Membership of the Area Planning Committee (Western Area)

Cllr John Ward (Chairman)  Cllr Martin Lear
Cllr Stella Andersen-Payne (Vice Chairman)  Cllr Elliot Nichols
Cllr Paddy Blagden  Cllr Jennifer O’Grady
Cllr Carole Cockburn  Cllr Stephen O’Grady
Cllr Pat Frost  Cllr Julia Potts
Cllr Jill Hargreaves  Cllr Roger Steel
Cllr Stephen Hill  Cllr Chris Storey

Dear Councillors

A meeting of the PLANNING COMMITTEE (WESTERN AREA) will be held as follows:-

DATE: WEDNESDAY, 8 JANUARY 2013*
TIME: 7.15PM
PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS, GODALMING

The Agenda for the meeting is set out below.

[In the event that adverse weather conditions prevent this meeting from proceeding, the meeting will be held instead at 2.00pm on Monday 13 January 2014]

Yours sincerely
ROBIN TAYLOR
Head of Policy and Governance

Most of our publications can be provided in alternative formats. For an audio version, large print, text only or a translated copy of this publication, please contact committees@waverley.gov.uk or call 01483 523224.

* This meeting will be web cast and can be viewed by visiting http://www.waverley.gov.uk
NOTE FOR MEMBERS

Members are reminded that Contact Officers are shown in each report and members are welcome to raise questions, etc. in advance of the meeting with the appropriate officers.

AGENDA

1. MINUTES
   To confirm the Minutes of the Meeting held on 27 November 2013 (to be laid on the table half an hour before the meeting).

2. APOLOGIES FOR ABSENCE
   To receive any apologies for absence.

3. DISCLOSURE OF INTERESTS
   To receive from Members declarations of interests in relation to any items included on the Agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

4. QUESTIONS BY MEMBERS OF THE PUBLIC
   The Chairman to respond to any questions received from members of the public of which notice has been given in accordance with Procedure Rule 10.

5. ANY RELEVANT UPDATES TO GOVERNMENT GUIDANCE OR LEGISLATION SINCE THE LAST MEETING
   Officers to update the Committee on any changes to the planning environment of which they should be aware when making decisions.

6. THAMES BASIN HEATHLAND SPECIAL PROTECTION AREA – POSITION STATEMENT ON CURRENT CAPACITY
   [Portfolio Holder for Planning: Cllr Brian Adams]
   [Wards Affected: All Farnham Wards]

In 2006 English Nature (now Natural England) produced a draft Delivery Plan to guide local authorities on the protection of the Thames Basin Heathland Special Protection Areas (SPAs) heathland birds from the threat of new residential development. Avoidance measures were required to comply with the European Habitats Regulations. Without these measures no further residential development was possible within 5km of the SPA which affected the majority of the Farnham area.

The Council’s Interim Miniplan (April 2007) outlined avoidance measures to overcome the halt in planning permissions including the introduction of a developer tariff. Farnham Park was identified as a Suitable Accessible Natural Greenspace (SANGS) that could be used for avoidance.
Natural England confirmed an interim area of 21.25 hectares provided for by Farnham Park. This was reduced for an initial 3-year period to 10.9 hectares because Natural England felt that car parking was the major limiting factor to increasing public access to the SANGS area.

The new Avoidance Strategy was adopted on 15 December 2009 at Full Council. It was agreed to release an additional 3.45 ha of SANG at Farnham Park on adoption of the Farnham Design Statement as a material consideration or on 31 July 2010 whichever is sooner. The Farnham Design Statement was adopted by the Council as a material consideration on 20 July 2010 and the SANGs have now been released.

The new Avoidance Strategy was prepared in line with the Thames Basin Heaths Delivery Framework which was published in February 2009. The Delivery Framework was produced by the Thames Basin Heaths Joint Strategic Partnership Board (JSPB) on behalf of the member Local Authorities and other stakeholders and gives guidance on how to deal with development proposals within the zone of influence of the SPA.

