

**BUGLE NURSERIES, 171 UPPER
HALLIFORD ROAD, SHEPPERTON**

STATEMENT OF COMMON GROUND

NOVEMBER 2023

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1.0 Introduction

- 1.1 This Statement of Common Ground (SoCG) has been agreed between Montagu Evans LLP on behalf of Angle Property (RLP Shepperton) Ltd (the Appellant) and Spelthorne Borough Council (the Council).
- 1.2 It relates to an appeal following the failure of the Council to determine planning application 22/01615/OUT in relation to Bugle Nurseries on Upper Halliford Road in Shepperton. The planning application seeks outline planning permission with approval sought for scale, layout and access with details of appearance and landscaping reserved, for a residential development for up to 80 units.

Parties to the Statement of Common Ground

- 1.3 There are no other parties to this SoCG.

The Appeal Scheme

- 1.4 The appeal scheme is described by the Appellant on their application form and repeated on the validation notice thus:

“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”.

2.0 The Appeal Site and the Surrounding Area

- 2.1 The Appeal Site measures 4.84 hectares and comprises a bungalow and a range of single storey commercial buildings as well as extensive areas of hard standing used for the parking and storage of vehicles and other open storage compounds. There is evidence of derelict nursery related structures close to the site frontage. The application site includes highway land related to the proposals. Also included within the Appeal Site is 3.37ha of land comprising:
 - Approximately 0.5ha in the far western part of the site which was used for aggregate grading and recycling and the Appellant and the Council agree that the use is lawful and
 - Paddocks within the central and western part of the site which are grass fields last used for grazing horses extending to approximately 2.87ha located either side of the access road to the recycling area.
- 2.2 The Site is bound by and accessed from Upper Halliford Road to the east beyond which is Halliford Park, public recreation land and Grange Farm Estate. To the northeast is the former Bugle Public House which has been redeveloped for 8 flats in line with planning permission granted on 25 August 2017 (LPA Ref: 17/01028/FUL). There is undeveloped land and a lake to the rear of the former public house to north of the appeal site and residential development and allotment gardens to the south.

- 2.3 A railway line forms the western boundary of the site, beyond which are fields bounded by the M3 motorway and the Charlton Lane Community Recycling Centre and waste transfer station.
- 2.4 The Site is well connected for access both by car and by public transport. The Site is accessed directly from Upper Halliford Road, which benefits from frequent bus services and Upper Halliford railway station is located approximately 750m to the north of the Site. In addition, the Site is a 2.7 miles drive from Junction 1 of the M3.
- 2.5 The Site is located within Flood Zone 1 as set out on the Environment Agency's flood map. This indicates a low risk of flooding. Small, localised areas of the site are treated as medium to high risk for surface water flooding. However, the Council do not rely on this as a reason to refuse planning permission.
- 2.6 The Site is located within the Metropolitan Green Belt.
- 2.7 The Site benefits from a draft site allocation in the draft Spelthorne Local Plan (ref: HS1/009) which identifies the Site for approximately 79 residential units.

3.0 Planning History

- 3.1 The table at Appendix 1 summarises the relevant planning history of the appeal site.
- 3.2 The Appeal Site benefits from outline planning permission (ref: 20/00123/OUT - APP/Z3635/W/21/3268661) for the redevelopment of the Site for up to 31 dwellings that was allowed at appeal on 15th July 2021.
- 3.3 This permission remains extant and comprises a fallback scheme.
- 3.4 At the same Hearing the Inspector considered a larger scheme (ref: 19/01022/OUT - APP/Z3635/W/20/3252420) for a 62 bed care home and up to 43 dwellings, that appeal was dismissed on 15 July 2021.

4.0 The Appeal Scheme

Scheme Overview

- 4.1 The Appeal scheme locates the proposed housing in the southern part of the Site.
- 4.2 Approximately 2.28 hectares is proposed to accommodate the 80 residential units.
- 4.3 The proposal includes provision of approximately 2.56 hectares of public open space including the removal and re-landscaping of the lawful aggregate recycling facility to provide public open space that will be available to residents of the site and the general public comprising. Pedestrian access will also be provided for residents to the south of the site.
- 4.4 The existing bungalow and associated buildings are proposed to be demolished and the poly tunnel frames are to be dismantled.
- 4.5 A summary of the existing development at the Appeal Scheme is provided below.

