



Planning Department,
For the attention of John Busher
Guildford Borough Council
Millmead House,
Millmead,
Guildford,
Surrey
GU2 4BB

2 August 2021

Dear Mr Busher

Re: 21/P/01283 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.

and

Re: 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.

EFFRA (the Effingham Residents Association) strongly objects to planning applications **21/P/01283** and **21/P/01306**. As the two applications are linked and Berkeley Homes has asked that they be considered together, EFFRA's objection covers both applications.

SUMMARY OF KEY OBJECTIONS

The proposals constitute a major material change to the agreed scheme and requires resubmission of the entire scheme.

EFFRA considers that the two planning applications are a tactical ploy to categorise major material changes to planning application **14/P/02109**, approved at appeal on 21/03/2018, as minor material changes, in order to avoid having to resubmit the original scheme as we

believe is required under Government guidelines. The two planning applications constitute a major material change as:

- The two areas proposed for removal from the parameter plans in **21/P/01283** are a crucial and integral part of the agreed scheme. Further residential development is proposed on land that was designated as open space and is already part of both approved school reserved matters planning applications with conditions attached to them.
- The proposed 110 additional dwellings and 4 self-build houses in **21/P/01306** would increase the number of enabling dwellings from 295 to at least 405. This represents an increase of 36% overall and an increase of 69% on the Effingham Lodge Farm (ELF) site itself.
- **21/P/01306** would add 5.7 ha of land to the area of land agreed by the Secretary of State for the scheme, a 27% increase in the land lost from the Green Belt, without seeking to add the area to the parameter plans. As the parameter plans determine the land included in the scheme any new area should be added and an addition of this amount would require resubmission of the scheme.
- Application **21P/01306** would be a fundamental change to the agreed scheme as it would involve building on an entirely new and highly sensitive area of Green Belt land in the northern part of ELF which was to be excluded from development and which would have highly damaging effects on the openness of the Green Belt without any special circumstances and would also damage Ancient Woodland.
- The application adversely affects the rural and traditional character of Effingham village by extending development down Effingham Common Road, contrary to the Local Plan, the Effingham Neighbourhood Plan and the Green Belt purpose in the NPPF to prevent urban sprawl.
- circumstances have changed since the original agreement and the applicant cannot rely on the special circumstances of the original scheme

These proposals are in our view obviously a major material change to the agreed scheme and therefore both applications should be refused on that basis. They do not meet the government guidance for a variation under Section 73 of the Town and Country Planning Act 1990 as being a minor material change as allowing the applications would result in a substantially different development in scale than that agreed and a change in timescale.

Other key objections

1. Financial viability claims are not proportional, simple or transparent.

Berkeley Homes claims that the extra homes are required as the scheme is not financially viable and has submitted a Financial Viability Report which is intended to back this claim. EFFRA contends that:

- i. Financial viability reports are not appropriate for deciding such a major material change in a planning approval as they do not pass the test of appropriateness due to

the magnitude of harm to the Green Belt and Ancient Woodland and the change in circumstances since the original decision.

- ii. The Financial Viability Report submitted by Berkeley Homes is neither simple nor transparent as required under the guidance. It is both inadequate and misleading and provides insufficient information on costs and prices to allow proper analysis.

2. Non-compliance with Conditions 2 and 3 of the Secretary of State's Decision of 21 March 2018

3. There is a lack of Community Benefits from the proposals.

The applicant claims that the proposals will provide more accessible space. This will be of little community benefit because Effingham already has plenty of accessible space. The proposals will be to the detriment of the ecology and wildlife of Effingham Lodge Farm and Thornet Wood which is highly valued by the community. The playing field in Mole Valley to be reinvented as a "new community park" is already green open space and not being considered for development by Mole Valley under its Draft Local Plan proposals.

4. Planning Application 21/P/01306 has no special circumstances

As planning application 21/P/01306 has no special circumstances it would fail on its own merits including causing very substantial harm to the Green Belt and Ancient Woodland.

DETAIL OF OBJECTIONS

The proposals constitute a major material change to the agreed scheme which EFFRA contends requires resubmission of the whole scheme.

