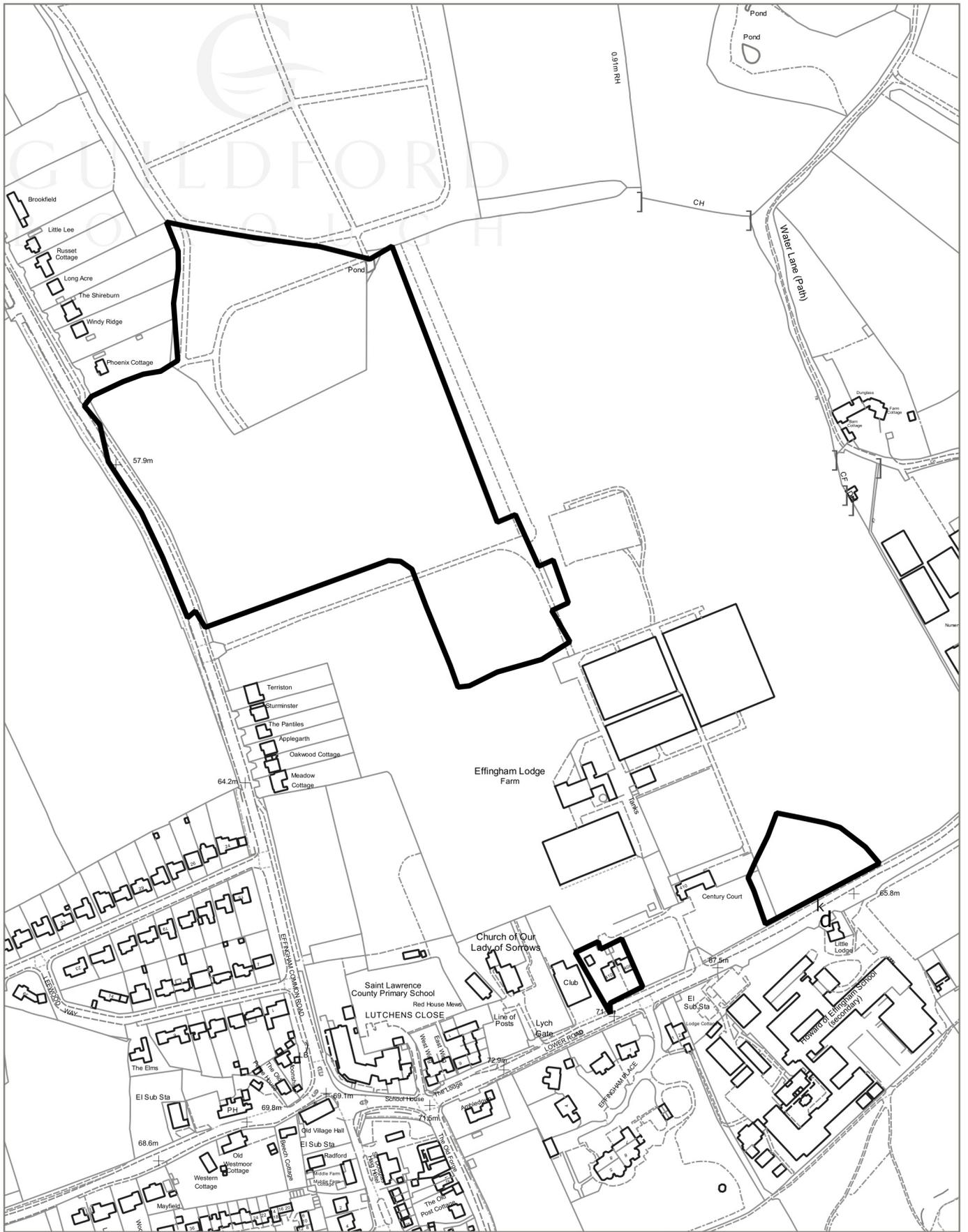


# 21/P/01283 - Howard Of Effingham School, Lower Road, Effingham, Leatherhead



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Print Date: 21/03/2022



Not to Scale



GUILD FORD  
BOROUGH

21/P/01283 Howard of Effingham School, Lower Road, Effingham



Not to scale

**App No:** 21/P/01283  
**Appn Type:** Full Application  
**Case Officer:** John Busher  
**Parish:** Effingham  
**Agent :** Ms. Farhana Hussain  
Quod  
8-14 Meard Street  
London  
W1F 0EQ

**8 Wk Deadline:** 07/09/2021

**Ward:** Effingham  
**Applicant:** Berkeley Homes (Southern) Ltd c/o  
Quod

**Location:** Howard Of Effingham School, Lower Road, Effingham, Leatherhead, KT24 5JR

**Proposal:** Variation of condition 1 (approved plans) of planning permission 14/P/02109, approved at appeal on 21/03/2018, to refer to updated parameter plans annotated to show the areas no longer to be developed pursuant to that application.

## **Executive Summary**

### **Reason for referral**

This application has been referred to the Planning Committee because more than 20 letters of objection have been received, contrary to the Officer's recommendation.

### **Key information**

This application is a s.73 proposal which seeks to vary the conditions attached to application 14/P/02109, which was approved by the Secretary of State in 2018. 14/P/02109 is a hybrid proposal which includes three separate sites (Brown's Field, Lodge Farm and the Howard of Effingham secondary school) within Effingham.

The s.73 application only relates to one of these three sites - that is Lodge Farm. The other sites remain unaffected by the proposal.

Lodge Farm is the largest of the three sites (19.7 hectares) and is located opposite the Howard of Effingham on the other side of Lower Road. The site has recently been cleared in connection with application 14/P/02109.

The site is outside of but partly adjoins Effingham Conservation Area. There is one grade II listed building to the west of the site which is known as The Red House and the Church of Our Lady of Sorrows and its Lych gate are both locally listed. These buildings front onto Lower Road. The site is situated within the Green Belt.

The proposal seeks to remove, two parcels of land from the approved consent associated with application 14/P/02109. The first parcel of land which is being removed from the 14/P/02109 permission is located to the west of the school playing fields. This was originally to also form part of the school estate, however, a later application amended the orientation of the school sports facilities which means this parcel of land become surplus to the requirements of the school. The second parcel of land to be removed is located at the entrance to the site fronting onto Lower Road. It was originally proposed to be used as outdoor amenity space for the school.

The other application on the Committee Agenda (21/P/01306) will provide the detail of what is proposed to occupy these two parcels now. However, the assessment of whether or not that proposal is acceptable should be saved for 21/P/01306. The planning considerations which must be undertaken for this s.73 application will be set out below.

### **Summary of considerations and constraints**

Through this s.73 application it is proposed to vary condition one (approved plans) of planning permission 14/P/02109, approved at appeal in 2018, to allow changes to the approved parameter plans. The proposed changes relate to the areas known as sites A and C where it is proposed to change the parameter plans to allow these areas to be excluded from implementation under permission 14/P/02109. As a section 73 application the Council's consideration as local planning authority must be focused on the planning implications of amendments and any material changes in planning policy and other considerations. The proposal has been submitted via s.73 which allows changes to the conditions imposed on approved schemes, not under section 96A which concerns minor non-material amendments. The application does not seek to amend the description of development and the amended condition is not inconsistent with that description.