Existing Development

	Existing
Footprint	1,087 sqm
Floorspace	1,087 sqm
Volume	3500.7 cu m
Hardstanding	9,503 sqm
Green Space	33,110 sqm

- 4.6 The GEA of the existing building at site totals 1087m². The existing buildings have a volume of 3500.7m³.
- 4.7 The parties' positions on the proposed footprint, floor area and volume of the proposed buildings, is a matter of disagreement between parties set out in section 7.
- 4.8 The proposal is for the following mix of accommodation:

Unit Type	Number of Units
1 bedroom maisonette	18 units
2 bedroom maisonette	6 units
2 bedroom house	11 units
3 bedroom house	34 units
4 bedroom houses	11 units
Total	80 units

- 4.9 The proposal includes provision of approximately 2.56ha of public open space including the area shown on the existing plans as a lawful aggregate processing facility in the western part of the site. The open space will be landscaped and it is proposed to provide a pedestrian gated access along the southern boundary of the site to the garage court on Bramble Close connect to the access road and footpaths which extend northwards of the site. Provision will also be made for a children's play area to serve the proposed development on the site frontage with Upper Halliford Road.
- 4.10 Detailed permission is sought for access and the details are shown on plan 12146-D2003_P1. The submitted parameters plans show the existing access from Upper Halliford Road widened. The proposed access will provide access for all residential users. The existing secondary access from Upper Halliford Road (on the northern edge of the site) will be removed and the public footpath, which is located outside the appeal site, retained.
- 4.11 A pedestrian crossing is also proposed across Upper Halliford Road. The proposal includes a detailed pelican crossing arrangement north of the site access shown on the access drawing A12146-D2003-P1 which can be secured by planning condition.

Comparison with Appeal ref: 3268661

- 4.12 Below is an overview of the proposed quantum against the existing quantum for the allowed appeal ref: 3268661 in relation to footprint and floorspace:

	Existing	Permitted ¹	Difference
Footprint	1,087 sqm	1,610 - 1,644 sqm	+523 - 557 sqm

¹ The proposed figure includes the retained bungalow and detached garage as well as the proposed houses.

			(+48 - 51%)
Floorspace	1,087 sqm	2,574 – 3126 sqm	+1,487 - 2039 sqm (+136 - 188%)

4.13 The LPA have calculated the volume of the permitted scheme as 10,171 m³.

Comparison with Appeal ref: 3252420

4.14 Below is an overview of the proposed quantum against the existing quantum for the dismissed appeal ref: 3252420 in relation to footprint and floorspace:

	Existing	Dismissed	Difference
Footprint	1,087 sqm	3,436 sqm	+2,350 sqm (+216%)
Floorspace	1,087 sqm	6,216 – 7162 sqm	+5,129 sqm (+472% - 558%)

4.15 The LPA have calculated the volume of the dismissed scheme as being 26,000 m³.

The Council's Consideration of the Application

4.16 The planning application was validated on 21st November 2022. Following validation of the planning application consultation was completed with statutory consultees and third parties.

4.17 Subject to the imposition of suitably worded conditions comments from consultees have been addressed to the satisfaction of consultees such that there are no environmental or technical matters unresolved that would warrant the refusal of planning permission.

Application Plans and Documents

4.18 The plans and supporting documents that comprised the application at the time the appeal was made were as follows:

Existing Plans

- F2100-P1 - Existing Site Plan
- F2001-P1 - Site Location Plan (this is for approval)
- F2101-P1 - Existing Land Uses Plan
- F2500-P1 - Existing Site Buildings Elevations
- F2300-P1 - Existing Site Sections

Parameter Plans (For Approval)

- D2002-P1 - Proposed Development Zone Height (Scale)
- D2001-P1 - Proposed Land Use
- D2005-P1 - Proposed Siting Plan (Layout and Scale)
- D2003-P1 - Proposed Site Access and Egress (Access)

Indicative Plans (Not For Approval)

- D2100-P1 - Indicative Proposed Site Plan
- D2300-P1 - Indicative Proposed Site Elevations
- D2600-P1 - Indicative Proposed Coloured Site Plan
- D2500-P1 - Indicative Typical House Layouts