On 5 March 2013, the Executive agreed to release the remaining 6.9 ha of SANG at Farnham Park and to increase the tariff from 1 April 2013 to reflect inflation in accordance with paragraph 12.3 of the Avoidance Strategy.

The figures in the table have been updated with the latest permissions (below).

<table>
<thead>
<tr>
<th>Figures to 17/12/2013 Additional SANG capacity of 3.45ha =179 dwellings</th>
<th>Total SANG Area (ha)</th>
<th>Total SANG Capacity (dw)</th>
<th>Dwellings Allocated to Date</th>
<th>Amount of SANG Allocated (ha)</th>
<th>Remaining Unallocated (ha)</th>
<th>Remaining Unallocated Capacity (dwellings)</th>
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<tbody>
<tr>
<td>Development</td>
<td>21.25</td>
<td>1104</td>
<td>719</td>
<td>13.8</td>
<td>7.4</td>
<td>385</td>
</tr>
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</table>

7. **APPLICATIONS FOR PLANNING PERMISSION**

7.1 **Site inspections arising from this meeting**

In the event of site inspections being necessary, as a result of consideration of the applications before this meeting, these will be held on Tuesday 4 February 2014 at a time to be agreed at the meeting.

7.2 **Applications for planning permission**

To consider the report on the attached schedule.

8. **EXCLUSION OF PRESS AND PUBLIC**

To consider the following recommendation on the motion of the Chairman:

Recommendation
That, pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

9. **LEGAL ADVICE**

To consider any legal advice relating to any applications in the agenda.

For further information or assistance, please telephone Amy McNulty, Trainee Democratic Services Officer, on 01483 523492 or amy.mcnulty@waverley.gov.uk
<table>
<thead>
<tr>
<th>Page</th>
<th>Item</th>
<th>Reference</th>
<th>Location</th>
<th>Recommendation</th>
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<tr>
<td></td>
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<td>Part A  Applications subject to Public Speaking</td>
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<td>Part B  Applications not subject to Public Speaking</td>
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<tr>
<td>7</td>
<td>B1</td>
<td>WA/2013/1559</td>
<td>Erection of nursery/childcare building (Class D1) together with associated works at land off Wilkinson Way, Farnham.</td>
<td>That, subject to receipt of a completed S.106 Agreement within three months of the date of this Area Committee in respect of footpath improvements and contributions, permission be GRANTED subject to conditions. That, in the event that the requirements of recommendation A are not met, permission be REFUSED</td>
</tr>
</tbody>
</table>
Background Papers

Background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report are listed under the “Representations” heading for each planning application presented, or may be individually identified under a heading “Background Papers”.

The implications for crime, disorder and community safety have been appraised in the following applications but it is not considered that any consideration of that type arises unless it is specifically referred to in a particular report.


RECOMMENDATION A That, subject to receipt of a completed S.106 Agreement within three months of the date of this Area Committee in respect of footpath improvements and contributions, permission be GRANTED subject to conditions.

RECOMMENDATION B That, in the event that the requirements of recommendation A are not met, permission be REFUSED
Introduction

The application has been brought before the Area Committee because the proposal does not fall within the Council’s Scheme of Delegation.

Location Plan

Site Description

The application site measures 65m by 67m, comprising of 0.45 hectares located at the rear of the existing David Lloyd Leisure Centre [DLLC] and is located at the north eastern corner of Wilkinson Way from which access would be taken, and approximately 150m from its junction with Monkton Lane. The site comprises of rough grass.

The site is generally flat and is bound by Public Footpath No. 102 and fields to the north, whilst to the east and south are the playing pitches and clubhouse/car park operated by Farnham Rugby Club. To the immediate west is a line of deciduous trees forming part of the approved structural landscaping in respect of the DLLC, a fence and illuminated car parking.