This application has been submitted in tandem with a new hybrid application (21/P/01306) seeking consent for 114 additional dwellings in order to support the funding of the secondary school secured by the principal consent. The latter includes parcels A and C within its scheme. However, it should be noted that these applications are separate and must be considered as such.

In relation to the existing consent, it is considered that the proposed changes would not result in significant effects. The number, nature and layout of new dwellings approved under the 2018 approval remains the same as already permitted under the submitted reserved matters applications. The same can be said for the detailed approval for the new school, the proposals do not affect the operation of the school that has already been permitted. SCC Education have provided no objections to the application scheme.

Of some concern was what would happen to these two parcels of land should the hybrid masterplan not come forward to develop sites A and C (i.e. application 21/P/01306). However, a carefully worded condition has been proposed with a suitable trigger to control this securing a landscaping scheme in that eventuality.

In relation to open space this application will result in a reduction in the quantum of open space seen associated with the replacement school (as previously approved). However, neither the County Council or the Howard of Effingham Trust have raised concerns about the outdoor space provision for the school and it remains acceptable. In addition, when considered within the context of the hybrid masterplan application scheme (21/P/01306), overall there would be a much larger quantum of open space delivered in total. Further, should the hybrid application not be implemented, area A and C will revert to informal open space.

A s.106 agreement applied to the original planning permission, which secured SPA mitigation, highways improvements and the secondary school, as well as a number of other measures necessary to make the development acceptable in planning terms. These measures will still apply to this amended s73 scheme by way of a Deed of Variation. Per the recommendation this will need to be executed to ensure the commitments apply to the amended scheme.

With the above in mind, the proposed alterations to the approved development will not result in any greater impacts than that already approved and therefore, the application is deemed to be acceptable and is recommended for approval, subject to conditions.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be taken in accordance with the development plan unless material considerations indicate otherwise. This requires a broad judgement regarding whether the development accords with the plan read as a whole. It is considered that the proposed amendments would accord with the development plan and therefore, the recommendation is to approve planning permission.

**RECOMMENDATION:**

**(i) That a Deed of Variation be entered into to secure the contributions and legal agreements under approved application 14/P/02109**

**If the terms of the s.106 or wording or the planning conditions are significantly amended as part of ongoing s.106 or planning condition(s) negotiations any changes shall be agreed in consultation with the Chairman of the Planning Committee and lead Ward Member.**

**(ii) That upon completion of the above, the application be determined by the Head of Place / Director of Service Delivery. The recommendation is to approve planning permission, subject to conditions.**

**Approve - subject to the following condition(s) and reason(s) :-**

1. The development hereby permitted in outline shall accord generally with the following approved parameter plans:

Land at Lower Road Land Use Parameter Plan 2176-A-1500-K  
Land at Lower Road Building Heights 2176-A-1501-K  
Parameter Plan  
Land at Lower Road Density Parameter Plan 2176-A-1502-H

Land at Lower Road Landscape and Ecology 2176-A-1503-K  
Parameter Plan  
Land at Lower Road Movement and Access 2176-A-1504-L  
Parameter Plan

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

2. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") in relation to the Lodge Farm and existing Howard of Effingham School sites shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

3. Applications for the approval of reserved matters shall be made to the Local Planning Authority no later than three years from the date of this permission.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51(2) of the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted on the Lodge Farm site shall begin no later than two years from the date of approval of the last of the reserved matters to be approved on this site.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51(2) of the Planning and Compulsory Purchase Act 2004.

5. The development hereby permitted on the existing Howard of Effingham School site shall begin no later than two years from the date of approval of the last of the reserved matters to be approved on this site.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51(2) of the Planning and Compulsory Purchase Act 2004.

6. The development shall only be carried out in full accordance with the protection measures for Thornet Wood which have already been agreed through the discharge of condition six of planning application 14/P/02109.

Reason: To mitigate against the loss of existing biodiversity and nature habitats.

7. The development shall only be carried out in full accordance with the Great Crested Newt Precautionary Mitigation Strategy which has already been agreed through the discharge of condition seven of planning application 14/P/02109.

Reason: To mitigate against the loss of existing biodiversity and nature habitats.

8. The new Howard of Effingham School shall not be occupied until a community use agreement has been submitted to and approved in writing by the Local Planning Authority. The agreement shall include details of pricing policy, hours of use, access by non-education establishment users/non-members, management responsibilities and a mechanism for review. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity, unless otherwise

agreed in writing with the local planning authority.

Reason: To ensure that adequate public access is provided for the approved sports facilities.

9. Development at Brown's Field shall not commence until the sport and recreation facilities provided as part of the new Howard of Effingham School are completed and in operation. Prior to this time, facilities at Brown's Field must remain at least accessible and at equivalent in terms of size, usefulness, attractiveness and quality to the existing facilities.

Reason: To ensure that adequate public access is provided to sports facilities.

10. No development shall commence until details of the design and layout of the sports hall has been submitted to and approved in writing by the Local Planning Authority. The details shall include how the sports hall complies with the standards and methodologies set out in the relevant Sport England guidance such as 'Sports Halls Design and Layouts – Updated and Combined Guidance 2012', or any other relevant guidance which may be in force at the time. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity.

Reason: To ensure that the facilities provided are acceptable and meet necessary standards.

11. No development shall commence until details of the design and layout of the Multi-Use Games Area (MUGA), artificial turf pitch and natural turf pitches have been submitted to and approved in writing by the Local Planning Authority. The details shall include how the MUGA and pitches comply with the standards and methodologies set out in the relevant Sport England guidance such as 'Artificial Surfaces for Outdoor Sport Updated Guidance for 2013' and 'Comparative Sizes of Sports Pitches and Courts (OUTDOOR) September 2015 Update', or any other relevant guidance which may be in force at the time. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity.

Reason: To ensure that the facilities provided are acceptable and meet necessary standards.

12. No development shall commence unless and until:
- a. a detailed assessment of the ground conditions of the land proposed for the replacement playing field land shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - b. based on the results of this assessment, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The development shall only be carried out in full accordance with the agreed detailed scheme, any such scheme to be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that the facilities provided are acceptable and meet necessary standards.

13. Before the sports facilities are brought into use, a Management and Maintenance Scheme including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority. In relation to the artificial turf pitch, this Scheme should set out measures to ensure the replacement of the artificial turf pitch surface within a specified period. The development shall only be carried out in full accordance with the agreed details, which shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that the facilities provided are acceptable and meet necessary standards.

14. Prior to first occupation of the new Howard of Effingham School, an updated School Travel Plan shall be submitted for the written approval of the Local Planning Authority. The submitted details shall include details of measures to promote sustainable modes of transport and provisions for the maintenance, monitoring and review of the impact of the Plan and its further development. The development shall thereafter be carried in all respects in accordance with the approved details.