Documents

- Notice Letter, Planning Application Form and Certificate, duly signed and dated 17th November 2022
- Application Covering Letter, prepared by Montagu Evans dated 17th November 2022
- CIL Additional Information Form, prepared by Montagu Evans dated 17th November 2022
- Schedule 1 – Application Material Submitted dated 17th November 2022, prepared by Montagu Evans
- Schedule 2 – Drawing Schedule dated 17th November 2022, prepared by Montagu Evans
- Design and Access Statement, prepared TP Bennett dated November 2022
- Planning Statement, prepared by Montagu Evans dated November 2022
- Transport Assessment, prepared by Mayer Brown dated November 2022
- Travel Plan, prepared by Mayer Brown dated November 2022
- Biodiversity Net Gain Assessment, prepared by Delta Simons dated November 2022
- Preliminary Ecological Appraisal, prepared by Delta Simons dated November 2022
- Arboricultural Impact Assessment, prepared by Delta Simons dated November 2022
- Air Quality Assessment, prepared by Mayer Brown dated November 2022
- Landscape Visual Impact Assessment, prepared by Aspect Landscape Planning Ltd dated November 2022
- Landscape Masterplan (ref: ASP4.0), prepared by Aspect Landscape Planning Ltd
- Archaeological Desk Based Assessment, prepared by CgMs Heritage dated January 2020
- Statement of Community Involvement, prepared by Consult Communications dated September 2022
- Updated Application Form, prepared by Montagu Evans sent to the LPA on 16th December 2023
- Application Form (Residential Unit Section), sent to the LPA on 19th December 2023
- Biodiversity Technical Note in Response to Surrey Wildlife Trust, prepared by Delta Simons dated 30th January 2023
- Reptile Mitigation Strategy in Response to Surrey Wildlife Trust, prepared by Delta Simons dated May 2023
- Updated Flood Risk Assessment and Drainage Strategy in Response to Local Lead Flood Authority, prepared by Mayer Brown dated January 2023
- Flood Risk Technical Note in Response to Surrey County Council, prepared by Mayer Brown dated 13th January 2023
- Biodiversity Technical Note in Response to Surrey Wildlife Trust, prepared by Delta Simons dated 15th May 2023
- Application Form (Residential Unit Section), sent to the LPA on 5th January 2023

5.0 Planning Policy, Guidance and Legislation

The Statutory Basis for the Determination of Planning Applications

- 5.1 By Section 70 (2) of the Town and Country Planning Act 1990 and Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 It is well established that material considerations in this context include national planning policy, supplementary planning guidance, and emerging planning policy. The weight to be given to each is a matter for the decision maker.

The Development Plan

- 5.3 The statutory development plan for the Appeal Site comprises the following:
- The Spelthorne Core Strategy and Policies DPD 2009;
 - The Allocations DPD 2009;
 - The Proposals Map; and
 - The saved policies of the Local Plan 2001.
- 5.4 It is agreed that these documents are all relevant to the determination of the appeal:

Core Strategy and Policies DPD

- 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)

Saved Local Plan

- GB1 (Green Belt)
- BE26 (Archaeology)

5.5 The Council does not rely upon other policy conflicts than those identified in the putative reasons for refusal.

Other Material Considerations – Policy & Guidance

5.6 The following guidance are relevant to the Appeal Scheme as material considerations:

- National Planning Policy Framework (2023); and
- National Planning Practice Guidance (various).

Guidance

5.7 In considering the reserved matters application the Council referred to a range of other guidance as follows:

- Design of Residential Extensions and New Residential Development SPD (2011); and
- Housing Size and Type SPD (2012).

6.0 Matters Agreed Between the Parties

Green Belt

- 6.1 NPPF Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 6.2 Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The parties agree that any Green Belt harm should be given substantial weight. '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.

Previously Developed Land

- 6.3 The NPPF Paragraph 149 identifies in the context of the construction of new buildings that they should be regarded as inappropriate development unless they meet one of 7 exceptions listed at (a) – (g) inclusive. Paragraph 149(g) identifies that limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), would be appropriate where it 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.
- 6.4 It is agreed that the proposed development would have a greater impact on the openness of the Green Belt than the existing development.
- 6.5 It is agreed that the proposed development would contribute towards meeting affordable housing need.

Sustainable Location

- 6.6 It is agreed that the site provides a sustainable location for housing development.

