt Land. It states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Council's Saved Local Plan Policy GB1 is broadly consistent with the NPPF.

7.26 Paragraph 138 of the NPPF sets out the five purposes of the Green Belt. These are:

- *To check the unrestricted sprawl of large built-up areas;*
- *To prevent neighbouring towns merging into one another;*
- *To assist in safeguarding the countryside from encroachment;*
- *To preserve the setting and special character of historic towns; and*
- *To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

7.27 The Council's Local Plan Policy GB1 was saved from the 2001 Local Plan and therefore pre-dates the current NPPF. However, in accordance with paragraph 219 of the NPPF, Policy GB1 is broadly consistent with the Green Belt policy within the NPPF and is afforded significant weight. Policy GB1 does not allow for any development unless it is one of a number of acceptable uses set out in the policy and also maintains the openness of the Green Belt. This differs from the more recent and more up to date national policy which allows exceptions to this when the identified harm to the Green Belt is clearly outweighed by other considerations that constitute very special circumstances. The site is presently unallocated and is within the Green Belt in the adopted local plan, and therefore should be considered within this context. Indeed, s38(6) the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan (unless material considerations indicate otherwise) and not in accordance with an emerging plan, although emerging policies may be a material consideration.

7.28 The NPPF policy states at para 48 that.... Local planning authorities may give weight to relevant policies in emerging plans according to:

- c) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given).
- d) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

7.29 The Pre-Submission Local Plan Regulation 19 was submitted to the Planning Inspectorate on 25th November 2022. An examination into the Local Plan commenced on 23 May 2023. However, on the 6 June 2023, the Council resolved to pause the Examination for a period of three months. At this stage, it is not known if, or when, the Local Plan Examination will resume. At the meeting of the Council on 19 July 2023, it was agreed that Catriona Riddell & Associates be appointed to provide 'critical friend' support to inform the options for taking the plan process forward. A final report setting out the conclusions from the critical friend review is currently scheduled to be referred to the Council on 14 September 2023. Nevertheless, the emerging policies are still a material consideration in the determination of the application, albeit of limited weight. The site is allocated for housing in this emerging plan. In terms of the proposed allocation of the site (for residential purposes), given the key objectives of the NPPF is to boost the supply of housing, it is considered that the emerging policy which allocates the site for housing is consistent with that part of the NPPF. The Council has received six representations in relation to this allocation. With reference to para 48 of the NPPF, the new local plan is not yet at an advanced stage of preparation (a), and there are unresolved objections (b). In view of this, it is concluded that in this particular case, the emerging policies can only be given limited weight in development management decision making. As a consequence, given the requirement under s 38(6) of the Planning and Compulsory Purchase Act 2004, it is considered that the adopted Green Belt status carries substantial weight in the determination of this application. Any application on Green Belt land must be assessed against national and local Green Belt policy including the five purposes of the Green Belt, and whether the development is appropriate or inappropriate within the Green Belt as set out in the NPPF. This is considered in the paragraphs below.

7.30 The emerging Local Plan Policy SP4: Green Belt notes that the full Green Belt policy can be found in the NPPF and this policy is not intended to repeat it, but provide local detail on specific policy matters. Stating that:-
'1) The Green Belt boundary is defined on the Policies Map. In order to uphold the fundamental aims of the Green Belt to prevent urban sprawl and to keep land within its designation permanently open, inappropriate development will not be approved unless very special circumstances can be demonstrated. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.'

Inappropriate Development

7.31 It is considered that the proposed dwellings, roadways and other associated works constitute "inappropriate development" in the Green Belt. The proposal does not fit into any of the exceptions stipulated in Paragraphs 149 and 150 of the NPPF.

- 7.32 It is recognised that part of the existing site comprises the industrial estate, and that Paragraph 149(g) states that the partial or complete redevelopment of previously developed sites (brownfield land), which would not have a greater impact on the openness of the Green Belt than the existing development (or not cause substantial harm to the openness of the Green Belt if the proposal meets an identified local affordable housing need), does not constitute ‘inappropriate development’, as set out below: -

“Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified local affordable housing need within the area of the local planning authority.”

- 7.33 A definition of *previously developed land* (PDL) is provided in the NPPF:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

- 7.34 It is considered that the existing industrial estate located towards the eastern side of the site comprising the commercial buildings, hardstanding and the access road from Upper Halliford Road constitutes PDL. However, a substantial area of the proposed housing is shown to be located on land which is outside of the PDL of the industrial estate. Layout is a matter for consideration at this stage, and there will be encroachment into the paddock at the rear, and there will be new development within the green space to the south of the access road.

- 7.35 As the proposed housing development is not to be located entirely on the PDL, as it was at the allowed appeal scheme, it is not considered the proposal fits into the ‘inappropriate development exception’ in Paragraph 145(g) of the NPPF.

- 7.36 Below is a table setting out the existing buildings to be demolished and the proposed footprint, floorspace, and height. Whilst the proposed footprint and floorspace figures are greater than those provided by the applicant, it appears that applicant’s calculations are based on Gross Internal Area (GIA), whilst the figures provided in the table below are calculated on the basis of Gross External Area (GEA).

	Footprint	Floorspace	Maximum Height
Existing	1,086 sq. m	1,086 sq. m	5.58 m
Proposed	4,562 sq. m	8,442 sq. m	9.5m
Percentage Increase on Existing	420%	777%	70%

7.37 The above figures demonstrate that there will be a very substantial increase in built development in terms of footprint and floorspace of buildings. Also, all of the existing buildings to be demolished are single storey in scale, whilst all of the proposed 80 no. dwellings will be at least two-storey in scale.

7.38 With regard to Paragraph 150 of the NPPF, this does state that '*engineering operations*' can be considered as '*not inappropriate*' development in the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. However, the proposed parking areas and access road (which are engineering operations) are required in connection with the overall housing development, which is inappropriate development in the Green Belt and comprise development of themselves that lead to a loss of openness. Consequently, these particular elements do not fit into the exceptions set out in Paragraph 150 of the NPPF

7.39 Paragraph 147 of the NPPF states that:

"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

7.40 Paragraph 148 of the NPPF states that:

"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."

7.41 It is relevant to note that the Inspector who dealt with the previous appeal for 43 dwellings and a 62-bedroom care home (19/01022/OUT) considered that that particular scheme constituted inappropriate development in the Green Belt. Like the current proposal, elements of the built form encroached into the paddock west of the industrial estate, as well as the area of open land to the south of the access road.

Harm

7.42 The proposal will result in a substantial loss of openness of the Green Belt. As mentioned above, large areas of the industrial estate within the appeal site, are not occupied by any buildings (only hardstanding). The existing buildings are single storey and low profile and are clustered in a relatively small part of

the site. Most of the PDL is not occupied by buildings (only hardstanding). The definition of “*previously developed land*” is land which is or was occupied by a permanent structure (including the curtilage of the developed land), although it should not be assumed that the whole of the curtilage should be developed. Replacing the hardstanding and parked vehicles with new buildings up to 9.5 metres in height across a substantial part of the overall site and will clearly lead to a much greater loss of openness, both spatially and visually. It is considered that the loss of openness within the site is harmful and contrary to Green Belt policy and weighs heavily against the merits of the development.