Proposal

The proposal is for a child care nursery, providing care for 97 children between a few months and five years old within a single storey purpose built building of approximately 600m² floor area. The use would operate Mondays to Fridays, 07.00 to 19.00hrs.

The building would have a curved roof form with large eaves overhang to reduce solar gain, an overall height of 3.75m, 39.5m wide and 20.5m at its deepest point; the forward projecting wings are 9m wide. The footprint of the building represents approximately 14% of the site with the remainder used as parking/circulation space, landscaping or garden play areas.
10 car parking spaces would be provided for staff, 7 spaces in a ‘parents drop off area’ and separate delivery area. A 1m high planted bund is proposed along the eastern and southern perimeters of the site along with structural planting on the northern boundary.

The proposal would also seek to improve footpath/cycle links by allocating land at the rear of the scheme to facilitate a 3m wide public footpath compared with the 1m wide definitive path, and a proposed 3m wide footpath/cycle way along the western boundary linking the Footpath 102 with Wilkinson Way/Monkton Lane and the wider area.

Relevant Planning History

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Date</th>
</tr>
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<tbody>
<tr>
<td>WA/2011/1516</td>
<td>Application to vary condition 11 of WA/2007/1263 to allow an additional 19 parking spaces.</td>
<td>Full Permission 11/07/2012</td>
</tr>
<tr>
<td>WA/2007/1263</td>
<td>Erection of a multi-sports and leisure club facility with outdoor tennis courts, and associated landscaping and car parking together with relocation of Farnham RUFC to provide 4 playing fields, pavilion, and car parking and provision of bowls green. [DLLC]</td>
<td>Full Permission by the Secretary of State on 04/09/2009.</td>
</tr>
<tr>
<td>WA/2003/0453</td>
<td>Health and fitness club with outdoor tennis courts, swimming pools; erection of rugby pavilion with pitches and training area; floodlighting, new access and car parking.</td>
<td>Withdrawn on 07/08/2004</td>
</tr>
<tr>
<td>WA/1999/1811</td>
<td>Erection of 16,000m² distribution centre with community and recreational facilities, associated car parking and landscaping.</td>
<td>Withdrawn on the 21/08/2000</td>
</tr>
</tbody>
</table>

Planning Policy Constraints

Countryside beyond Green Belt – outside any settlement area
Farnham/Aldershot Strategic Gap
Thames Basin Heath 5km Buffer Zone
Minerals Safeguarding Area, Surrey Minerals Plan (July 2011)
Section 106 relating to WA/2007/1263
Agricultural Land – Grade 3

Development Plan Policies and Proposals

Policies of the Waverley Borough Local Plan 2002: D1, D2, D4, C2, C4, CF2, M2, M4, M5, M6, M7 and M14.
Policy NRM6 of the South East Plan 2009.

The South East Plan 2009 was the Regional Spatial Strategy (RSS) for the South East region, the Plan was revoked on March 2013 except for Policy NRM6: Thames Basin Heaths Special Protection Area. This Policy remains in force.

The Council has been working on a two stage process to replace the existing Waverley Borough Local Plan. Part 1 was the Core Strategy, which was submitted for Examination in January 2013. Following the first Examination Hearings in June the Examination was suspended. This was due to concerns that the Inspector had principally regarding the evidence of housing need and the approach to meeting these needs. The Inspector suggested that the most appropriate course of action to address his concerns may well be to withdraw the Plan from Examination. Therefore, on 15th October 2013, the Council resolved to formally withdraw the Core Strategy from the Examination.

The Council will now move forward with a new Local Plan, building on the foundations of the Core Strategy, particularly in those areas where the policy/approach is not likely to change significantly. It will also be updating the evidence base and carrying out other work required in response to the Inspector’s comments, before a revised plan is re-submitted for examination. The Council is still in the process of considering the timescale for completing the new Local Plan.