Planning guidance on minor material amendments states that the resulting development should not be substantially different from the one which has been approved as a result of the scale and/or nature of the amendment and EFFRA contends it is clearly the case that the resulting development would be substantially different from that agreed as:

- Planning application **21/P/01283** proposes to update the "*parameter plans annotated to show the areas no longer to be developed pursuant to that application.*" Effectively, it takes two areas of land (named as A and C) out of the parameter plans which it claims are "*surplus to requirements*" (**21/P/01283-COVER_LETTER-1544117**). These areas of land were originally part of the land allocated for the school in the original appeal decision but were not included by Berkeley Homes in the two school reserved matters applications **19/P/01451** and **20/P/02048**. Berkeley Homes had revealed an intention to build 55 extra homes on them at a meeting on 19 August 2019 of representatives of Effingham organisations with Tony Pidgley, then Chairman of Berkeley Homes, called at his request. The claim that they are "*surplus to requirements*" is incorrect as:
 - The two areas form an important part of the open land designated on the parameter plans by the Inspector and Secretary of State with the amount and location of the green space being an essential balancing factor in the agreement of the scheme.

- **Site C**, a 0.3 ha area of land, was intended to preserve part of the green gap between the villages of Effingham and Little Bookham.
- **Site A**, a 1.06 ha area of land (herein called **A2** by EFFRA to distinguish it from the 5.73 ha of additional land north of it included in the outline planning application **21/P/01306** also as Site A and called **A1** by EFFRA) was to be part school playing fields and part of the northern part of the site determined by the Inspector to be entirely free of development to preserve the openness: *“Although the northern element comprising the sports pitches will require a degree of re-profiling, it will be entirely free of built development”* (Appeal Report para 368).
- The importance of keeping these two areas open was recognised by GBC. Although it allowed the two pieces of land to be removed from the curtilage of the school, it imposed a planting and landscaping scheme on them as Condition 7 of reserved matters applications **19/P/01451** and **20/P/02048** *“in the interests of the visual amenities of the locality.”* Fulfilling this condition is an essential part of the permissions for applications **19/P/01451** and **20/P/02048** and therefore they cannot be included in another application for development or another purpose.
- Planning application **21/P/01306** represents an overall increase in enabling dwellings of 36% over that approved at appeal (an increase of 69% on the Effingham Lodge Farm site). Such proposed increases cannot be considered as a minor material change and must be considered as a major material change.

The application seeks full planning permission for 110 dwellings on Effingham Lodge Farm, 54 of which are on **Site A2** (as called by EFFRA) part of the original scheme and 56 on an entirely new piece of land (called by EFFRA **A1**), in addition to seeking outline planning permission for four self-build dwellings at 408-410 Lower Road to replace two existing dwellings. This would increase the number of enabling dwellings for the scheme from 295 to 405 (or 409 if the self-build dwellings are included).

- Planning application **21/P/01306** adds an extra 5.7 ha of Green Belt to that already agreed in the scheme. The application improperly relies on the decision of the Secretary of State in March 2018 to constitute special circumstances to allow it to build on this land. Berkeley Homes is not seeking to add this land to the agreed parameter plans. However, the parameter plans define the area of land covered by the Secretary of State’s decision and EFFRA submits that Berkeley Homes cannot rely on the decision for building on this land without seeking to add the extra 5.7 ha to the parameter plans. The additional 5.7 ha would represent a 27% increase in the land lost from the Green Belt and would therefore constitute a major material change requiring resubmission of the whole scheme.
- The proposal by Berkeley Homes to build on 6.79 ha of Green Belt **Site A** (EFFRA **A1 & A2**) would be a fundamental change to the agreed scheme and be very damaging to the Green Belt and Ancient Woodland.