- 7.43 Whilst the description of the proposal includes scale, and scale is being assessed at this outline stage, the detail provided is limited. The applicant has included a siting and a height parameter plan which show the width and length of the proposed buildings and a maximum height-limit which states that the maximum height of the new houses and flats will be 9.5 metres. The applicant has also submitted indicative elevations showing the proposed buildings broadly consistent with these height limits, which would be a minimum of 2 storey.
- 7.44 The proposal is considered to harm the character and visual amenities of the Green Belt, which will further diminish openness. It will result in the site having a much more built-up appearance compared to the existing site, not only in terms of the increase in the scale and height of the buildings (i.e., volumetric approach) but also from a visual dimension. The new housing development will be visible when viewed from Upper Halliford Road and this will appear more built up and greater in scale compared to the existing industrial site. The proposed development will also be seen from the public footpath that runs adjacent to the northern boundary. Whilst it is recognised that the proposal will create a “Strategic Gap” of open land along the northern part of the site and the existing bungalow front Upper Halliford Road will be removed, the open land to the south of the access road will be built upon and the buildings will be erected close to the highway. Moreover, a substantial part of the new housing development will be built on the paddock land at the rear.
- 7.45 The proposed development is considered to conflict with the first of the five purposes of Green Belts in Paragraph 134 of the NPPF (to check the unrestricted sprawl of large built-up area). There is currently a clear boundary along the southern part of the site, between the large built area of Upper Halliford and the Green Belt designated land of Bugle Nurseries and the fishing lake further to the north. The proposed housing development would erode this well-defined boundary and create urban sprawl. It is not considered that the proposed ‘Strategic Gap’ is an acceptable or comparable swap for the much greater size and scale of the new housing development.
- 7.46 The proposal is also considered to conflict with the second of the five Green Belt purposes in paragraph 134 of the NPPF: ‘*to prevent neighbouring towns merging into one another*’. The area of Green Belt in which the application site and surrounding open land is located is performing strongly in preventing the urban areas of Ashford, Sunbury, and Upper Halliford from growing towards each other. Indeed, the Council’s Green Belt Assessment Stages 1 and 2 classifies this particular area of the Green Belt (Local Area 39 – sub area 39-b) as ‘*strongly performing*’. The Green Belt Assessment Stage 1 states that:

“The Local Area forms the essential gap between Ashford / Sunbury-on-Thames / Stanwell and Upper Halliford, preventing development that, as a result of their close proximity, would result in the merging of these settlements. It also plays an important role in preventing further ribbon development along Upper Halliford Road.”

- 7.47 It is important to note that the previous 1981 planning application for residential development on the site was partly refused specifically on the grounds that it would result in the coalescence of settlements and encourage further coalescence in the locality. The subsequent appeal was dismissed. It is also important to note that this proposal will result in an encroachment into the countryside, given the rearward projection of the built development into the paddock land.

Housing density

- 7.48 As noted above (the principle of housing), the NPPF and Policy HO1 requires new housing development to be sustainable and in the urban area, both of which this scheme is not. Notwithstanding this, Policy HO5 in the Core Strategy Policies DPD 2009 (CS & P DPD) sets out density ranges for particular context but prefaces this at paragraph 6:25 by stating:

“Making efficient use of potential housing land is an important aspect in ensuring housing delivery. Higher densities mean more units can be provided on housing land but a balance needs to be struck to ensure the character of areas is not damaged by over-development.”

- 7.49 Policy HO5 does not specify densities for sites such as this, with its ranges referring to town centres and sites within existing residential areas, which this is not. It does say that it is important to emphasise that the density ranges are intended to represent broad guidelines and development will also be considered against the requirements of Policy EN1 on design.
- 7.50 The principle of a high density development on urban land is the focus of the NPPF and Policy HO1 in order to make efficient use of land of previously developed and brownfield land, providing sustainable developments. However, this site is on Green Belt land and is not in the urban area.
- 7.51 Notwithstanding this, the proposal involves the creation of 80 residential properties and the proposed housing density is approximately 38 dwellings per hectare (dph) on the developed part of the site. It is noted that the permitted scheme for the creation of 31 residential properties had a proposed housing density of approximately 30 dwellings per hectare (dph) on the developed part of the site, which was all on the PDL.

Design and appearance

- 7.52 Policy EN1a of the CS & P DPD states that *“the Council will require a high standard in the design and layout of new development. Proposals for new development should demonstrate that they will: create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions,*

building lines, layout, materials and other characteristics of adjoining buildings and land.”

- 7.53 The existing commercial buildings on site vary in size and design but all are single storey, with a large area of hardstanding also in existence. The bungalow is also single storey in nature and is currently surrounded on all sides by a large garden.
- 7.54 To the south on Upper Halliford Road are other dwellings, with 2 storey semi-detached houses located along Halliford Close and no. 137 and 139 being bungalows. To the north is the former Bugle public house site which has been redeveloped to provide flats over 3 storeys, with the second floor set within the roof space. Other dwellings along Upper Halliford Road to the north are generally 2 storey in appearance. Opposite is open land and the public park and many trees. Currently the application site appears relatively green and open and has planting on the road frontage which shields the uses behind and provides a pleasant street scene.
- 7.55 As such, the area consists of residential development, generally 2 storey in height and open land with many trees, shrubs and natural features, appearing relatively green. The building lines to the north are closer to the highway than those to the south of the site, which are set back substantially further from Upper Halliford Road. Most of these buildings are traditional in design, with tiled pitched roofs many with gable features fronting Upper Halliford Road.
- 7.56 The scale of the proposed buildings is under consideration. However as noted, limited detail has been provided in regard to the overall scale of the proposed buildings and appearance is not under consideration. The siting parameter plan, shows the position, including the width and length of the proposed buildings and the height parameter plan note a maximum Building Height of 9.5m, which is at least 2 storey.
- 7.57 The position and size of the area for the proposed housing development is different to the previous appeal scheme which was allowed. As noted previously, this scheme is based on the draft allocation site area, which is set out in the emerging Local Plan. However, the area is not just on PDL as before and the area is significantly larger. In addition, it is located on the southern part of the site, not across the entire site as before, but it extends much deeper to the rear of the site in a westerly direction. It also proposes an open area to the north following the demolition of the existing bungalow on the site. Therefore, the development will be located to the south of the access road, with the proposed dwellings being set back from the main street frontage of Upper Halliford Road. However, this will be the rear building line of these proposed dwellings, with their rear gardens located behind, i.e., between the built form and the highway. This land is currently open and free from development.
- 7.58 As noted above, the existing small low level bungalow and garden (which is not previously developed land) will be removed to make way for an open piece of land, linking the green belt to the west and east. This would serve as a break in the built development fronting the Upper Halliford Road and the proposed development would extend back into the site past the existing

houses on Bramble Close and the garage block. As such it would in effect line up with the existing development to the south of the application site. Therefore, from a design and visual amenity point of view, the proposed built form has been positioned adjacent to the existing development to the south. As such, it is considered that the proposal could be acceptable from a design point of view and could be considered to be in keeping with the character of the area. The design and appearance and layout is indicative at this stage, however the scale and siting are under assessment. If the principle of developing this Green Belt land was to be accepted, the proposed siting, which proposes detached, semi and terraced properties, fronting the roadways with their gardens generally located behind. Notwithstanding Green Belt objections, the proposed siting is considered to be acceptable of itself, on design grounds (as opposed to Green Belt considerations) As noted previously the applicant states that scale is under consideration however, little detail has been provided. The scale parameter plan shows a 9.5m maximum height which is at least 2 stories and could be 3 if for flat or low pitched roofed development. The design and appearance is not for consideration at this stage, and is not known at this point which does have implications for the scale of the development and its impact on neighbouring properties (discussed more below). A maximum height of 9.5m was previously considered acceptable for the appeal scheme allowed at appeal, however, scale was not under consideration. As such there is concern about the scale of the development with the lack of detail provided at this stage.