Reason: To encourage travel by means other than private motor vehicles.

15. Prior to first occupation of the new Howard of Effingham School, a Car Park Management Plan demonstrating how the quantum of agreed parking provision will be managed shall be submitted to and agreed in writing by the Local Planning Authority. Any agreed measures shall be implemented before the first occupation of the new Howard of Effingham School and retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

Reason: To ensure the safe and efficient operation of the car park.

16. The houses on the development on the land known as the Existing Howard of Effingham School site and the Lodge Farm site hereby approved shall not be occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to park and for vehicles to turn within the site so that they may enter and leave the site in forward gear and thereafter the parking and turning area(s) shall be retained and maintained for their designated purpose(s).

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

17. The residential development hereby approved on land known as the Howard of Effingham School shall not be first occupied unless and until any existing redundant highway access(es) from the site to Lower Road have been permanently closed and any kerbs, verge, footway fully reinstated and any existing redundant school related markings have been removed, in accordance with a scheme to be agreed in writing with the local planning authority.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

18. The residential development hereby approved on the land known as Lodge Farm shall not be first occupied unless and until any existing redundant highway access(es) from the site to Lower Road and Effingham Common Road have been permanently closed any kerbs, verge, footway fully reinstated, in accordance with a scheme to be agreed in writing with the local planning authority.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

19. The education development hereby approved on the land known as Lodge Farm shall not be first occupied unless and until any existing redundant highway access(es) from the site to Lower Road have been permanently closed and any kerbs, verges, footway fully reinstated, in accordance with a scheme to be agreed in writing with the local planning authority.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

20. The development hereby permitted on Browns Field shall be begun before the expiration of seven years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 as amended by Section 51(2) of the Planning and Compulsory Purchase Act 2004.

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

Browns Field Site Plan	2176-C-1108-J
Browns Field Location Plan	2176-A-1001-A
Browns Field Site Sections A-A and B-B	2176-A-1530.1-A
Browns Field Site Sections A-A and B-B	2176-A-1530-A
Browns Field Site Sections C-C and D-D	2176-A-1535.1-A
Browns Field Site Sections C-C and D-D	2176-A-1535-A
Browns Field Plots 1-3 House Types 3H9(G).1 & 3H1(B).1 Plans and Elevations	2176-A-3000-E
Browns Field Plot 4 House Type 4H11 Plans and Elevations	2176-A-3005-D
Browns Field Plots 28 House Type 4H5 – Render	2176-A-3010-F

Plans and Elevations

Browns Field Plots 32 House Type 4H5 – Render 2176-A-3011-F  
Plans and Elevations

Browns Field Plots 5, 34 House Type 4H5 – Tile 2176-A-3013-C  
Hanging Plans and Elevations

Browns Field Plot 6 House Type 2BFOG Plans and 2176-A-3015-F  
Elevations

Browns Field Plot 7-10 House Types 3H9(G).1 & 2H2 2176-A-3020-D  
Plans and Elevations

Browns Field Plots 11-16 Affordable Flats Plans and 2176-A-3025-D  
Elevations

Browns Field Plots 17-19 House Types 3BH-R2.1+ & 2176-A-3030-D  
2BHA Plans and Elevations

Browns Field Plots 20122 House Types 3H6.1, 2176-A-3035-D  
3H9(G).1 and 3H9(G).2 Plans and Elevations

Browns Field Plot 23 House Type 3H10(G) Plans and 2176-A-3040-F  
Elevations

Browns Field Plot 27 House Type 3H10(G) Plans and 2176-A-3041-F  
Elevations

Browns Field Plots 24 & 25 House Types 3H6.1 Plans 2176-A-3045-D  
and Elevations

Browns Field Plots 29-31 House Types 3H1(B).1 and 2176-A-3050-E  
3H6.2 Plans and Elevations

Browns Field Type 4H7 – Plot 33 Plans and 2176-A-3055-D  
Elevations

Browns Field Type 4H7 – Plot 26 Plans and 2176-A-3056-B  
Elevations

Browns Field Plot 35 House Type 5BH1 Plans and 2176-A-3060-D  
Elevations

Browns Field Plot 37 House Type 5BH1 Plans and 2176-A-3061-D  
Elevations

Browns Field Plot 36 House Type 5BH2 Plans and 2176-A-3065-C  
Elevations

Browns Field Combined Hard and Soft General D2184\_L120  
Arrangement Plan (Sheet 1 of 3)

Browns Field Combined Hard and Soft General D2184\_L121  
Arrangement Plan (Sheet 2 of 3)

Browns Field Combined Hard and Soft General D2184\_L122  
Arrangement Plan (Sheet 3 of 3)

Browns Field Detailed Hard Landscape General D2184\_L200  
Arrangement Plan (Sheet 1 of 3)

Browns Field Detailed Hard Landscape General D2184\_L201  
Arrangement Plan (Sheet 2 of 3)

Browns Field Detailed Hard Landscape General D2184\_L202  
Arrangement Plan (Sheet 3 of 3)

Browns Field Detailed Soft Landscape General D2184\_L300  
Arrangement Plan (Sheet 1 of 3)

Browns Field Detailed Soft Landscape General D2184\_L301  
Arrangement Plan (Sheet 2 of 3)

Browns Field Detailed Soft Landscape General D2184\_L302  
Arrangement Plan (Sheet 3 of 3)

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

22. Notwithstanding the parking arrangement shown in the approved plans, the final parking layout shall be submitted and agreed in writing with the local planning authority. The approved parking layout shall be implemented in accordance with the approved details prior to the occupation of the final unit.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

23. Prior to the first occupation of the Browns Field development, details of a lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the lighting scheme is acceptable in terms of the character of the area and ecology.

24. Prior to the commencement of above ground development at Browns Field, details and samples of the proposed hardstanding, external facing and roofing materials, including colour and finish shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory.

25. Prior to the occupation of the dwellings on the Browns Field site detailed drawings and/or samples of all external windows (depth of reveal, method of opening, details of heads, cills and lintels) and doors have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory.

26. Prior to the occupation of the dwellings on the Browns Field site, details of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality.

27. All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the Local Planning

Authority, shall be replaced in the next available planting sooner with others of similar size, species and number, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality.

28. Prior to the occupation of the dwellings on the Browns Field site, details of all boundary treatments (both within and around the site) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of Browns Field and shall be retained in perpetuity, unless otherwise agreed in writing with the local planning authority.

Reason: To safeguard the visual amenities of the locality and to ensure a high quality design.

29. The homes on the development on the land known as Browns Field hereby approved shall not be occupied unless and until the path link between the site and The Street shown on the approved application plans has been constructed in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that accessibility to the site is appropriate.

30. Notwithstanding the provisions of the Town and Country Planning Act (General Permitted Development) Order 2015, no additional access points from the Browns Field site shall be created and the means of vehicular access to the development on the land known as Brown Field hereby approved shall be from Browns Lane only.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

31. The development works shall be carried out in accordance with the phasing plan drawing number S857-PH02. This shows that the replacement school will be the first phase of the development, which will be followed by the residential units on the Lodge Farm site, the existing school site and Brown's Field (in that order) approved under 18/D/00174/3 (discharge of condition associated with application 14/P/02109). The development shall only be carried out in accordance with the agreed details.