Housing Matters

- 6.7 The Council does not have an up to date development plan. Therefore the tilted balance pursuant to paragraph 11(d) NPPF is engaged at first instance. However, the Council's position is that the tilted balance is disengaged as policies of the NPPF relating to the Green Belt provide a clear reason for refusing the development proposed. The Appellant considers that the proposed development is not inappropriate development and thus the NPPF does not provide a clear reason for refusal and thus the tilted balance is not disengaged.
- 6.8 The Council cannot demonstrate a five year supply of deliverable housing land and the last published HDT result was 69%. It is agreed that the housing land supply falls within the range 2.79 to 3.52 years.

- 6.9 It is agreed that housing mix should not of itself form a reason to refuse permission if the Inspector is minded otherwise to grant planning permission.

Affordable Housing Need and Delivery

- 6.10 The Appellant considers that the provision of affordable housing should attract very substantial weight, especially given the significant need for affordable housing and previous under-delivery in Spelthorne.
- 6.11 The Council consider that substantial weight should be given to housing including affordable housing.

Flooding

- 6.12 The Environment Agency Surface Water Flood Risk Maps show a small section of medium surface water flood risk located within the site boundary.
- 6.13 The Local Planning authority do not invite the Inspector to dismiss this appeal on the basis of a failure to undertake a sequential test.

Layout

- 6.14 Subject to layout being fixed as per plan D2005-P1 - Proposed Siting Plan then adequate information is available to allow matters of layout to be determined at this appeal.

Amenity

- 6.15 The parties agree to conditions 19, 20, 21 and 22 in the following terms:

- *Condition 19: "Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking and re-enacting that Order), no extensions including no additions or alterations to the roofs, or outbuildings, shall be erected within the curtilage of the houses without the prior planning permission of the Local Planning Authority.*

Reason:- To safeguard the amenity of neighbouring properties and in the interest of safeguarding the openness of the Green Belt.

- *Condition 20: The houses and maisonette blocks hereby approved shall be a maximum height of 8.7 metres above adjacent ground level, and the maximum eaves height shall be no more than 6 metres above adjacent ground level.*

Reason: - In the interest of the openness of the Green Belt and the impact on the amenity of neighbouring properties.

- *Condition 21: "The garages and carports hereby permitted shall be a maximum height of 4 metres and the maximum eaves height of 3 metres above adjacent ground level.*

Reason: - In the interest of minimising the impact on the openness of the Green Belt.

- *Condition 22: The houses and maisonnette blocks hereby permitted shall be implemented to a maximum of 2 floors, with no living accommodation within the roof and no windows/openings above eaves level.*

Reason: - In the interest of the openness of the Green Belt and the impact on the amenity of neighbouring properties.

- 6.16 If the Inspector was to impose conditions 19, 20, 21 and 22 the Council are satisfied that this would overcome the privacy element of RfR 3.

Local Plan

- 6.17 The examination of the emerging Local Plan has yet to be completed and as such the emerging Local Plan carries limited weight.

Waste Transfer Station

- 6.18 It is agreed that the Waste Transfer Station as shown on the existing plan is not presently operational. However, this use is lawful as per the Certificate of Lawful Use obtained under ref. SP12/01060.

7.0 Matters in Dispute

- 7.1 Whether the development comprises inappropriate development in the context of Green Belt policy in the NPPF. The Appellant contends that the proposed development is not inappropriate development in the Green Belt.
- 7.2 Whether the proposed development would lead to a loss of openness in both a spatial and/or visual context. The Appellant does not agree that the proposed development would cause substantial harm to the openness of the Green Belt.
- 7.3 Whether the proposed development would conflict with Green Belt purposes or not. The Council alleges conflict with purposes (a), (b) and (c).
- 7.4 The Council consider that the land either side of the existing access road fronting Upper Halliford Road (save the footprint of the existing bungalow and garage) does not comprise previously developed land as determined by Inspector Hunter in July 2021. The Council also considers that the western parcels of the site do not comprise previously developed land as determined by Inspector Hunter in July 2021. The Appellant disagrees.
- 7.5 Whether the extent of land to be developed for housing exceeds the area of land identified by the previous Inspector as previously developed.
- 7.6 The extent of proposed development having regard to footprint, floor area and volume of proposed buildings. The Appellant's position is that:
- the GEA of the proposed dwellings, garages, car ports, cycle stores and bin stores is a minimum of 6,948m²;
 - the footprint is 4,147sqm; and
 - the volume of the proposed dwellings would be 25,234m³.