- 7.59 Landscaping is also reserved at this stage, but an indicative plan has been provided. The landscaping will help to complement the proposed built form and play area. It will help to provide visual relief to the built form and soften the areas of hardstanding and parking. The scheme provides a usable play area including landscaping which is visible from public areas and will add to its visual amenity. Much of the parking has been provided in front/side of the dwellings, adjacent to the roadway, The land to the west and to the northern side of the site is proposed to be landscaped for use by the public and is shown to be open with landscape features and paths, which will provide valuable visual and a usable asset to the local community. As such, notwithstanding Green Belt objections, the proposed development is considered that it could be acceptable in design terms in regard to siting, however scale is of concern and needs clarifying. However, the siting generally conforms with Policy EN1.

Impact on neighbouring residential properties

- 7.60 Policy EN1b of the CS & P DPD states that:

“New development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or overbearing effect due to bulk and proximity or outlook.”

- 7.61 The submitted plans under assessment include the siting, scale and access, with the landscaping and appearance being the reserved matters. The scale of the development and proximity to the boundaries with existing properties is shown and under assessment with this application and needs to be given consideration to ensure that there is an acceptable relationship and that

existing residential properties will not be significantly adversely affected by the proposal. The Council's Supplementary Planning Document on the Design of Residential Extensions and New Residential Development 2011 (SPD) sets out policies requirements in order to ensure this is the case.

- 762 The SPD in para 3.6 acknowledges that '*most developments will have some impact on neighbours, the aim should be to ensure that the amenity of adjoining occupiers is not significantly harmed.*' It sets out minimum separation distances for development to ensure that proposals do not create unacceptable levels of loss of light, be overbearing or cause loss of privacy or outlook. These are set as a minimum for 2 storey development of 10.5m for back to boundary distance, and 21m for back to back development. Three storey development has a back to boundary distance of 15m and back to back distance of 30m. There is also a minimum distance for back to flank elevations of 13.5m (2 storey) and 21m (3 storey).
- 7.63 The parameter plans show that the proposed houses will be at least 2 storey in nature, the applicant notes that the Maximum Building Height will be 9.5m, and all garages/car ports will be single storey. The proposed units to the south adjoin the rear boundary with existing properties on Halliford Close and also with a car park further to the west. These existing dwellings have relatively long rear gardens. The proposed dwellings are shown to be set back from the common boundary by at least the minimum 10.5m separation distance as set out in the SPD. In addition, they are shown to exceed the separation distance from back to back of some 21m. This would therefore meet the minimum 2 storey separation distance. As noted, the appearance is not known at this time and the scale detail is limited. Therefore the proposal could in fact be for 3 storey dwellings, (which would be possible for a minimum height of 9.5m), then the proposal would not meet the 3 storey separation distance of 15m. it would have meet the 3 storey back to back distance of 30m as there is approx. 31m between the back of the proposed dwellings and those of the existing properties at Halliford Close. Therefore, the proposed siting and scale does not meet the requirement and consequently, the plans show are not detailed enough at this time to be satisfied that the proposal will have an acceptable relationship with the existing dwellings. If the proposed buildings are in fact 3 storey in nature then a larger separation distance will need to be provided for the back to boundary distance in order to ensure an acceptable relationship with and impact on the amenity of neighbouring properties in regard to overlooking or loss of privacy or being overbearing and loss of light.
- 7.64 The existing dwellings located on Upper Halliford Road at 137 and 139 are set in from the boundaries with the application site and have large outbuildings to the rear. The proposed layout plan shows new dwellings to be set in from these boundaries with gardens and car parking, with some landscape buffers adjoining. The proposal will have an acceptable relationship with the existing properties on Upper Halliford Road. The proposed dwellings are set well back from the northern boundary with the flats at the former Bugle public house, as this forms part of the open space and as such the proposed development will have an acceptable relationship with the new flats at the former Bugle public house and will not lead to a significant overlooking, be overbearing or cause loss of light.

- 7.65 The proposal is considered to be capable of having an acceptable relationship and therefore an acceptable impact on the amenity of existing neighbouring residential properties, apart from those properties along Haliford Close. Insufficient detail has been provided in order for the Council to be satisfied that the proposed siting and scale will ensure a sufficient separation distance and as such the proposal does not currently conform to the SPD and Policy EN1.

Amenity Space

- 7.66 The Council's SPD on Residential Extensions and New Residential Development 2011, provides general guidance on minimum garden sizes (Table 2 and paragraph 3.30). In the case of flats, it requires 35 sq. m per unit for the first 5 units and 10 sq. m for the next 5 units. On this basis, some 205 sq. m would be required for the 8 flats in total. Each of the block of flats has an indicative garden area which will ensure that there is an acceptable level of amenity space for the occupants of the flats, conforming to Policy EN1.
- 7.67 On the indicative plans the proposed houses have, their own private gardens and the SPD requires this to be a minimum of 70 sq. m for each of the 4 or 3 bed houses, or 60 sq. m for the 2 bed houses. The indicative proposal does meet this requirement and in addition all residents will have access to the open space to the rear of the site which will be easily accessible by all future residents. Flats/maisonettes require a minimum amenity space provision of 35 sq. m per unit and appears to be provided at this stage. As such amenity space provision for future occupants could be acceptable and would be assessed at the reserved matters stage where layout will be assessed..

Proposed dwelling sizes

- 7.68 The SPD on the Design of Residential Extensions and New Residential Development 2011 sets out minimum floorspace standards for new dwellings. These standards relate to single storey dwellings including flats, as well as for 2 and 3 storey houses. For example, the minimum standard for a 1-bedroom flat for 2 people is 50 sq. m.
- 7.69 The Government has since published national minimum dwelling size standards in their "*Technical Housing Standards – nationally described space standard*" document dated March 2015. These largely reflect the London Housing Design Guide on which the Spelthorne standards are also based. The standards are arranged in a similar manner to those in the SPD and includes minimum sizes for studio flats. This national document must be given substantial weight in consideration of the current application in that it adds this additional category of small dwellings not included in the Council's Standards.
- 7.70 All of the illustrative proposed dwelling sizes comply with the minimum standards stipulated in the national technical housing standards and the SPD. Therefore, it is considered their standard of amenity overall to be acceptable.