Reason: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.

32. The development hereby approved shall not be commenced until a full scheme for the provision of a Sustainable Urban Drainage System (SuDS) for each phase has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied in that phase until the SuDS has been constructed in accordance with the approved scheme. The

scheme shall include the following details:

- a) a full geotechnical report to ascertain if infiltration devices (in part) may be acceptable
- b) full details of the proposed system including pipe positions, dimensions and levels, manhole levels and details of flow control devices
- c) full details of the balancing pond including levels, gradients of banks, flow controls for discharge and full details of any other attenuation proposed
- d) calculations demonstrating a reduction in surface water runoff rates and volumes up to the 1 in 100 plus climate change storm events
- e) demonstration that there will be no on site flooding up to the 1 in 30 storm event and any on site flooding between the 1 in 30 and 1 in 100 storm events will be safely contained on site with mitigation of the residual risk / overland flows
- f) details of how the Sustainable Drainage System will be protected and maintained during the construction of the development shall be submitted
- g) a detailed maintenance schedule for the SUDS drainage system including ownership responsibilities demonstrating that the future maintenance of the SUDS has been secured

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.

33. No residential development shall take place until written confirmation has been obtained from the local planning authority that Suitable Alternative Natural Green Space (SANGS) has been secured and no dwelling shall be occupied before written confirmation has been obtained from the local planning authority that the works required to bring the land up to acceptable SANGS standard have been completed.

Reason: This is required as a pre-commencement condition as the development is only acceptable if the impact on the Thames Basin Heaths Special Protection Area can be mitigated. This is reliant on the provision of SANG. Avoidance works associated with development need to be carried out prior to the occupation of the development so that measures can cater for increased number of reside to avoid adverse impact on the Thames Basin Heaths Special Protection Area.

34. The development hereby approved shall not be commenced until a foul water drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved drainage works have been completed in full.

Reason: To ensure that foul drainage in the area is acceptable.

35. Prior to the commencement of development on Browns Field and the existing school site, a Construction Method Statement relating to that phase shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the

construction period. The Statement shall provide for:

- the parking of vehicles of site operatives and visitors, including measures for traffic management
- details of the routing of construction and delivery vehicles to the sites
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt, and plant exhaust fumes, during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works
- precautions to be taken in order to control noise emissions from any fixed plant, including generators, on-site demolition/construction activities, and any piling works (to be in accordance with BS 5228 parts 1 & 4) if necessary.
- The avoidance of the movement of and by heavy goods vehicles, plant and equipment on Lower Road Effingham during the weekday periods when pupils arrive and depart from the schools in Effingham Village.

For the Lodge Farm site (both the residential phase and replacement school phase) the development shall only be carried out in accordance with the Construction Method Statement already agreed through the discharge of condition 35 of planning application 14/P/02109.

The development shall only be carried out in accordance with the agreed details.

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

36. Prior to the occupation of above ground development on each relevant phase, a Landscape Management and Maintenance Plan for each phase of development shall be submitted to and approved in writing by the Local Planning Authority. This shall include commitment to the maintenance of landscaping 5 years from completion of the development.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality.

37. Prior to the commencement of the development on each relevant phase, an Arboricultural Method Statement and Tree Protection Plan for each phase of development shall be submitted to and approved in writing by the Local Planning Authority. At all times until the completion of each of the phases of development, such fencing and protection measures shall be retained as approved. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.

Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality. It is considered necessary for this to be a pre-commencement condition because the adequate protection of trees prior to works commencing on site goes to the heart of the planning permission.

38. The Residential Travel Plan, (prepared by MLM Group, dated 09.04.20, reference 6100105-MLM-ZZ-XX-RP-TP-0002), approved under 18/D/00174/2 (discharge of condition associated with application 14/P/02109) shall be implemented prior to first occupation and every subsequent occupation of the development, thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

Reason: To encourage travel by means other than private motor vehicles.

39. Prior to the commencement of above ground development on the existing school and Browns Field phases of development, a Land Contamination Assessment and Remediation Strategy for each phase of development shall be submitted to and approved in writing by the Local Planning Authority. The development of the Lodge Farm site shall only be carried out in accordance with the already approved Land Contamination Assessment and Remediation Strategy which was agreed through the discharge of condition 39 of planning application 14/P/02109. The development shall only be carried out in accordance with the agreed details.

Reason: To ensure that any contamination on the site is adequately dealt with.

40. Any remediation scheme submitted in accordance with Condition 39 (above) shall be carried out as approved. Prior to the first occupation of the approved building, documentary proof shall be provided to and in approved in writing by the Local Planning Authority together with a quality assurance certificate to show that the works have been carried out in full accordance with the approved remediation strategy. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste material has been removed from the site.

Reason: To ensure that any contamination on the site is adequately dealt with.

41. Demolition and/or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank or National Holidays, unless otherwise agreed in writing with the local planning authority.

Reason: To protect the neighbours from noise and disturbance outside the permitted hours during the construction period.

42. Prior to the commencement of the development on the existing school site

and Browns Field phases, a full survey drawing to show existing and proposed ground levels across the development sites, together with details of the slab levels of the proposed buildings, shall be submitted to, and approved in writing by, the Local Planning Authority. The levels on the Lodge Farm phase shall only be carried out in accordance with the details already agreed through the discharge of condition 42 of planning application 14/P/02109. The constructed development shall not vary from the approved levels.

Reason: In order to ensure the height of the development is appropriate to the character of the area and to safeguard the amenities of the occupiers of neighbouring properties.

43. Prior to the commencement of the existing school and Browns Field phases, a refuse strategy shall have been submitted to and approved in writing by the Local Planning Authority. The Lodge Farm phase shall only be constructed in accordance with the refuse strategy details already agreed through the discharge of condition 43 of planning application 14/P/02109. The development shall only be carried out in accordance with the approved details.

Reason: To ensure that refuse collection and storage is adequately controlled and managed.

44. The residential development hereby permitted shall not be occupied unless and until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority for vehicles to park and for vehicles to turn within the site so that they may enter and leave the site in forward gear and thereafter the parking and turning area(s) shall be retained and maintained for their designated purpose(s).

Reason: In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.

45. No development in each phase shall take place until the applicants or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with an Archaeological Written Scheme of Investigation for each phase of development, which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To allow adequate archaeological investigation before any archaeological remains are disturbed by the approved development.

46. Prior to the commencement of the development, a Biodiversity Mitigation and Enhancement Plan (BMEP) shall be submitted to and approved in writing by the Local Planning Authority. The BMEP shall set out the measures to be included in the development for biodiversity enhancement, a timetable for the implementation of the measures, and details of the future management of the sites in the interest of securing areas of long term biodiversity value. The approved scheme shall be implemented in

accordance with the approved details unless previously agreed in writing by the Local Planning Authority.