The Council consider that:

- the GEA of the proposed dwellings, garages, car port, substation, cycle and bin stores is around 8593m²;
 - The footprint of the proposed development is 4771m²; and
 - the volume of those buildings would be 29500m³.
- 7.7 The weight to be given to the harms to the Green Belt and other harms including the proposed housing mix and any impact on residential amenity.
- 7.8 Whether very special circumstances exist.
- 7.9 Whether application of policies of the NPPF relating to the Green Belt provide clear reasons to refuse permission and thus disengage the tilted balance.
- 7.10 The weight to be given to the other considerations.
- 7.11 Whether adequate information is available to allow the decision maker to determine scale, which is not a reserved matter.

8.0 Planning Conditions and S106 Agreement

- 8.1 It is anticipated that a S106 Legal Agreement will be agreed between parties before the close of the Inquiry.
- 8.2 The parties will seek to agree a schedule of conditions ahead of the Inquiry opening. The draft schedule is included at Appendix 2 and the Appellant confirms that they are in agreement with the conditions.
- 8.3 The Council has prepared a CIL Compliance Statement and this is included at Appendix 3. Again, the Appellant confirms that they are in agreement with this.

Statement of Agreement

The contents of this SoCG have been agreed by the following parties:

On behalf of the Appellant:

Name: Edward Ledwidge

Position: Partner

Signed:



Date: 27 November 2023

On behalf of the Council

Name: Paul Tomson

Position: Team Leader
(Planning Development
Management)

Signed:



Date: 27 November 2023

Appendix 1

C/80/702	Residential development at a density of 19.35 units per acres (47.82 units per hectare).	Refused 14.01.1981 Appeal Dismissed 16.12.1981
01/00816/FUL	Demolition of existing bungalow and erection of detached bungalow	Conditional Permission 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 landscaping, parking areas, pedestrian, cycle and vehicular routes.	Withdrawn 05/02/2019

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.	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

Draft Conditions – Revised

Note: This list is based on the assumption that the Inspector, as per paragraph 18 of the Case Management Conference Summary Note, regards Scale and Layout as before him.

1. That in the case of those matters in respect of which details have not been given in the application and which concern the: -
 - (a) the Appearance, Landscaping; hereinafter called "the reserved matters", and which are hereby reserved for subsequent approval by the Local Planning Authority, application for such approval shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.
 - (b) The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

Reason:- This condition is required by Section 92 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Before any work on the development hereby permitted is first commenced detailed drawings be submitted to and approved by the Local Planning Authority to show: -
 - (i) Appearance
 - (ii) Landscaping

Reason: -

- (a) This is an outline application permitted in accordance with the provision of Article 5(1) of the Town and County Planning (Development Management Procedure) Order, 2015.
- (b) To ensure the proposed development does not prejudice the appearance of the locality.

3. The development hereby permitted shall be carried out in accordance with the following approved plans and drawings:

F2001 Rev. P1; F2100 Rev. P1; F2101 Rev. P1; F2300 Rev. P1; F2500 Rev. P1; D2005 Rev. P1; D2003 Rev. P1; D2002 Rev. P1; D2001 Rev. P1; MBSK221014- 08 Rev. P1 received 21 November 2022.

Reason:- For the avoidance of doubt and in the interest of proper planning

4. No development shall take place until:-

(a) A comprehensive desk-top study, carried out to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site, has been submitted to and approved in writing by the Local Planning Authority.

(b) Where any such potential sources and impacts have been identified, a site investigation has been carried out to fully characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until the extent and methodology of the site investigation have been agreed in writing with the Local Planning Authority.

(c) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of remediation. The method statement shall include an implementation timetable and monitoring proposals, and a remediation verification methodology.

The site shall be remediated in accordance with the approved method statement, with no deviation from the statement without the express written agreement of the Local Planning Authority.

Reason:-

To protect the amenities of future residents and the environment from the effects of potentially harmful substances, in accordance with Policy EN15 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

5. Prior to the first use or occupation of the development, and on completion of the agreed contamination remediation works, a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and agreed in writing by the Local Planning Authority.

Reason:- To protect the amenities of future residents and the environment from the effects of potentially harmful substances.