Highway and parking provision

- 7.71 Strategic Policy SP7 of the CS & P DPD states that:

“The Council will reduce the impact of development in contributing to climate change by ensuring development is located in a way that reduced the need to travel and encourages alternatives to car use. It will also support initiatives, including travel plans, to encourage non car-based travel.”

7.72 Policy CC2 of the CS & P DPD states that:

“The Council will seek to secure more sustainable travel patterns by: ... (d) only permitting traffic generating development where it is or can be made compatible with the transport infrastructure in the area taking into account: (i) number and nature of additional traffic movements, including servicing needs; (ii) capacity of the local transport network; (iii) cumulative impact including other proposed development; (iv) access and egress to the public highway; and (v) highway safety.

- 7.73 The County Council was consulted as the County Highway Authority (CHA) and has raised no objection to the proposal. In terms of trip generation, the existing use of the site does generate a small number of vehicular movements. Surveys of the site access have demonstrated that there were 6 two-way vehicle movements across the site access in its busiest hour of the survey period (08:00-09:00). It is considered that there is some potential for the site to attract slightly more vehicular movements without requiring any further planning permissions, but it is not likely to be significant. The Transport Assessment provided includes an analysis of the likely trip generation of the proposed development using the TRICS database. The provided data shows that the peak hour departures would be approximately 30 vehicles between 08:00-09:00, and peak arrivals would be 31 between 17:00-18:00. It is unlikely that this scale of trip generation would cause any capacity issues at any of the junctions on Upper Halliford Road. Traffic modelling at the site access junction with Upper Halliford Road was undertaken as part of a previous application on the site. This modelling demonstrated that the junction would operate within capacity, without significant queuing. The modelling demonstrated that the impact on the flow of Upper Halliford Road would be very minor.
- 7.74 In relation to the access arrangement, the Transport Assessment states that the application proposes to modify the existing access to Upper Halliford Road in the centre of the site, which would be widened and provided with footways on either side. A drawing has been provided which demonstrates that visibility of 120m in either direction is achievable, and this is acceptable.
- 7.75 The CHA has noted that early discussions identified the local demand for a new crossing facility across Upper Halliford Road, in the vicinity of the development site. Upper Halliford Road is a busy road with a speed limit of 40mph. There is an existing controlled crossing approximately 650m south of the site access. To the north of the access, there is no formal pedestrian crossing provision. The proposed crossing would therefore provide a necessary pedestrian facility to enable pedestrian access to the bus stop and public park opposite the site, but also the schools and other facilities to the east of Upper Halliford Road. The proposed crossing will be provided with signal controls. As discussed in their pre-application meeting with the applicant, the CHA is not insistent that this type of crossing be provided and considers that pedestrian refuge islands could be sufficient. It is understood,

however, that the applicant does wish to provide the signalised crossing, and this would provide a safer and more convenient facility to pedestrians. Feedback has been sought from the CHA colleagues in Road Safety, and the Police. They have raised no objections to the proposed crossing but have recommended that high friction surfacing be provided either side of it. These works would need a separate highways agreement with SCC.

- 7.76 Subject to the recommended conditions, the highway and access arrangements are considered to be acceptable.

Parking Provision

- 7.77 Policy CC3 (Parking Provision) of the CS & P DPD states that the Council will require appropriate provision to be made for off-street parking in development proposals in accordance with its maximum parking standards.
- 7.78 On 20 September 2011 the Council's Cabinet agreed a 'Position Statement' on how Policy CC3 should now be interpreted in the light of the Government's recent parking policy changes. The effect of this is that the Council will give little weight to the word 'maximum' in relation to residential development when applying Policy CC3 and its residential parking standards will generally be applied as minimum (maximum parking standards continue to be applicable in relation to commercial development).
- 7.79 The proposed parking provision for the residential properties is 158 spaces. The Council's Parking Standards as set out in the Supplementary Planning Guidance requires 152 spaces for the dwellings and flats. As such the proposed parking provision is policy compliant.
- 7.80 The submitted Transport Assessment has applied Spelthorne Borough Council's parking standards to identify acceptable parking provision levels for each use on site. Overall, 158 spaces have been provided for the residential development, 149 of these allocated to particular units. 3 spaces are available in the southwest corner of the site as unallocated parking, whilst 6 additional, and unallocated, parking bays will be provided next to the play area / green space allowing access to it. As noted above Spelthorne's Parking Standards recommend a minimum of 152 parking spaces for this scale of development, and therefore the proposed provision is in accordance with the guidance.
- 7.81 The CHA has raised no objection to the proposed scheme on highway safety grounds or parking provision noting that generally it is considered that the spaces are reasonably located with respect to the dwellings which they will serve.
- 7.82 Therefore the proposed parking provision is acceptable. It is considered that the scheme is acceptable in terms of policies CC2 and CC3 on highway and parking issues.

Affordable housing

- 7.83 Policy HO3 of the CS & P DPD requires up to 50% of housing to be affordable where the development comprises 15 or more dwellings. The Council's policy is to seek to maximise the contribution to affordable housing provision from each site having regard to the individual circumstances and viability, including

the availability of any housing grant or other subsidy, of development on the site. Negotiation is conducted on an 'open book' basis.

- 7.84 The applicant is proposing to provide 40 affordable housing units, (10 no 1 bed starter homes and 30 affordable rented, consisting of 8 no 1 bed flats, 6 no 2 bed flats, 2 no. 2 bed houses, 13 no 3 bed houses and 1 no. 4 bed houses). As set out in the NPPF, 'New Homes' are new dwellings (including flats), which are available for purchase by qualifying first time buyers only, at a discount of at least 20% of the market value and are to be sold for less than the price cap. New Homes are recognised as affordable homes in the NPPF. The 40 units represent an affordable housing provision of 50% and is therefore acceptable and accords with the requirements of Policy HO3.
- 7.85 Policy HO3 states that the provision within any one scheme may include social rented and intermediate units, subject to the proportion of social rented of at least 65% of the total affordable housing component. The proposal is to provide 10 starter homes and 30 as affordable rent (30 out of the 40 units), 75%, as affordable rent, therefore the provision is considered acceptable. If the scheme was considered acceptable and outline permission was to be granted such measures could be secured by way of a section 106 undertaking.

Flooding

- 7.86 Policy LO1 of the CS & P DPD states that the Council will seek to reduce flood risk and its adverse effects on people and property in Spelthorne by requiring all development proposals within Zones 2, 3a and 3b and development outside these areas (Zone 1) on sites of 0.5ha or of 10 dwellings or 1000sqm of non-residential development or more, to be supported by an appropriate Flood Risk Assessment (FRA).
- 7.87 The site is located within Flood Zone 1, which has a low probability of flooding with a less than 1 in 1000 year chance of flooding, and no uses are precluded on flooding grounds. The applicant has submitted a Flood Risk Assessment (FRA) & Surface Water Drainage Strategy, as is required by Policy LO1 of the CS & P DPD.
- 7.88 In terms of flood risk, the site is located outside of the high flood risk area and as displayed in the FRA there is no risk to the future occupants of the site from flooding.
- 7.89 With regards to surface water drainage, the applicant is proposing to implement infiltration drainage devices to discharge surface water to the underlying soil in the form of permeable paving to provide improved surface water drainage than currently on parts of the site.
- 7.90 The Lead Local Flood Authority at Surrey County Council has been consulted on the proposed sustainable drainage scheme and raise no objections to the scheme, subject to conditions. The Environment Agency have made no comment on the current application. Accordingly, the application complies with the requirements of Policy LO1 of the CS & P DPD.