As stated earlier, the northern part of the site was explicitly excluded from development and designated as green space. Condition 6 of Annex B of the Secretary of State’s

decision of March 2018 was specifically intended to mitigate effects on the Ancient Woodland of Thornet Wood and a 15m buffer zone was imposed. Contrary to these principles, Berkeley Homes proposes building on its newly acquired land in the northern part of Effingham Lodge Farm and to use a thirty-metre area around the Ancient Woodland as amenity space and to open the wood itself for recreational purposes. Further, the Green Belt land concerned is defined as “high sensitivity” in The Green Belt and Countryside Study (Volume II Addendum) for the Guildford Local Plan. The newly acquired site includes part of Thornet Wood, which is a Site of Nature Conservation Interest (SNCI) and is an Ancient semi-natural woodland (ASNW) which it intends to use for recreational purposes. This would be immensely damaging to the Ancient Woodland and entirely contrary to the principles for protecting them developed at the Appeal. The damage would come from the proximity of the proposed residential dwellings with their light pollution affecting nocturnal creatures, the effect of the domestic pets on the ecology and wildlife, the damage to the woodland by visitors and their dogs and the increased risk of trespass into the rest of Thornet Wood. Ancient woodland is specifically protected under paragraph 175 of the National Policy Planning Framework (NPPF).

- Building on this area of land (**A1**) would adversely affect the rural and traditional character of Effingham village by extending development down Effingham Common Road. This is contrary to the Local Plan and the Effingham Neighbourhood Plan. One of the key purposes of the Green Belt defined in the NPPF is to prevent urban sprawl of this kind.
- In improperly trying to rely on the special circumstances agreed for the original scheme, the applicant ignores the changed circumstances since the original scheme was agreed.

Part of the balancing exercise made by the Inspector and endorsed by the Secretary of State between the special circumstances and the harm to the Green Belt was the lack of a five-year housing land supply: *“in the context of a prolonged and significant period of undersupply and at a time of increasing unaffordability in the region’s housing market. These are considerations of very substantial weight.”* (2018 Appeal APP/Y3615/W/16/3151098 para 526).

Guildford now has an adopted Local Plan and a housing land supply assessed as 6.42 years in the GBC LAA (2020).

A further factor was the demand for school places and providing parental choice. Since the original decision there has been an impressive expansion of secondary school provision in the local area with an increase in choice of schools with higher inspection ratings, together with lower projected demand for secondary school places. There is an increased emphasis on environmental and climate warming concerns. This makes the decision to demolish an existing school with the resulting environmental damage a more important factor. In addition, because the school is in a small village, the majority of children attending the school will come by car or bus and this will have an adverse environmental impact.

Detail of Other Key Points of objection:

1. Financial Viability claims not proportional, simple or transparent.

Berkeley Homes claims that the extra homes are required as the scheme is not financially viable. One month after submitting other documents and at the request of Guildford Borough Council, Berkeley Homes submitted a Financial Viability Report which is intended to back this claim. EFFRA contends that:

- (i) Financial viability reports are not appropriate for deciding such a major material change in a planning approval, given also the magnitude of harm to the Green Belt and Ancient Woodland and the change in circumstances since the original decision. Consequently, the whole scheme requires resubmission.

The guidance is that such reports should be proportionate and the NPPF gives considerable discretion to the decision maker. It states *“that the weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any changes in site circumstances since the plan was brought into force”* (NPPF paragraph 57). The complexity of this case, the magnitude of the potential damage to the Green Belt and the changing circumstances since the original scheme was agreed lead to a conclusion that a financial viability report is not a sound measure of judging it and that the whole scheme needs to be reconsidered.

- (ii) The Financial Viability Report submitted by Berkeley Homes is neither simple nor transparent as required under planning guidance. Rather it is both inadequate and misleading.

The report does not adequately explain why the cost of the school has supposedly risen from £32 million in October 2014 to £53.5 million in July 2021 and the information it provides is confusing and not open to checking. Consequently, EFFRA wrote to the planning officer handling the applications on 14th July to request any earlier financial viability information but this has not been forthcoming. In the absence of such information it is impossible to accurately assess the financial viability of the scheme both at the time of the Inquiry and currently.

Specifically, EFFRA would question the parameters used by Berkeley Homes in the report, particularly the benchmark margin of 20%, the 7% finance rate and the 4.5% sales and marketing fee, all of which appear to be excessive.

The information that Berkeley Homes has released about the cost of the school over time has been contradictory.