Reason: To mitigate against the loss of existing biodiversity and nature habitats.

47. Prior to the occupation of the 50th dwelling on the Lodge Farm site, a landscape scheme for parcels A and C (as identified on plan 2176-A-1503 K with shading labelled as 'areas no longer to be developed pursuant to the approved masterplan...') shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all hard and soft landscaping works on these parcels, a timetable for the implementation of the approved details and shall include a schedule of landscape maintenance for a minimum period of 10 years.

The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented in accordance with the agreed details and retained, with the remaining landscaping completed in no later than the first planting season following the first residential occupation of the Lodge Farm site.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality.

#### **Informatives:**

1. If you need any advice regarding Building Regulations please do not hesitate to contact Guildford Borough Council Building Control on 01483 444545 or [buildingcontrol@guildford.gov.uk](mailto:buildingcontrol@guildford.gov.uk).
2. This statement is provided in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Guildford Borough Council seek to take a positive and proactive approach to development proposals. We work with applicants in a positive and proactive manner by:
  - Offering a pre application advice service
  - Where pre-application advice has been sought and that advice has been followed we will advise applicants/agents of any further issues arising during the course of the application
  - Where possible officers will seek minor amendments to overcome issues identified at an early stage in the application process

However, Guildford Borough Council will generally not engage in unnecessary negotiation for fundamentally unacceptable proposals or where significant changes to an application is required.

In this case pre-application advice was sought and provided which addressed

potential issues, the application has been submitted in accordance with that advice and no further issues have arisen.

## **Officer's Report**

### **Site description**

This application is a s.73 proposal which seeks to vary the conditions attached to application 14/P/02109, which was approved by the Secretary of State in 2018. 14/P/02109 is a hybrid proposal which includes three separate sites (Brown's Field, Lodge Farm and the Howard of Effingham secondary school) within Effingham.

The s.73 application only relates to one of these three sites - that is Lodge Farm. The other sites remain unaffected by the proposal.

Lodge Farm is the largest of the three sites (19.7 hectares) and is located opposite the Howard of Effingham on the other side of Lower Road. The site is bound to the east by The Vineries Garden Centre, which forms the eastern boundary of Guildford borough. To the west are a collection of residential dwellings, a church, a former Royal British Legion club house (which now has approval for use as a children's nursery) and St Lawrence Primary School which are all addressed to Lower Road. The western boundary is formed of the playing fields for St Lawrences and six detached dwellings which are addressed to Effingham Common Road and to the north-west, north and north-east is Thornet Wood (which is a Site of Nature Conservation Importance (SNCI) and ancient woodland), as well as open agricultural land.

The site has recently been cleared in connection with application 14/P/02109.

The site is outside of but partly adjoins Effingham Conservation Area. There is one grade II listed building to the west of the site which is known as The Red House and the Church of Our Lady of Sorrows and its Lych gate are both locally listed. These buildings front onto Lower Road. The site is situated within the Green Belt.

### **Proposal**

Variation of condition 1 (approved plans) of planning permission 14/P/02109, approved at appeal on 21/03/2018, to refer to updated parameter plans annotated to show the areas no longer to be developed pursuant to that application.

The proposal seeks to remove, two parcels of land from the approved consent associated with application 14/P/02109. The first parcel of land which is being removed from the 14/P/02109 permission is located to the west of the school playing fields. This was originally to also form part of the school estate, however, a later application amended the orientation of the school sports facilities which means this parcel of land become surplus to the requirements of the school. The second parcel of land to be removed is located at the entrance to the site fronting onto Lower Road. It was originally proposed to be used as outdoor amenity space for the school.

### **Relevant planning history**

<b>Reference:</b>	<b>Description:</b>	<b>Decision Summary:</b>	<b>Appeal:</b>
21/P/01306	Hybrid planning application for outline planning permission (only access to be considered) for the erection of 4 self-build dwellings on land at 408-410 Lower Road, Effingham following demolition of all existing buildings; and full planning permission for the erection of 110 dwellings, with access, parking, community assets, landscaping, and associated works on land at Effingham Lodge Farm, Lower Road, Effingham.	See separate report also on this agenda	N/A
21/P/00428	Reserved matters application pursuant to outline permission 14/P/02109 approved on 21/03/2018, to consider appearance, landscaping, layout and scale in respect of the erection of 99 dwellings.	Planning Committee resolved to refuse planning permission.	N/A
20/P/02048	Reserved matters application pursuant to hybrid application 14/P/02109 for the replacement of Howard of Effingham School to consider the detailed design, associated playing fields, MUGA, parking and landscaping works.	Approve 01/03/2021	N/A
20/P/00373	Erection of 4 dwellings (2x 2bed and 2x 3bed) with associated access, parking and landscaping works following the demolition of existing dwellings (2 x 4 bed houses).	Refused 23/04/2020	Appeal Dismissed
20/P/00249	Reserved matters application pursuant to outline application 14/P/02109, approved on 21/03/2018 for the nursery school and caretakers lodge.	Approve 15/04/2020	N/A
19/P/01760	Reserved matters application pursuant to outline application 14/P/02109 for the development of 159 dwellings with associated access, parking and landscape works.	Approve 18/02/2020	N/A
19/P/01451	Reserved matters application pursuant to hybrid application 14/P/02109 for the replacement of Howard of Effingham School to consider the detailed design, associated playing fields, MUGA,	Approve 10/01/2020	N/A

parking and landscaping works  
(amended plans received which alter  
the size of the sports hall from 33m x  
27m to 34.5m x 25.87m).

14/P/02109	Hybrid planning application for outline permission (only access to be considered) for the erection of a replacement secondary school for Howard of Effingham and up to 258 residential dwellings with means of access at Howard of Effingham School and Lodge Farm, Lower Road following demolition of all existing buildings; and full permission for the erection of 37 dwellings, with access, parking and landscaping works on land at Brown's Field, Brown's Lane, Effingham.	Refused	Appeal Allowed
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## **Consultations**

### Statutory consultees

County Highway Authority, Surrey County Council: The County Highway Authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and are satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway. The County Highway Authority therefore has no highway requirements.

Natural England: No objection subject to financial contribution being secured as required by the adopted strategy. Natural England is satisfied that the development can mitigate against the potential adverse effects of the development on the integrity of the European Site(s).

Lead Local Flood Authority (LLFA), Surrey County Council: No objection, as no change to the drainage strategy or Surface Water Drainage System.

County Archaeologist, Surrey County Council: No objection. The site has been subject to a detailed programme of trial trench evaluation under condition attached to 14/P/02109. Some areas of the site are now included under 21/P/01306 and a programme of further archaeological investigations has been recommended.

Environment Agency: No objections raised.

Historic England: No objections raised.

### Internal consultees

Environmental Health: No objection. The noise and air quality assessment conclusions are satisfactory. Conditions are recommended to secure a CEMP and contaminated land assessment.

### Non-statutory consultees

Mole Valley District Council (MVDC): No comments to make.