Renewable Energy

- 7.91 Policy CC1 of the CS & P DPD states that the Council will require residential development of one or more dwellings and other development involving new building or extensions exceeding 100 sq. m to include measures to provide at least 10% of the development's energy demand from on-site renewable energy sources unless it can be shown that it would seriously threaten the viability of the development.
- 7.92 The applicant has not submitted an energy statement. However further details can be submitted at a later date to overcome this, (i.e., at the Reserved Matters stage) which can be required by condition (as accepted with the previous proposals) and this is not a reason to refuse the scheme.

Ecology

- 7.93 Policy EN8 of the CS and P DPD states that the Council will seek to protect and improve the landscape and biodiversity of the Borough by ensuring that new development, wherever possible, contributes to an improvement in the landscape and biodiversity and also avoids harm to features of significance in the landscape or of nature conservation interest.
- 7.94 The site includes a number of buildings and trees, which are capable of being used as a habitat for protected species (i.e. bats).
- 7.95 A Preliminary Ecological Appraisal (PEA), Bat Roost potential Survey and a Bat Survey have been carried out, which recommends a number of measures to mitigate any adverse impacts. This can be covered by the imposition of a condition. As such the proposal is acceptable in relation to Policy EN8.
- 7.96 The site is located a considerable distance from any Site of Special Scientific Interest/Special Protection Area (SSSI/SPA). The nearest SSSI/SPA is the Knight and Bessborough Reservoirs which is at least 2.4km and is located across the river in Elmbridge. Taking into account the scale of the proposed development and the distance from the nearest SSSI/SPA, it is not considered necessary for a Habitats Regulations Assessment screening exercise to be carried out. Natural England was consulted, although no response has been received, no objection was raised with the previous applications. Surrey Wildlife Trust has requested more detail which has been provided and now raise no objection subject to the imposition of a condition requiring the mitigation measures in the submitted reports to be followed. The applicant has submitted a landscape masterplan and it is considered that subject to conditions requiring its implementation together with other wildlife enhancement measures, the proposal will lead to an increase in wildlife on the site. Landscaping is a reserved matter which would be assessed in more detail at that stage.

Open space

- 7.97 Policy CO3 of the CS & P DPD requires new housing development of 30 or more family dwellings (i.e., 2-bed or greater units) to provide a minimum of 0.1ha of open space to provide for a children's play area. Such provision is to be increased proportionally according to the size of the scheme and the policy includes 2 bed flats as family houses. The proposal includes 62 family units which is more than twice the 30 units threshold and therefore requires the

provision of at least 0.2 ha of open space. The proposal includes a children's play area and in addition a large area of open space of 2.55 ha for the public to access. In addition, there is an existing park with a play area opposite at Upper Halliford Park. Therefore, it is considered that the proposed open space is acceptable.

Dwelling mix

- 7.98 Policy HO4 of the CS & P DPD (Housing Size and Type) states that the Council will ensure that the size and type of housing reflects the needs of the community by requiring developments that propose four or more dwellings to include at least 80% of their total as one or two bedroom units. The Supplementary Planning Document "Housing Size and Type" 2012, goes on to note that, *'...where there is a predominance of larger dwellings a mix with less than 80% one and two bedroom dwellings may be appropriate with a greater proportion of 3 bedroom dwellings. However, the majority should still have one and two bedrooms.'*
- 7.99 The number of smaller units (1 bed and 2 bed units) is 35 out of the total 80 units and equates to 43% of the total units. If the affordable units were taken out of the equation, the proposal would provide 11 no. 2 bed and 31 no. 3 and 4 bed units, with an even lower number of smaller units at 11 out of 40 which is less than 27.5%. As such the proposal fails to comply with Policy HO4 and is unacceptable in this regard.

Archaeology

- 7.100 Whilst the site is not located within an Area of High Archaeological Potential the applicant has submitted an Archaeological Desk-Based Assessment as required by Saved Local Plan Policy BE26.
- 7.101 The County Archaeologist was consulted on the application and following the submission of a report, recommends a condition, therefore the impact of the development on archaeology is considered acceptable.

Impact on Trees/Landscaping

- 7.102 The applicant has carried out a tree survey at the site and land to the north outlined in blue, which shows that a total of 12 trees and 28 tree groups are present. The indicative layout plans show the development is set back from Upper Halliford Road to ensure an acceptable relationship with the preserved Oak Tree on the north eastern corner of the site.
- 7.103 An Arboricultural Survey and an indicative landscape masterplan have been submitted. The landscape plan shows tree planting along the proposed roadways, some of the existing trees along the site boundaries will be retained to provide screening and complement the proposed buildings and further planting in the form of focal trees, hedges and shrubs will also be provided.
- 7.104 The indicative plans show that the play area and private amenity spaces will also be landscaped. Hedgerows and tree planting will be used around hardstanding and car park areas to help break up hardstanding and add visual interest. Most of the car parking is provided along the road frontage in front and to the side of the dwellings, which is broken up by areas of

landscaping to help to soften its appearance. The area to the rear and north of the site will be landscaped to provide footpaths and landscaping, along with the removal of the recycling facility and existing bungalow, which will provide an attractive outlook to the proposed development and also other local people using the land.

- 7.105 The proposed planting and landscaping will help to enhance the proposed development and is considered to be acceptable.

Contaminated Land

- 7.106 The applicant has submitted a *Preliminary Risk Assessment & Geo-Environmental Ground Investigation and Assessment* report to ascertain the level of contamination of the existing ground conditions and proposed remediation measures. This is particularly important as the proposal introduces new residential development onto the site which has existing commercial uses and reflects our standard precautionary approach to contamination risk. The Council's Pollution Control Officer has raised no objection subject to conditions being imposed requiring a further investigation to be carried out to refine risks and remediation measures. As such subject to these conditions, the proposal is considered acceptable.

Air quality

- 7.107 The applicant has submitted an Air Quality Assessment (AQA), as is required by Policy EN3 of the CS & P DPD. The AQA assesses the impact of construction impacts of the proposed development and recommends that a Construction Method Statement be submitted. The Environmental Health Officer (EHO) recommends conditions be imposed for a Dust Management Plan and a Demolition Method Statement.
- 7.108 The Council's Pollution Control section was consulted on the application and raised no objection on air quality, subject to conditions.

Refuse Storage and Collection

- 7.109 The layout of the site has been designed to ensure that refuse collection vehicles can enter and exit the site in a forward gear. Refuse storage areas will need to be provided for the flats. The County Highway Authority has raised no objection on this particular issue. The Council's Group Head Neighbourhood Services previously raised no objection to previous schemes at the site however no and comments received will be reported verbally. In addition, details can be submitted and agreed at the reserved matters stage.