6. No development shall commence until a report has been submitted to and agreed by the Local Planning Authority which includes details and drawings demonstrating how 10% of the energy requirements generated by the development as a whole will be achieved utilising renewable energy methods and showing in detail the estimated sizing of each of the contributing technologies to the overall percentage. The detailed report shall identify how renewable energy, passive energy and efficiency measures will be generated and utilised for

each of the proposed buildings to meet collectively the requirement for the scheme. The agreed measures shall be implemented with the construction of each building and thereafter retained and maintained to the satisfaction of the Local Planning Authority unless otherwise agreed in writing.

Reason:- To ensure that the development is sustainable and complies with Policy SP7 and CC1 of the Spelthorne Development Plan Core Strategy and Policies DPD.

7. The development hereby approved shall not be commenced unless and until the proposed vehicular access to Upper Halliford Road has been provided with visibility zones in accordance with Drawing Number MBSK221014-08 P1 and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.

Reason:- The condition above is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users.

8. During and after the construction of the development hereby approved, there shall be no means of vehicular access from the site to Upper Halliford Road over the existing access at the northern boundary of the site.

Reason:- The condition above is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users.

9. The development hereby approved shall not be first occupied unless and until the following facilities have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for:

- (a) Provision of a puffin pedestrian crossing facility on Upper Halliford Road close to the site access including dropped kerbs, tactile paving and zig zag lines;
- (b) Provision of a safe and step-free route for pedestrians to travel from the proposed development onto the western footway of A244 Upper Halliford Road.

Reason:- The condition above is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users.

10. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles and cycles

to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason:- The condition above is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users.

11. No development shall commence until a Construction Transport/Environmental Management Plan, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials
- (d) programme of works (including measures for traffic management)
- (e) provision of boundary hoarding behind any visibility zones
- (f) measures to prevent the deposit of materials on the highway
- (g) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused.
- (h) on-site turning for construction vehicles
- (i) dust suppression measures

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason:- The condition above is required in order that the development should not prejudice highway safety, nor cause inconvenience to other highway users, and in order to protect local air quality.

12. The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

- a) The results of infiltration testing completed in accordance with BRE Digest: 365 in the location of proposed soakaways and confirmation of groundwater levels.

- b) Evidence that the proposed final solution will effectively manage the 1 in 30 (+35% allowance for climate change) & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development.
- c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal high groundwater level and confirmation of half-drain times.
- d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk.
- e) Details of drainage management responsibilities and maintenance regimes for the drainage system.
- f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

Reason: To ensure the design meets the national Non-Statutory Technical Standards for SuDS and the final drainage design does not increase flood risk on or off site.

13. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.

Reason:- To ensure the Drainage System is constructed to the National Non-Statutory Technical Standards for SuDS.

14. The precautionary measures to safeguard bats during demolition shall be carried out strictly in accordance with the recommended Avoidance and Mitigation measures in the Delta Simons Ecological Impact Assessment November 2022.

Reason:- In the interest of safeguarding bats on the site.

15. Prior to the construction of the buildings, a biodiversity enhancement scheme to be implemented on the site shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement measures shall be implemented in accordance with the approved scheme and thereafter maintained.

Reason:- To encourage wildlife on the site.

16. Prior to the occupation of the buildings hereby permitted details including a technical specification of all proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority. The agreed external lighting shall be implemented prior to the occupation of the buildings and shall at all times accord with the approved details.

Reason:- To safeguard the amenity of neighbouring properties and in the interest of security and wildlife.

17. No development shall take place until the implementation of a programme of archaeological work has been secured, to be conducted in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority.

Reason: The site lies in an area of archaeological potential for all periods. The potential impacts of the development can be mitigated through a programme of archaeological work.

18. Prior to the occupation of the development, details of a scheme of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied and thereafter maintained as approved.

Reason:- To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and the appearance of the locality, in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009.

19. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking and re-enacting that Order), no extensions including no additions or alterations to the roofs, or outbuildings, shall be erected within the curtilage of the houses without the prior planning permission of the Local Planning Authority.

Reason:- To safeguard the amenity of neighbouring properties and in the interest of safeguarding the openness of the Green Belt.

20. The houses and maisonette blocks hereby approved shall be a maximum height of 8.7 metres above adjacent ground level, and the maximum eaves height shall be no more than 6 metres above adjacent ground level.

Reason: - In the interest of the openness of the Green Belt and the impact on the amenity of neighbouring properties.