### Parish Council

Effingham Parish Council: The Parish Council objects to the proposal. The following points are noted:

- removal of open space from consented 2018 scheme and replacement with dwellings is a clear material amendment to 2018 consented scheme [Officer Note: The proposal has been submitted via s.73 which allows changes to the conditions imposed on approved schemes, not under section 96A which concerns minor non-material amendments. The application does not seek to amend the description of development and the amended condition is not inconsistent with that description];
- radically changes balance of open land to built land
- conflict with condition 7 of reserved matters (20/P/01284) that requires Sites A and C for essential landscaping to maintain openness of the site
- importance on the openness of these areas as green space
- significantly changes the character and nature of the original permission
- reduction in areas of open land
- changing the use of parcels of land within the approved site area
- if approved would be inconsistent with previous determinations made by the Council on the importance for openness on this area of green space
- is a material amendment as it changes the application site area, alters the description of development in respect of the open land, changes the use of sites A and C within the approved site area, changes density and distribution of homes and reduces areas of open land that were incorporated into the scheme
- a resubmission of the masterplan is required
- conflict with reserved matters conditions 1 and 7 (drawing numbers and landscaping) to maintain openness of the site.

Further comments were received on 28 February 2022 and these add that the application is a material amendment and a whole new application should be required

### Amenity groups/Residents associations

Effingham Residents Association: The Residents' Association object to the proposal. The following points are noted:

- constitutes a major material change to the scheme and requires resubmission of the entire scheme
- ploy to avoid re-submitting original scheme
- two areas shown to be removed are crucial and integral to approved scheme
- land shown to be removed was designated open space as part of approved school reserved matters application.
- allowing the application would result in a substantially different development than that agreed and an change in timetable
- conflict with condition 7 of reserved matters applications 19/P/01451 and 20/P/02048 (landscaping scheme) forming an essential part of the previous permissions and cannot therefore be included in another application for development or another purpose
- addition requires parameter plans and resubmission of the whole scheme
- harm to openness of the Green Belt

- proposed changes are major material changes, do not meet the guidance for Section 73 (TCPA 1990)

Further comments were received on 21 February 2022 and note the following:

- scheme comprises major material changes to the appeal scheme; inclusion of Green Belt land, and building on and removing land identified as open space in the approved scheme
- if the school is larger and more highly specified than agreed by SoS it should not be funded through building of additional houses
- is it legally justifiable for land to be added to agreed development for consented scheme to become economic
- whole scheme should be re-submitted for consideration
- question viability figures
- major change in circumstances since the appeal; decline in demand for secondary school places; and an increase in number of places available in the area

Following a re-consultation the Residents Association provided the following additional comments:

- the changes proposed do not conform to guidance on what is a minor material change. Instead these applications constitute a major material change - in terms of a substantial change to the size of the scheme, a change in the description of the agreed scheme, a further significant detrimental impact on the landscape and changes that are contrary to the conditions imposed in the original approval;
- the fact that the scheme has become financially unviable (from one that was financially viable as originally planned), over a period when house prices have increased by far more than the costs of building houses and schools, shows that the scope and scale of the scheme has changed substantially;
- the Agent has supplied no evidence for the assertion of demand for the additional school places. Surrey County Council statistics list the additional number of school places in the neighbourhood that have become available in recent years, for example Cobham Free School, with more to come, which show that a larger school is now unnecessary. This is further evidenced by our understanding that the Howard of Effingham was unable to fill its number of available spaces in the last year;
- the Residents Association disputes the agent's view that the "importance of GBC's lack of a five year housing supply at the time of the 2018 permission has been overstated." The lack of this housing supply was given the maximum weight of "very substantial weight" in the Secretary of State's decision. Further, in his section "Planning balance and overall conclusion" the Secretary of State concluded that planning permission should be granted "As there is no 5-year housing land supply" (para 53). That there is now such a supply is obviously of considerable importance; and
- planning application 21/P/01283 cannot be considered as a minor amendment and as application 21/P/01306 relies on it, these applications cannot be considered under Section 73 of the Town and Country Planning Act 1990 and need to be submitted as separate applications in their own right.

[Officer Note on above comments: The proposal has been submitted via s.73 which allows changes to the conditions imposed on approved schemes, not under section 96A which concerns minor non-material amendments. The application does not seek to amend the description of development and the amended condition is not inconsistent with that description];

Bookham Residents Association: The Residents' Association object to the proposal. The

following points are noted:

- this is not simply an additional or revised application but warrants a completely new application
- the increased costs for the school are overstated and several financial assumptions made are incorrect
- the school design is beyond normal accepted government standards
- the need for additional secondary school places is now different than when the application was submitted
- when the original appeal was allowed GBC did not have a sufficient land supply which they now do having an adopted local plan
- considerable harm will be done to the green belt
- Bookham itself will be impacted should this development go ahead in relation to the key infrastructure services in this village. Many Effingham residents use Bookham and Fetcham GP practices and the two in Bookham are already under stress. Should this development go ahead the strain will inevitably increase
- in a recent report by Surrey Highways it is recognised that the Lower Road, Bookham will be affected by increased traffic
- other sites may be released for housing in the area
- the physical gap between these conurbations would be less than 400 meters
- all these developments will have a major impact on local infrastructure

Campaign to Protect Rural England (CPRE): Object, raising the following concerns:

- proposal to vary condition one and incorporate the newly acquired land within the red line as a master plan extension is confusing
- EIA application
- major material amendment to appeal scheme resulting in substantial change, needs to be considered either separately or submitted as a whole new application for 409 dwellings and new school against current material considerations
- loss of open space within the proposed school grounds negatively impacts openness and represents a material alteration to the scheme as permitted

### **Third party comments**

627 letters of representation have been received raising a number of objections and concerns. The principal issues are summarised below. Members are also directed to the Council's website where the full list of representations can be viewed.

- material change to planning permission
- material change to parameter plans
- more than three years since appeal decision
- planning conditions secured the land for planting, landscaping and provision of green space
- open landscaped spaces necessary for mental and physical health of residents
- loss will negatively impact wildlife and biodiversity
- proposed change would result in vast number of extra homes being built
- in principle objection to building on Green Belt
- objections directly relevant to proposal under 21/P01306 and not what is proposed under this application

Two letters of representation have been received which support the proposal. The principal points

raised are summarised below:

- there is a need for the new school
- school needed for the benefit of local children
- proposed plans look excellent
- existing school is not fit for purpose
- additional housing is needed for young families

## **Planning policies**

### National Planning Policy Framework (NPPF):

Chapter 2. Achieving sustainable development

Chapter 4. Decision-making

Chapter 5. Delivering a sufficient supply of homes

Chapter 8. Promoting healthy and safe communities

Chapter 9. Promoting sustainable transport

Chapter 11. Making effective use of land

Chapter 12. Achieving well designed places

Chapter 14. Meeting the challenge of climate change, flooding and coastal change

Chapter 15. Conserving and enhancing the natural environment

Chapter 16. Conserving and enhancing the historic environment

### National Design Guide 2019

### South East Plan 2009:

Policy NRM6 Thames Basin Heath Special Protection Area

### Guildford Borough Local Plan: Strategy and Sites 2015-2034:

It is noted that the Guildford Borough Local Plan: Strategy and Sites 2015-2034 was adopted by the Council on 25 April 2019. Its policies now carry full weight in the assessment of planning applications. The policies considered relevant to this proposal are set out below.