Surrey Minerals Plan 2011: MC6

The National Planning Policy Framework 2012 (NPPF)

Surrey County Council Vehicular and Cycle Parking Guidance 2012

Adopted Waverley Borough Council Parking Guidelines 2013

Farnham Design Statement 2010 - Weybourne and Badshot Lea

Consultations and Town/Parish Council Comments

County Highway Authority – No objections subject to safeguarding conditions.

Surrey County Council, Public Rights of Way Officer – No objection in principle and confirms they have been in discussion with agent. Footpath 102 is recognised as being an underused asset and it is the Council’s intention that the route will be physically improved in the future, so that it can be legally upgraded to a Cycle Track. The Council seek to secure the applicants offer of land to improve the footpath and a developer contribution towards the future improvement of Footpath 102.

Surrey County Council Minerals Waste Officer – has not yet been received, their response will be reported orally
Farnham Town Council – Approved on the condition that the extensions and alterations are in line with the particulars of the Farnham Design Statement.

Representations

In accordance with the statutory requirements and the “Reaching Out to the Community – Local Development Framework – Statement of Community Involvement – July 2006” the application was advertised in the newspaper on 11/10/2013, a site notice was displayed at the site on the 08/10/13 and neighbour notification letters were sent on the 26/09/13.

One letter of response has been received from Westchester House Nursery School who feels the proximity of the proposed facility is very close to their own.

Submissions in support

In support of the application the applicant has made the following points:

- The scheme forms part of the remaining land on which the Secretary of State gave planning approval.
- The main developments have been undertaken successfully and are now part of the recreation and leisure offer within Farnham.
- There have been no reported traffic problems and parking is contained successfully within the site.
- The proposal meets the test for sustainable development and also conforms to the Core Strategy policies which the Council is seeking to rely upon.
- A legal agreement to provide for the footpath/cycleway which is offered can be delivered as part of the application process.
- Whilst some of the original marginal planting to the rugby fields is yet to be completed it is in retrospect helpful that large areas of planting would not be removed to assist in implementing the SCC footpath proposals. The final landscape arrangements to the boundaries can be considered in the light of the SCC initiative.
- Creation of full and part time jobs.
- The LPA can grant approval in the knowledge of it meeting policy, past approvals and as part of the improving of facilities to create a healthy and prosperous community.

- The material usage on the elevations has been selected to reflect the modern style and appearance of the main David Lloyd Leisure centre, including the use of a curved roof feature.
- The proposed garden area is a large expanse of space with proposals containing different play equipment. All boundaries to the site would be enclosed by a 1.8m open mesh fence.
The access road into the site gives clear width for vehicles to simultaneously enter and leave the nursery onto the mini-roundabout.

The majority of vehicular activity [79%] can be expected during the early morning or early afternoon.

The greatest impact of the development occurs on the highway network, where an additional 54 two way vehicle trips are generated in the AM peak hour and 34 trips in the PM. This would not have a material impact on the existing highway network and therefore no further requirement for mitigation aside from the introduction of a Travel Plan.

Turning to the Monkton Lane/Wilkinson Way junction, the results of the junction modelling undertaken in 2006 show all three junctions are operating below their theoretical maximum capacity in the AM/PM peak periods.

The 2013 traffic survey shows that the AM/PM background traffic on Monkton Lane has significantly reduced from those predicted in the 2006 TA.

Overall the modelled junctions would operate more efficiently and with greater spare capacity.

The net impact on public transport modes is estimated to be 5 two-way trips in both the AM and PM peak hours, which would not have a material impact.

Overall, the proposed development will not have significant adverse effects on the local road network, either in terms of capacity or safety. As such there are no impediments on either transport or highway grounds that would prevent the grant of planning permission subject to conditions.