- In March 2018 a new build school for replacing the current sized school was costed at £31.73m and for a 2,000-pupil school at £37.96m (Proof of Evidence: Design of the school. (Michael Olliff at Scott Brownrigg. Planning Appeal 2018. Options 7A & 7B, pages 100-101)

- In August 2019 Tony Pidgley, the Berkeley Homes Chairman, told Effingham organisation representatives that the school cost had increased from £32m at the time of the Public Inquiry to £40m.
- In February 2021, during the public consultation exercise, BH claimed that the financial viability that was presented with the application in 2014 demonstrated a cost of delivering the school of £32 million. Now 6 years on and following a protracted planning process and complete re-design of the school, the cost of delivering the school has risen by circa 35%. This amounts to a revised cost of £43.2 million.
- The Financial Viability Report claims that the cost is now £53.5m i.e. a 24% increase in less than 6 months.

It appears to EFFRA that Berkeley Homes has at times inappropriately used the cost of the school for circa 1,500 pupils i.e. £32m at the time of the Public Inquiry.

The figure of £53.5m appears exceptionally high as the Department for Education benchmarking costs for a school for 2000 pupils within Surrey is £45m. This is based on Department for Education design standards and it appears that the current design exceeds these with far greater internal space. This view is supported by Willmott Dixon Construction in quoting for the new school in March 2019 with a cost of £39.6m. The Berkeley Homes Financial Viability Report claims the more expensive design is due to the South East Design Review Panel report published in July 2018. However, EFFRA representatives were at that meeting and the South Eastern Design Panel recommended a simpler design that should have offered better value for money. The redesign of the school the following year was made in consultation with the Howard Partnership Trust and the school. This produced a design well in excess of the standards of the Department of Education which should obviously not be funded by extra enabling dwellings on high sensitivity Green Belt with all the resultant damage to the local community, which does not support it.

The Financial Viability Report concentrates on the unsubstantiated costs of the school, but does not adequately cover the expected increase in revenue from the sale of enabling residential development due to residential prices rising far faster than costs. EFFRA's own research based on publicly available construction and price indices (attached as Appendix 1) indicates that if the scheme was viable when it was submitted in 2014, as claimed by Berkeley Homes, it should be even more viable now. This raises the question of whether the scheme was ever viable. It seems unlikely that Berkeley Homes can have miscalculated its costs and revenues so badly and suggests the company always intended to ask for extra enabling homes. A key factor to the Secretary of State's decision was that the new build school was the most cost effective option, but this is now clearly in doubt.

Berkeley Homes states that both the consented and proposed schemes are not viable, but is prepared to continue with delivery and take the commercial risk that market prices improve to produce an acceptable margin. This is a surprising speculation risk by a major

public company and raises the possibility of possible future open-ended applications for further enabling development.

2. Non-compliance with Conditions 2 and 3 of the Secretary of State's Decision 21 March 2019

Non-compliance with Condition 3

Condition 3 of the Secretary of State's decision stated that the applications for the reserved matters shall be made to the Local Planning Authority no later than three years from the date of the permission. Permission was granted on 21 March 2018.

All planning applications had to be submitted prior to 21 March 2021 (three years after permission was granted). Planning applications have been submitted and approved for houses and the new school on the Effingham Lodge Farm site. Planning application 21/P/00428 was submitted on 1 March 2021, and has not yet been approved by the Local Planning Authority (GBC).

Berkeley Homes in this planning application incorporates land included in the reserved matters, and was submitted on 8 June 2021, over eleven weeks after the deadline set out in Condition 3.

Berkeley Homes completed the purchase the land NW of the Effingham Lodge Farm site on 1 June 2020, with the full intention of developing the site. The planning applications submitted in 2019 and revised in 2020 took into account their intention to submit planning applications that would require changes in conditions imposed on the Reserved Matters sites. Therefore they have no excuse whatsoever for ignoring Condition 3.

Non-compliance with Condition 2

Condition 2 of the Secretary of State's decision states that the appearance, landscaping, layout and scale in relation to the Lodge Farm and the existing HoE school sites (Reserved Matters) shall be submitted and approved in writing by the Local Planning Authority before any development begins, and the development shall be carried out as approved.