Policy S1 Presumption in favour of sustainable development

Policy S2 Planning for the borough - our spatial strategy

Policy H1 Homes for all

Policy H2 Affordable homes

Policy P4 Flooding, flood risk and groundwater protection zones

Policy P5 Thames Basin Heaths Special Protection Area

Policy D1 Place shaping

Policy D2 Sustainable design, construction and energy

Policy D3 Historic Environment

Policy ID3 Sustainable transport for new developments

Policy ID4 Green and blue infrastructure

### Guildford Borough Local Plan 2003 (as saved by CLG Direction 24 September 2007):

Although the Council has now adopted the Guildford Borough Local Plan: Strategy and Sites 2015-2034 (LPSS), some policies of the saved Local Plan 2003 continue to be relevant to the assessment of planning applications and carry full weight. The extant policies which are relevant to this proposal are set out below.

Policy G1 General standards of development

Policy G5 Design code  
Policy HE4 New development which affects the setting of a listed building  
Policy HE7 New development in conservation areas  
Policy HE10 Development which affects the setting of a conservation area  
Policy R2 Recreational open space provision in relation to large residential developments  
Policy NE4 Species protection  
Policy CF1 Provision of new community facilities  
Policy CF4 Expansion of schools

Effingham Neighbourhood Plan:

Policy G1 A spatial plan for Effingham  
Policy G2 Landscape, heritage, character and design  
Policy G3 Archaeology and the historic environment  
Policy G5 Assessing suitability of sites for residential development  
Policy H1 New homes in Effingham  
Policy H2 Mix of housing  
Policy ENV4 Dark skies  
Policy ENV5 Air quality  
Policy R1 Car parking  
Policy R2 Sustainable movement: cycle routes, footways and pedestrian routes  
Policy SA2 Previously developed land at Effingham Lodge Farm

Supplementary planning documents:

Thames Basin Heaths Special Protection Area Avoidance Strategy SPD  
Sustainable Design and Construction SPD  
Planning Contributions SPD  
Vehicle Parking Standards SPD  
Residential Design SPG

**Planning considerations**

This application is submitted under Section 73 of the Town and Country Planning Act (as amended). The provisions of Section 73 relate to the variation or removal of planning conditions attached to a grant of planning permission. The application does not seek to amend the original description of development and is not inconsistent with it.

Section 73(2) (of the Town and Country Planning Act 1990 (as amended)), gives two options when considering such applications:

- a) if the Council decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, it shall grant planning permission accordingly, and
- b) if the Council decides that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, it shall refuse the application.

Having regard to this and to Planning Practice Guidance (PPG) set out by Government, this application should be determined on the basis of the effect of varying or removing the specified conditions. In determining this application consideration should be given to national and development plan policies, and other material considerations which may have changed since the

original grant of permission, this should also be in the context of the effect of the proposed changes. Section 38(6) of the planning and compulsory purchase act requires that decisions be taken in accordance with the adopted development plan unless material considerations indicate otherwise. In this case, the previous permission was considered against the saved policies of the Local Plan 2003, the South East Plan (2009) and the Effingham Neighbourhood Plan. Since this time, the Local Plan: Strategy and Sites (2015 – 2034) has been adopted and therefore the provisions of policies in the newer plan, and reduced status of the 2003 plan, are material within the determination of this planning application but only insofar as the scope of consideration makes them appropriate. The existing consent remains extant and is a realistic and significant material consideration. In this instance the application seeks the variation of condition one of planning permission 14/P/02109 to amend the approved parameter plans in the ways set out in the above section.

The proposal has been submitted via s.73 which allows changes to the conditions imposed on approved schemes, not under section 96A which concerns minor non-material amendments. The application does not seek to amend the description of development and the amended condition is not inconsistent with that description.

Taking the above into account, the main planning considerations in this case are:

- implications of / for the principal permission
- implications for the delivery of the school
- impact on the open space
- impacts to the character and appearance of the surrounding area
- planning contributions and legal tests

### **Implications of / for the principal permission**

This application proposes the amendment of the approved parameter plans attached to consent 14/P/02109 (“the 2018 consent”). New parameter plans have been provided to replace those previously approved and use hatching to remove the two affected parcels (parcels A and C) from being implemented under the 2018 consent. The parameter plan key states the two parcels hatched in grey as “land not being implemented under permission 14/P/02109”.

The applicant has submitted an application for hybrid planning permission under application 21/P/01306 and that includes proposals for the development of parcels A and C. The Planning Committee shall have considered the hybrid application proposals prior to the consideration of this s.73 application as a) the two applications should be considered in tandem, as the land uses and development proposed within the hybrid application directly affects the resultant development that will be located on the two parcels now proposed to be removed from the 2018 scheme and b) the need for this application is provided for by 21/P/01306.

The land that is the subject of the proposed amendment is currently allocated under the approved parameter plans as open space associated with the replacement school. Therefore, a key consideration is whether the proposed amendments will result in implications for the delivery of the school and the impact on the proposed provision of open space for pupils. These issues are addressed in the following sections.

A further question of relevance is what would happen to the two parcels should the proposed new hybrid application’s scheme for an additional 114 homes not, ultimately, come forward. Through this application, the applicant has applied for permission for the two parcels to not be required to

be implemented in line with the 2018 consent because they are to be developed under the new hybrid masterplan for other purposes. However, this application and the new hybrid proposals would each result in separate consents (leaving the applicant able in theory to make decisions regarding their implementation completely separately). Therefore, if this s.73 application were to be approved, these two parcels could theoretically be left undeveloped / un-finished. This would result in two central plots (one a key site frontage) with no obligation to be developed in line with the approved 2018 masterplan. This has the potential to result in a reduction in quality of the wider (originally) approved development and to result in impacts on outlook for the new dwellings.

In order to mitigate against this, it is proposed that a condition be added that should this application be approved, the applicant will be required to provide a landscape scheme for these two parcels should the hybrid permission not come forward after an appropriate period of time. This would ensure that in the event that the additional development proposed under 21/P/01306 does not come forward, appropriate landscaping will still be provided on site to ensure that the proposed changes do not result in significant effects on the layout and design of the approved scheme.

### **Implications for the delivery of the school**

As outlined, the land proposed to be “removed” from the 2018 schemes parameter plans was previously allocated under the phasing plan and s106 as open space associated with the new school. The applicant has outlined within their submitted documents that the two areas of land are no longer needed in relation to the school use. Neither the County Council or the Howard of Effingham Trust have raised any objections to the fact that the school would have less open space area available to it. In addition, the reserved matters permission was granted in January 2020 (application 19/P/01451 refers) for the school and March 2021 (application 20/P/02048 refers) following the submission of revised school proposals. Within the application documents for both consents, parcels A and C were excluded.