Crime and Design

- 7.110 With regard to the Crime Prevention Officer's previous comments, as with the previous schemes, it is considered appropriate to impose an informative rather than a condition, in line with government advice on the use of planning conditions relating to "Secured by Design". Many of the requirements are very detailed (e.g. standards of windows, doors and locks), elements which are not covered and enforced under the planning regulations. This could be brought to the attention of the applicant by adding an informative if the application was recommended for approval.

Other matters

- 7.111 The application site is currently occupied by a variety of commercial operations including a lawful aggregate recycling facility. Because the uses have evolved over time, they are not subject to planning controls that would normally be applied to such uses. None of the properties are therefore restricted in terms of use, hours of operation, access arrangements or other environmental controls.
- 7.112 The application is for outline consent only and the level of detail is only indicative, as some issues can be addressed further at the reserved matters stage.

Equalities Act 2010

- 7.113 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The question in every case is whether the decision maker has in substance had due regard to the relevant statutory need, to see whether the duty has been performed.

- 7.114 The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means to have such regard as is appropriate in all the circumstances.

It is considered that this proposal may affect individuals with protected characteristics specifically the impact of the development on disabled people. However, given the application is at outline stage and design is not under consideration.

Human Rights Act 1998

- 7.115 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.116 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.117 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

7.118 In taking account of the Council policy as set out in the Spelthorne Local Plan and the NPPF and all material planning considerations, Officers have concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by the approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

Financial Considerations

7.119 Under S155 of the Housing and Planning Act 2016, Local Planning Authorities are now required to ensure that potential financial benefits of certain development proposals are made public when a Local Planning Authority is considering whether or not to grant planning permission for planning applications which are being determined by the Council's Planning Committee. A financial benefit must be recorded regardless of whether it is material to the Local Planning Authority's decision on a planning application, but planning officers are required to indicate their opinion as to whether the benefit is material to the application or not. In consideration of S155 of the Housing and Planning Act 2016, the proposal is a CIL chargeable development (although not applicable at the outline planning stage) and will generate a CIL Payment based on a rate of £60 per sq. metre of net additional gross floor space. This is a material consideration in the determination of this planning application. The proposal will also generate a New Homes Bonus and Council Tax payments which are not material considerations in the determination of this proposal.

Other Considerations

7.120 The applicant has identified 9 material considerations in their Planning Statement to justify the proposed development on this site, which they believe individually and cumulatively comprise very special circumstances:

- i) ***The application proposals could be regarded as an appropriate form of development in principle***
- ii) ***Housing Delivery***
- iii) ***Removal of bad neighbour uses***
- iv) ***Remediation of the contaminated land***
- v) ***Regeneration of the site***
- vi) ***Provision of public open space***
- vii) ***Provision of a Strategic Gap***
- viii) ***Local community views***

ix) ***The proposal does not conflict with the purposes of the Green Belt***

7.121 The NPPF 2021 states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The Local Planning Authority has therefore weighed these other considerations below in respect of the balancing exercise.

i) ***The application proposals could be regarded as an appropriate form of development in principle***

7.122 The applicant states that the application could be regarded to be an appropriate form of development (i.e., not inappropriate) in principle for a number of reasons:

- The proposed development is focused on the previously developed part of the site and will involve replacement of the mixed commercial land and buildings and the removal of the aggregates recycling facility.
- The extent of built development contained in the South-Eastern corner of the site to direct the development primarily on brownfield land, allow a greater area of land retained as Green Belt as part of the 'Strategic Gap'.
- The proposed landscaping masterplan provides for retention or replacement of existing boundary landscaping, which would be held in the control of a management company. Additional planting is proposed within the public open space and the housing area.
- The application proposes a total of 8,541 sqm of hardstanding. This presents a 10.6% reduction in hardstanding area from the existing amount of 9,503 sqm.
- There will be a 6.7% increase in the amount of green space following removal of buildings, hardstanding infrastructure and the aggregates recycling facility and access.
- The scheme includes provision of affordable housing (50%) for which the Council has identified there is a significant need.
- Planning permission was granted at appeal for a residential development of 151 residential units on a site known as Dylon International, Lower Sydenham. The site is located within Metropolitan Open Land (so is subject to Green Belt policies) and partly comprises brownfield land and a large area of open space. As such the site demonstrates many similarities with the application site.

Response

7.123 The proposal is considered to constitute '*inappropriate development*' in the Green Belt for the reasons given in the paragraphs above. It is not considered

to represent an 'appropriate form of development in principle'. The scheme would not enhance the openness of the Green Belt. Rather, the proposal would result in a substantial loss of openness which is explained in detail in the paragraphs above. It is recognised that the current application site includes the existing waste transfer site, and the proposed development will involve its removal to be replaced with open space. The waste transfer station does not have any buildings on it. Its impact on the openness of the Green Belt is limited (mainly the earth bunds). Even after taking into account its removal from the site, the overall development is considered to result in a substantial and harmful increase in the openness of the Green Belt.

- 7.124 With regard to the Dylon International appeal decision, it is considered that the similarities with the current application are slight. The appeal site was located within the 'Metropolitan Open Land' (not Green Belt), although it is noted that this London only land designation does have the same level of protection as Green Belt. The Inspector did not consider the proposal was an 'appropriate form of development in principle'. Rather he considered it to constitute '*inappropriate development*'. Whilst the Inspector concluded that there were 'very special circumstances' which clearly outweighed the harm to the Metropolitan Open Land, this was largely because he gave significant weight in its favour to the high-quality architecture and townscape that the scheme would deliver. In comparison, the application at Bugle Nurseries is Outline with only the 'access', scale and siting being considered at this stage. Consequently, it is considered that no weight can be given to this particular matter as a material consideration in the circumstances of this application.

ii) Housing delivery

- 7.125 The applicant considers that at present the Council cannot demonstrate a 5 year housing land supply against the objectively assessed housing need. The emerging Local Plan has identified the site to be released from the Green Belt and allocated for new housing development under draft allocation reference:1151/009.
- 7.126 The current proposals are therefore of strategic significance in terms of addressing the immediate need for new housing and affordable housing by providing 40 affordable homes (30 units affordable/rent and 10 units for First Homes) within the short term. This exceeds the policy requirement of 40% of all net additional dwellings completed within the adopted policy and complies with the 50% target set out in the draft site allocation and emerging Local Plan.
- 7.127 The applicant has referred to a recent appeal decision in the London Borough of Bromley (Dylon International Premises, Station Approach, Lower Sydenham – APP/G5180/W/18/3206569 – see above) which has confirmed that weight afforded to the delivery of housing (including affordable housing) has increased in the consideration of previously developed Green Belt site where there is a significant shortfall of supply and an acute need has increased.

Response

7.128 It is acknowledged that the Council is unable to demonstrate a 5 year housing land supply in the Borough. It is also recognised that there is a shortage of affordable housing in the Borough and that the delivery of affordable units over the last few years has been low. The applicant is proposing 50% of the units on the application site to be affordable, which is in accordance with and not in excess of the requirement of Policy HO3 (Affordable Housing) of the Core Strategy and Policies DPD.