This planning application is requiring changes to the approvals given in planning applications 19/P/01451 and 20/P/02048, and in particular to their Condition 7.

3. Lack of Community Benefits from the proposals.

The applicant claims that the proposals will provide more accessible space, but this is not needed. Effingham already has plenty of accessible space and amenities including 12.3 ha of playing fields, grassland and woodland in the King George V Hall & Playing Fields open to the public, a leading golf club and miles of countryside open for recreation.

It will instead be to the detriment of the ecology and wildlife of Effingham Lodge Farm and Thornet Wood with adverse consequences to the linked habitats beyond. Local residents highly value the ecology and wildlife of the area and support measures to conserve it.

In addition, the playing field in Mole Valley to be reinvented as a “new community park” is already green open space and not being considered for development by Mole Valley under its Draft Local Plan proposals and so would remain so. Nor has the planning application for it been registered by MVDC yet and hence any approval would post-date the decision of the GBC application **21/P/01306** which indirectly relies on it.

4. Planning Application 21/P/01306 has no special circumstances and would fail on its own merits including causing very substantial harm to the Green Belt and Ancient Woodland

As the new area of land of 5.7 ha cannot rely on the special circumstances of the existing scheme, application **21/P/01306** has to be considered on its own merits. An immediate problem with the application is that it includes 1.06 ha of land included in an approved application for planting and landscaping as Condition 7 of reserved matters applications **19/P/01451** and **20/P/02048**, which should immediately result in the application being refused. The 5.7 ha of new land has not previously been considered for development or other purposes. It is classified as high sensitivity Green Belt in the Local Plan and its situation next to, and containing, Ancient Woodland and an SSSI gives it extra protection. Special circumstances cannot be claimed for it on the basis of local housing need as Guildford currently has over 6 years of housing land supply.

OTHER OBJECTIONS

1. Effingham Lodge Farm is not isolated and is regarded as countryside

EFFRA contests the statements made about Effingham Lodge Farm in the applicant’s Design and Access Statement, in particular that it is isolated and cannot be described as countryside. Effingham is a rural village and this land next to the Ancient Woodland is outside the inset area and therefore in the countryside. Building on it would amount to allowing urban sprawl.

2. The planning application is in conflict with important policies of the Local Plan and Effingham Neighbourhood Plan

The Local Plan requires 40% affordable homes whilst the application only proposes 20%. As the application cannot rely on the special circumstances of the original scheme in **14/P/02109**, this is unacceptable. The application is also in conflict with important policies in the Neighbourhood Plan which was adopted in 2018 with strong support of local residents. It does not qualify under policies ENP-G1 and ENP-G5 for development and is contrary to the principles of these policies to protect the Green Belt and ecology of the village. It would cause damage to the Wildlife Corridors designated under ENP-ENV2 and the area of land is specifically protected from artificial lighting under policy ENP-ENV4 as being close to Ancient Woodland.

It proposes a housing mix at odds with that specified in ENP-H2 as only 38% of the homes proposed are two bedrooms instead of the 60% required. The proposed design is also of concern as all the affordable homes and many of the two bedroom homes are situated on a small area that is 15% of the total area.

Building on this site would increase the flood risk to the adjoining area identified in the Guildford Surface Water Management Plan and building on areas of high flood risk is discouraged in both the Local Plan (P4) and the Neighbourhood Plan ENP-G4.

It is clear that this planning application should fail on its own merits, having no special circumstances to outweigh the very severe harm it would cause to the Green Belt and Ancient Woodland. It is also in conflict with the Local Plan, the Effingham Neighbourhood Plan and NPPF and would cause very substantial harm to the character of Effingham.

EFFRA's View

It is clear that the consents sought by Berkeley Homes are not minor material changes as allowing them would result in a substantially different development in scale than that agreed. The changes are major material changes and require the whole scheme to be resubmitted in the light of circumstances that have changed considerably since the original scheme was approved. These changed circumstances include Guildford now having a surplus housing land supply, increased school provision with greater choice in the local area and lower forecast demand for secondary school places. The applicant is seeking to rely on the special circumstances of the original scheme to disproportionately extend and change it without clear evidence of need or justification. In addition, the company still does not consider the scheme to be financially viable and the commitment to delivering it is in question without even more enabling development being proposed.