The Local Planning Authority has discussed this matter with the Education Authority and it is noted that as the Howard of Effingham is an academy, it is the school's responsibility to ensure that the development is compliant with relevant regulations for the construction of schools. The applicant has produced a letter from the Howard of Effingham Trust which confirms that the loss of the land parcel from the school site would not have an impact on the school and that there were no concerns in this regard.

In conclusion the proposed changes to the parameter plans will not result in adverse effects in relation to the delivery of the school or its operation now or in the future.

### **Impact on open space**

Parcels A and C are allocated in application 14/P/02109 as open space associated with the replacement school. The 2018 consent secured 1.8ha of open space across the school site, Lodge Farm site and Brown's Field site. It also provided approximately 4ha of formal play space within the now approved school site. The new school site will accommodate a new sports hall, rugby turf pitch, multi-use games area, athletics area, artificial turf sports pitch and playing fields. It will also replace Brown's Field for the continued use by Effingham and Leatherhead Rugby Football Club, and the s.106 secures contributions to fund improvements to the existing KGV Hall. All of the sports pitches and facilities at the new school are to be subject to a Community Use Agreement (CUA) to enable wider community use out of school hours.

As a result of the proposed exclusion of parcels A and C, these areas of school open space will no longer be delivered as part of the 2018 consent. This will result in a reduction of approximately 1.3ha of open space within the approved development. However, as noted above, no objections have been raised to this.

It is also noted that within the hybrid masterplan (21/P/01306) it is proposed to retain parcel C as open space (0.4ha), albeit for public use rather than specifically for the school, and extensive new areas of open space are proposed throughout the site (such as orchards, community growing gardens etc). As outlined above, however, the hybrid application is a completely separate proposal and therefore there are difficulties in comparing provision on the two schemes.

That being said, the provision of open space approved within the outline application and further secured through reserved matters permissions will provide a significant amount of formal open space within the school site and a good amount of informal open space throughout the site. Although the removal of parcels A and C will result in a reduction of this open space, through the hybrid masterplan site C will be retained as open space and in total an additional 4.32ha of open space will be provided (1.52ha excluding Thornet Wood). This would result in a significant increase in open space.

As detailed within other sections of this report, should the hybrid masterplan not come forward, a condition has been proposed to secure landscaping of parcels A and C. This will ensure that if the open space benefits of the hybrid masterplan do not come forward, the 1.3ha of land at parcels A and C will be appropriately landscaped and will return to public amenity use.

Therefore, it is considered that the proposed development will not result in significant adverse effects on the amount of open space provided across the development site.

### **Impacts on the character and appearance of the surrounding area**

The proposed changes will not result in significant effects on the character and appearance of the surrounding area by virtue of the nature of what has been applied for.

This application is only applying for sites A and C to be removed from the parameter plans approved under the 2018 permission. It does not apply for an alternative use of this land and considerations in relation to any new proposed uses of the land are discussed under the hybrid planning application. Therefore, as a result of this application being approved, parcels A and C will remain as currently existing until a time that the hybrid masterplan comes forward or a time that the proposed condition in relation to the landscaping of the two plots is triggered.

Should the landscaping condition for areas A and C be triggered, through the non-implementation of the hybrid masterplan, at that time the Council will be able to comment on landscaping proposals for these areas and any impact they may have on the character of the area.

### **Other considerations**

As a result of the changes and owing to the fact an update has already been carried out due to the changes associated with the hybrid application, the applicant submitted an update to their Environmental Statement.

Conditions attached to the original approval (14/P/02109) will be re-applied to any new consent

issued as a result of this s.73 application. This will ensure that any details required or mitigation necessary to ensure the approved scheme was acceptable in planning terms will be re-applied to any new consent.

### **Planning contributions and legal tests**

The three tests set out in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 require S.106 agreements to be:

- (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.

Regulation 123 of CIL Regulations states that a planning obligation may not constitute a reason for granting planning permission where the obligation provides for the funding or provision of an infrastructure project or type of infrastructure and five or more separate planning obligations for the funding or provision of that project or type of infrastructure have been entered into.

A s.106 agreement was agreed as part of the schemes original approval. It is necessary for a Deed of Variation to be provided as a result of this variation to the scheme. It is considered that the contributions will remain as per those within the original agreement, save for indexed linked increases as per the provisions within original agreement but that it may be necessary to update the phasing plan at Appendix 2 of the agreement to highlight the exact area of the site to be used as school land.

### **Conclusion**

Through this s.73 application it is proposed to vary condition one (approved plans) of planning permission 14/P/02109, approved at appeal in 2018, to allow changes to the approved parameter plans. The proposed changes relate to the areas known as sites A and C where it is proposed to change the parameter plans to allow these areas to be excluded from implementation under permission 14/P/02109. As a section 73 application the Council's consideration as local planning authority must be focused on the planning implications of amendments and any material changes in planning policy and other considerations.

This application has been submitted in tandem with a new hybrid application (21/P/01306) seeking consent for 114 additional dwellings in order to support the funding of the secondary school secured by the principal consent. The latter includes parcels A and C within its scheme. However, it should be noted that these applications are separate and must be considered as such.

In relation to the existing consent, it is considered that the proposed changes would not result in significant effects. The number, nature and layout of new dwellings approved under the 2018 approval remains the same as already permitted under the submitted reserved matters applications. The same can be said for the detailed approval for the new school, the proposals do not affect the operation of the school that has already been permitted. SCC Education have provided no objections to the application scheme.

Of some concern was what would happen to these two parcels of land should the hybrid

masterplan not come forward to develop sites A and C (i.e. application 21/P/01306). However, a carefully worded condition has been proposed with a suitable trigger to control this securing a landscaping scheme in that eventuality.

In relation to open space this application will result in a reduction in the quantum of open space seen associated with the replacement school (as previously approved). However, neither the County Council or the Howard of Effingham Trust have raised concerns about the outdoor space provision for the school and it remains acceptable. In addition, when considered within the context of the hybrid masterplan application scheme (21/P/01306), overall there would be a much larger quantum of open space delivered in total. Further, should the hybrid application not be implemented, area A and C will revert to informal open space.

A s.106 agreement applied to the original planning permission, which secured SPA mitigation, highways improvements and the secondary school, as well as a number of other measures necessary to make the development acceptable in planning terms. These measures will still apply to this amended s73 scheme by way of a Deed of Variation. Per the recommendation this will need to be executed to ensure the commitments apply to the amended scheme.

With the above in mind, the proposed alterations to the approved development will not result in any greater impacts than that already approved and therefore, the application is deemed to be acceptable and is recommended for approval, subject to conditions.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be taken in accordance with the development plan unless material considerations indicate otherwise. This requires a broad judgement regarding whether the development accords with the plan read as a whole. It is considered that the proposed amendments would accord with the development plan and therefore, the recommendation is to approve planning permission.