7.129 However, it is not considered that the “Tilted Balance” can be applied in this particular case. This is because the site is located within the Green Belt and leads to clear harm to such considerations as demonstrated earlier. Paragraph 11 of the NPPF 2021 states that planning decisions should apply a presumption in favour of sustainable development (i.e. ‘tilted balance’) where policies which are most important for determining the application are out of date (i.e. lack of 5 year housing land supply) unless:

- (i) The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

7.130 Footnote 7 to paragraph 11 provides clarification on what constitutes protected areas or assets of particular importance. These include habitat sites and/or designated Sites of Special Scientific Interest; land designated as Green Belt*, Local Green Space, an Area of Outstanding Natural Beauty, a National Park, Heritage Coast, irreplaceable habitats, designated heritage assets, other heritage assets of archaeological interest, and areas at risk of flooding or coastal change.

* Officer’s emphasis

7.131 Notwithstanding the lack of ‘tilted balance’ in this case, it is acknowledged that the existing housing need and supply position in the Borough is an issue, and that the proposed provision of 80 dwellings, including 40 affordable units, is a benefit in favour of the development. It is considered that this should be given significant weight in favour of the development.

Officer note: The Inspector in the previous 2021 appeals for the site also gave significant weight to this consideration. He also gave significant weight to the specific delivery of affordable housing.

iii) Removal of Bad Neighbour Uses

7.132 The application site is currently occupied by a variety of commercial operations including a lawful aggregate recycling facility. Because the uses have evolved over time, they are not subject to planning controls that would normally be applied to such uses. None of the properties are therefore restricted in terms of use, hours of operation, access arrangements or other environmental controls.

7.133 The site lies adjacent to residential properties to the south. Given the close relationship of these properties with the estate and the absence of any planning restrictions over the commercial uses, there is significant potential for

the occurrence of adverse environmental conditions. Indeed, there have been a number of complaints and investigations regarding the impact of operations at the site on nearby residents. Bugle Nurseries is therefore an inappropriately located industrial site.

- 7.134 Vehicular access to the site is also unrestricted. Currently the commercial uses are accessed via Upper Halliford Road. Existing operations generate considerable amounts of daily traffic movements as evidenced with the Transport Statement. Due to the nature of existing uses at the site this includes HGVs as well as smaller commercial vehicles. The proposal seeks the removal of the aggregate recycling facility and other commercial uses and replace them with more appropriate residential uses. Therefore, the existing vehicular activity associated with the site will be removed and this will provide significantly improved environmental conditions for local residents.
- 7.135 The application proposal will therefore result in comprehensive redevelopment of the site for residential uses which is a more appropriate form of development than the existing mixed commercial uses. This will significantly improve environmental conditions for existing residents adjacent to the site.

Response

- 7.122 It is recognised that part of the existing site is occupied by the industrial estate, which has caused noise and disturbance to neighbouring residential properties in Halliford Close, Bramble Close and Upper Halliford Road. (The Council's Environmental Health Department has received a small number of complaints dating back to 2012 concerning noise from lorry movements and also bonfires at the site. Two more recent complaints have been received in 2022 for a broken fence, rats, foxes, bonfire and also in 2022 one for lorries at unsociable hours. Prior to that two planning enforcement complaints had been received since 2012). The uses have evolved over a long period of time and are not restricted by planning controls, including no control over the hours of operation. The proposal will also result in the removal of the existing waste transfer station at the rear of the site, and the lorry movements, noise and general activity associated with it. Its removal can be considered a benefit in favour of the development. It is considered that the removal of the industrial uses and waste transfer station and replacement with housing should, in combination, be given moderate weight in favour of the development.
- 7.136 It is relevant to note that the Inspector in the previous appeals also gave moderate weight to this consideration.

iv) Remediation of the contaminated land

- 7.137 The application site has been subject to detailed ground investigations. It has been identified that part of the land subject to the proposed housing development is contaminated. Details of the ground conditions and necessary remediation strategy are set out in the applicant's Phase 1 and 2 assessments. Remediation of the contaminated land is a significant environmental benefit of the proposal. Such measures will only take place if the site is redeveloped for housing.

Response

- 7.138 It is recognised that the existing land, particularly where the industrial estate is located, is likely to be subject to contamination, and that the proposed development will involve ground remediation works to enable the residential scheme to be implemented. Indeed, the Council's Pollution Control Officer consulted on this application considers that the site to be subject to contamination and has recommended contaminated land/remediation related conditions to be imposed if permission were to be granted. However, only moderate weight is given to this particular consideration, as remediation works are likely to be required for any scheme involving the redevelopment of a former industrial site to housing, even if the site were to be located in the urban area. This is not a benefit unique to a Green Belt site or this industrial site (the Inspector in the previous appeals also gave moderate weight to this consideration).

v) *Regeneration of the site*

- 7.139 The application site is occupied by a variety of mixed quality, including numerous poor quality commercial premises. Consequently, the site is of extremely low quality in visual and environmental terms and has negative effect on the character and openness of the Green Belt. The site is therefore in clear need of regeneration and offers the opportunity for substantial environmental improvements through provision of high quality energy efficient buildings, remediation, enhancement of green infrastructure and improvement to the natural landscape.

Response

- 7.140 Whilst it is acknowledged that the existing industrial estate has an impact, the overall application site is not considered to be extremely low quality in visual and environmental terms. Most of the application site is currently free of development and laid with vegetation. The front part of the site is mainly free of development (open land or the garden of 171 Upper Halliford Road) and is lined with a high hedge and small trees. The existing development parts of the site are occupied by hardstanding and low level buildings which are modest in their impact. The proposed development will lead to a significant harmful loss of openness and harm to the visual amenities of the Green Belt, which is explained in more detail in the paragraphs above. Consequently, little weight is given to this particular consideration put forward by the applicant.

vi) *Provision of public open space*

- 7.141 The applicant states that the proposal will restore a substantial area of open space within the western part of the site. It is intended that this area will be publicly accessible, which is a considerable benefit to the community on land which is currently private and inaccessible. This will provide environmental and recreational benefits that would be a significant amenity for the wider community, particularly given the proposal would restore the land. Gated access will also be provided for pedestrians along the site's southern border. This accords fully with Paragraph 145 of the NPPF which supports planning

positively for such beneficial uses in the Green Belt. There will be a beneficial landscape impact from the development.

Response

- 7.142 It is recognised that providing public access to the open space at the rear, and the restoration of the land, is of some benefit to the area. However, this part of Shepperton has ample public open space. The Council's draft Open Space Assessment November 2019 states that this area of the Borough (Ward Halliford and Sunbury West) has more than sufficient public open space. Halliford Park is a short walk away from the application site on the other side of Upper Halliford Road. Indeed, the Council's Group Head of Neighbourhood Services stated in one of the previous applications for the site that there is plenty of open space, play facilities and park areas in and around the Bugle site, Halliford Park, Donkey Meadow, public footpaths, etc. The cost to maintain it (if it was to be transferred to the Council in a Section 106 agreement) would be dependent on what was put there. The Council's Group Head (of Neighbourhood Services) stated that there should be justification for its need but did not think there is one in this particular case, and this continues to be relevant to this scheme. It is considered that the balance of benefit from providing this open space would be enjoyed by future residents of the application site as opposed to the wider public, who already have access to many open spaces. Consequently, it is considered that only moderate weight should be given to this benefit in favour of the proposal.
- 7.143 It is relevant to note that the Inspector in the previous appeals also gave moderate weight towards this consideration.

vii) *Provision of a Strategic Gap*

- 7.144 The provision of a Strategic Gap will retain and enhance the Green Belt function by providing a permanent, defensible boundary. At its narrowest point the buffer measures 50 metres fronting Upper Halliford Road, as sought by the draft site allocation. This has regard to Paragraph 143 of the NPPF which requires that plans should not include land which it is unnecessary to keep permanently open, but also that the boundaries will not need to be altered at the end of the Plan period.
- 7.145 Were the applicant to implement the 31 units scheme which has consent for a ribbon of development along the site frontage, this would in effect link development south and north of the site. Accordingly, there would be no opportunity to provide a strategic gap in this part of the Borough.