On behalf of residents, EFFRA would like to express its disappointment that the approximate 2,700 residents of this small rural village have had to live with the uncertainty of this over-ambitious, and in our view unwarranted scheme, for over seven years which will increase the already serious traffic congestion and damage the character of Effingham's historic village. We believe this is due both to the ambitions of the senior leadership of the Howard Partnership Trust to have a large 2,000 pupil new flagship school, which we now understand has been specified well beyond the standards of the Department of Education for secondary schools and also to Berkeley Homes which has used the opportunity to expand into a protected rural Green Belt village and achieve its normal high rate of return. In the meantime, a generation of local children have been failed and had to endure a lack of investment in the existing school and falling educational standards due to the focus of the Trust being distracted by this ambitious and unnecessary project.

EFFRA requests Guildford Borough Council to reject these applications which we believe are without merit as they do not meet the requirements of section 73 of the Town and Country Planning Act 1990. In addition, we hope this unnecessary project will be reconsidered.

Yours sincerely

Vivien White

Chairman, Effingham Residents Association (EFFRA)

APPENDIX 1

CONSTRUCTION COSTS & HOUSE PRICES INDICES

This note looks at the latest movements in building costs and house prices since the beginning of 2015. It is based on indices published by the Government (“National Statistics”) and includes the latest data up to the end of June 2021.

House construction costs

The Office for National Statistics (ONS) produces the official Government figures on the construction industry. The ONS Construction Output Price Indices measure inflation in the construction industry. Below are indices for the series “*New Work – Housing (private and public)*” (2015 = 100).

Date	Index compared to 2015	Increase since 2015
March 2021	117.8	+18%

Source: Office for National Statistics. *Construction Output Price Indices for Great Britain.*

School building costs

ONS Construction Output Price Indices measure inflation within the construction industry by using output prices which weight together labour, material and plant and machinery costs multiplied by a mark-up for profit margin.

Below are indices for the series “*New Work – All construction* ” (2015 = 100).

Date	Index compared to 2015	Increase since 2015
March 2021	115.7	+16%

Below are indices for the series “*New Work – Public Sector construction (other than housing)*” (2015 = 100).

Date	Index compared to 2015	Increase since 2015
March 2021	114.4	+14%

Source: Office for National Statistics. *Construction Output Price Indices for Great Britain.*

House prices

The ONS *UK House Price Index* is compiled using data from the Land Registry (January 2015 = 100). For the UK and Guildford it has the following indices for April 2021:

	Type of building	Index compared to January 2015	Increase since January 2015
United Kingdom	All properties	131.5	+32%
Guildford	All properties	124.6	+25%

Source: Office for National Statistics *UK House Price Index – Land Registry data.*

The data also separates new build and existing properties. This series has the following indices up to February 2021:

	Type of building	Index compared to January 2015	Increase since January 2015
United Kingdom	New build	136.6	+37%
	Existing buildings	131.7	+32%
Guildford	New build	128.8	+29%
	Existing buildings	126.5	+27%

Source: Office for National Statistics *UK House Price Index – Land Registry data*.

Main points to note:

- Official figures from the Government throw considerable doubt on the claim by Berkeley Homes that, since 2014, school building costs have increased to such an extent that the development is now financially unviable.
- Since 2015, indices for the building costs for schools and houses have increased by less than the price indices for house sales.
 - The cost of building houses has increased by about 18% since 2015.
 - The cost of building schools is also likely to have increased by about 15-20% since 2015.
 - New house prices for Guildford, and therefore revenue, have increased by about 29% since 2015.
- Based on construction cost and house price indices, profits from this development should have increased since the planning application was submitted towards the end of 2014.
- From the above analysis it seems extremely unlikely that the original proposal from Berkeley Homes is now financially unviable and that 110 more houses are needed.
- There needs to be much greater transparency, and close public scrutiny, of the original costs of the proposal from Berkeley Homes, the latest financial assessment of the project from Berkeley Homes and a detailed understanding of how and why the figures have changed since 2014.