21. The garages and carports hereby permitted shall be a maximum height of 4 metres and the maximum eaves height of 3 metres above adjacent ground level.

Reason: - In the interest of minimising the impact on the openness of the Green Belt.

22. The houses and maisonnette blocks hereby permitted shall be implemented to a maximum of 2 floors, with no living accommodation within the roof and no windows/openings above eaves level.

Reason: - In the interest of the openness of the Green Belt and the impact on the amenity of neighbouring properties.

APPENDIX 3 - CIL COMPLIANCE STATEMENT

Appeal reference: APP/Z3635/W/23/3325635

Appeal by Angle Property (RLP Shepperton) LLP relating to the application to Spelthorne Borough Council for:

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 Bugle Nurseries, 171 Upper Halliford Road, Shepperton

1. FRAMEWORK AND POLICIES

- 1.1 Regulation 122 of the *Community Infrastructure Levy Regulations 2010* (as amended) states that a planning obligation may only constitute a reason for granting planning permission if the obligation is:-
- a. Necessary to make the development acceptable in planning terms;
 - b. Directly related to the development; and
 - c. Fairly and reasonably related in scale and kind to the development.
- 1.2 Paragraph 57 of the National Planning Policy Framework reiterates the Regulation 122 test.
- 1.3 The policies of the Council's Core Strategy and Policies DPD 2009, which are relevant to the planning obligations to be secured are as follows:
- Policy HO3 (Affordable Housing)

2. PROPOSED PLANNING OBLIGATIONS

- 2.1 The proposed Section 106 Agreement is between (1) Spelthorne Borough Council; (2) Angle Property (RLP Shepperton) LLP. The proposed planning obligations included within the Section 106 Agreement cover the following areas of infrastructure:
- **Affordable Housing** – The provision of on-site affordable housing as part of the proposed scheme
 - **Maintenance of landscape areas** – The maintenance of the open space as part of the proposed scheme

3. CIL TESTS

- 3.1 The following table explains how the above planning obligations comply with the three tests set out in Regulation 122 of the Community Infrastructure Levy Regulation 2010 (as amended) and paragraph 57 of the National Planning Policy Framework.

PLANNING OBLIGATION	TEST 1 - NECESSITY	TEST 2 – DIRECTLY RELATED TO THE PROPOSED DEVELOPMENT	TEST 3 – FAIR AND REASONABLE IN TERMS OF SCALE AND KIND
Affordable Housing	<p>Policy HO3 of the Core Strategy & Policies DPD 2009 requires up to 50% of housing to be affordable where the development comprises 15 or more dwellings. Any provision may include social rented and intermediate units, subject to the proportion of social rented being at least 65% of the total affordable housing component.</p> <p>40 affordable housing units are proposed, (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). This represents an affordable housing</p>	The obligation to secure and maintain the affordable housing element is directly related to the appeal scheme.	The level of affordable housing accords with the requirements of Policy HO3 of the Core Strategy and Policies DPD 2009. The provision of affordable housing is therefore considered fair and reasonable as the proportion required under the development plan.

	<p>provision of 50% 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 and meets the CIL tests.</p> <p>The obligation is necessary to comply with the policy and ensure that the affordable housing element is secured and maintained as approved in perpetuity.</p> <p>The proposed obligation is necessary to make the appeal scheme acceptable in planning terms. Without the obligation, it would not be possible to secure and maintain the affordable housing which is required by Policy HO3.</p>		
Maintenance of landscaped areas of open Space	Policy EN1 of the CS & P DPD requires a high standard in the design and layout of new development. It states that proposals for new development	The obligation to maintain the open space is directly related to the appeal scheme.	The maintenance of the open space provided accords with the requirements of Policy EN1 of the Core Strategy and Policies DPD 2009. The maintenance of open space is

	<p>should demonstrate that they will d) incorporate landscaping to enhance the setting of the development, including the retention of any trees of amenity value and other significant landscape features that are of merit, and provide for suitable boundary treatment.</p> <p>Therefore, the provision is considered acceptable and meets the CIL tests.</p> <p>The obligation is necessary to comply with the policy and ensure that the open space is maintained as approved in perpetuity.</p> <p>The proposed obligation is necessary to make the appeal scheme acceptable in planning terms. Without the obligation, it would not be possible to maintain the open space which is required by Policy EN1.</p>		therefore considered fair and reasonable.
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