Response

- 7.146 At this stage, the Examination for the emerging Local Plan has been put on-pause. Only limited weight is given to the emerging Local Plan at the present stage. Consequently, limited weight is given to the proposed site allocation and its recommendation to provide a 'Strategic Gap' of at least 50 metres in width along the northern boundary. The strategic gap does have a benefit in creating an open space between the two urban areas. However, this is at the cost of losing the substantial area of paddock land to the new housing

development along the southern boundary. Only limited weight is given to this particular consideration.

viii) Local community views

- 7.147 There were a number of representations submitted by third parties in support of the first planning application (18/00591/OUT), including a letter of support from the Shepperton Residents Association (SRA). These submissions were made in addition to comments recorded at the pre-application stage (as set out within the Statement of Community Engagement). This level of support is a significant material consideration in respect of the proposals. The clear desire to see the site redeveloped for mixed housing uses was compelling enough to stimulate multiple letters of support in this case. The SRA's support should be duly regarded as a collective view of the local community.

Response

- 7.148 The planning application referred to above was submitted five years ago. Several later planning applications have since been submitted and refused. No letters of support have been submitted in relation to the current application (only objections). The Shepperton Residents' Association has written a letter of objection against the current application. This particular consideration has no weight.

ix) The proposal does not conflict with the purposes of the Green Belt

- 7.149 The applicant considers that the proposal does not conflict with any of the five purposes of Green Belt set out in paragraph 138 of the NPPF. With regard to Objective 1 (to prevent urban sprawl), the proposed scheme is well contained and relates to the land that has already been developed. With regard to Objective 2 (to prevent merging settlements), the Upper Halliford area is continuous from the village to the railway station. The application site is located between the two, is previously developed and does nothing to prevent the merging of settlements. The proposal also does not conflict with Objective 3 (to safeguard encroachment on the countryside), or Objective 4 (to preserve the setting and special character of historic towns). With regard to Objective 5 (to assist regeneration encouraging the recycling of derelict and other urban land), the remaining (non-residential) areas of the site will be left open thereby improving the character and openness of the Green Belt, whilst providing a Strategic Gap between the new development and the Green Belt.

Response

- 7.150 The proposal is considered to conflict with Green Belt purposes (or Objectives) 1 (to prevent urban sprawl) and 2 (to prevent the merging of towns) for the reasons given earlier in the report. The Inspector in the previous appeals considered the proposal for 43 dwellings and a 62-bed care home (19/01022/OUT) also conflicted with Green Belt purposes 1 and 2 of paragraph 138 (although the layout was different to the current proposal). The current proposal is larger in scale (80 dwellings) compared to the previous

appeal scheme. It is considered that no weight should be given to this particular consideration.

Conclusion

- 7.151 The development constitutes inappropriate development in the Green Belt and this, in itself, weighs heavily against the merits of the scheme. Indeed, the NPPF advises that “*substantial weight should be given to any harm to the Green Belt*”. The development will result in a significant reduction in the openness of the Green Belt, and this adds substantial weight against the proposal. There will be a significant increase in the amount of development on the site, compared to the existing development. It will harm the character and visual amenities of the Green Belt, which adds substantial weight against the merits of the scheme. Furthermore, the development conflicts with two of the five purposes of Green Belts in paragraph 134 of the NPPF, which adds substantial weight against the merits of the scheme.
- 7.152 It is recognised that the current application site includes the rear part of the Bugle Nurseries site and that the provision of the open space with landscaping are considerations that have moderate weight in favour of the proposal. Moderate weight is also given to the benefit of removing the existing industrial uses and waste transfer site on the site. Significant weight is given to the supply of additional housing in the Borough that the proposal will create, including the provision of affordable housing. However, these elements together with the other considerations put forward by the applicant in favour of the proposal do not clearly outweigh the substantial harm the proposal will cause to the Green Belt. Consequently, it is not considered that very special circumstances exist. The proposal is therefore contrary to the Section 13 of the NPPF and Saved Local Plan Policy GB1. It is also contrary to Policy HO4 on housing mix and Policy EN1 on scale and siting and the resultant relationship with neighbouring residential properties, which has not been demonstrated to be acceptable at this stage.
- 7.153 It should be noted that the previously approved planning application ref 20/00123/OUT will need to be revoked (to ensure it is not implemented) with no compensation paid to the applicant, which would be secured by a S106 agreement if the planning application was to be recommended for approval. This would be to ensure that both this scheme and the approved appeal scheme were not both implemented within the Green Belt.
- 7.154 Accordingly, as noted previously, the applicant has appealed against the proposal on the grounds that the Local Planning Authority (LPA) has failed to give notice of its decision within the relevant statutory period (known as a ‘non-determination’). The appeal will be dealt with by means of a Public Inquiry, commencing on 28 November 2023. Therefore, the Planning Committee’s views are being sought on what the decision would have been had it been in a position to determine it. This will be used by the LPA at the appeal. As such the application would have been recommended for refusal had the LPA been in a position to determine it.
8. Recommendation would have been

8.1 REFUSE the planning application for the following reasons:

1. The development comprises inappropriate development in the Green Belt for which no other considerations sufficient to amount to very special circumstances have been demonstrated. It will result in the site having a more urban character, will diminish the openness of the Green Belt and conflict with the purposes of including land within it. In particular, it would fail to check the unrestricted sprawl of large built-up areas, fail to prevent neighbouring towns merging together and would not safeguard the countryside from encroachment. It is therefore contrary to Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 and Section 13 (Protecting Green Belt Land) of the Government's National Planning Policy Framework 2021.
2. The number of smaller units (1 bed and 2 bed units) is 35 out of the total 80 units and equates to 43% of the total units, or not including the affordable units only 11 out of 40 which equates to 27.5%. Therefore, the proposal fails to comply with Policy HO4 which requires a majority of smaller units, of the Core Strategy and Policies Development Plan Document 2009.
3. By reason of the location, scale and height of the proposed dwellings and their proximity to the boundaries, along the lack of detail shown on the siting and scale parameter plans, and details on the application form, it has not been demonstrated that the impact on neighbouring properties will be acceptable and as such it is not possible to enable scale and layout to be determined at this stage.

If during the appeal process, details are submitted to address reasons for refusal 2 and 3 above, the Development Control Manager will agree, in consultation with the Committee Chair to modify or remove the conditions..