Determining Issues

Principle of development
Planning history
Impact on Countryside beyond the Green Belt
Impact on Farnham/Aldershot Strategic Gap
Loss of Potential Minerals Site
Amenity Issues
Highway Issues
Potential Contamination
Proposed Section 106 Agreement
Crime and disorder
Climate change and sustainability
Effect upon SPA
Biodiversity and compliance with Habitat Regulations 2010
Water Frameworks Regulations 2011
Accessibility and Equalities Act 2010 Implications
Human Rights Implications
Environmental Impact Regulations 2011
Working in a Positive and Proactive Manner
Planning Considerations

Principle of development

NPPF
On the 27 March 2012, the Government adopted its National Planning Policy Framework (NPPF). This document superseded the majority of previous national planning policy guidance/statements (with the exception of PPS10: Planning for Sustainable Waste Management) and condensed their contents into a single planning document. Section 38(6) of the Planning and Compulsory Purchase Act 2004, still requires all applications for planning permission to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Waverley Borough Local Plan 2002 and the South East Plan 2009 therefore remain the starting point for the assessment of this proposal.

The NPPF goes on to identify three dimensions to sustainable development:

- An economic role – contributing to building a strong, responsive and competitive economy… to support growth and innovation.
- A social role – supporting strong, vibrant and healthy communities… with accessible local services that reflect the community’s needs and support its health, social and cultural well-being.
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment…..

The NPPF is a material consideration in the determination of this case. Paragraph 215 of the NPPF makes clear that where a local authority does not possess a development plan adopted since 2004, due weight may only be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

The site is situated in the Countryside beyond the Green Belt where Policy C2 seeks to protect it from development for its own sake; and is also on the south-western edge of the Farnham/Aldershot Strategic Gap, Policy C4, the main objective of which is to prevent the coalescence of Farnham and Aldershot, along with landscape enhancement, conservation of wildlife and improved public footpaths. Finally, Policy CF2 recognises that new community facilities are required subject to considerations of scale, amenities of the area, accessibility and of a quality design. In exceptional cases and subject a genuine local need, this can include sites outside the rural settlement s where very closely related the character, appearance and location.

In this instance, the relevant Local Plan policies possess a good degree of conformity with the requirements of the NPPF. As such, considerable weight may still be given to the requirements of the Local Plan.

Planning history

The planning history is a material consideration.
Application ref: WA/2007/0430 for the erection of a tennis centre, associated uses and relocation of Farnham Rugby Club and a local bowls club was ‘called in’ by the Secretary of State [SOS] and following on from the Inspector’s report; planning permission was granted by the SOS subject to conditions and a legal agreement. The current application site formed part of this scheme area and it was proposed to be used as a bowling club. Officers understand there is no longer a requirement to establish a facility here by the bowling club involved at the time of the original application.

In reaching her decision the SOS found that:

“The SOS has given careful consideration to the benefits that would arise from the relocation of the rugby club and to the substantial package of community benefits, focused primarily on local schools and youth organisations’. She takes the view that the proposed development would give rise to significant public benefit for the wider Farnham community with the potential to engender interest in a range of sports among those who might not otherwise participate. Overall, the SOS concludes that these benefits, and the lack of a sequentially preferable site, are material considerations that outweigh the harm and the conflict with the development plan.”

This development has been built out with the exception of the bowls club, therefore resulting in the vacant area of land which is the subject of the current planning application and which has an in principle extant permission for this use.

The indicative master plan, before the SOS, shows the bowls club area as an access road from the existing mini-roundabout serving 27 parking spaces, bowling pavilion and bowling green.

**Impact on Countryside beyond the Green Belt**

The site is located within the Countryside beyond the Green Belt outside any defined settlement area. The NPPF states that, as a core planning principle the intrinsic character and beauty of the countryside shall be recognised. Policy C2 of the Local Plan states that building in the countryside, away from existing settlements will be strictly controlled. The Government’s White Paper “The Natural Choice: securing the value of nature” published June 2011 states that as a core objective, the planning system should take a strategic approach to guide development to the best location, to protect and improve the natural environment including our landscapes.

The proposed building would appear as associated to the adjoining leisure development, would be modest in scale, and proposes a design/materials which reflect that of the adjoining DLLC and Rugby Club buildings. Furthermore, the scheme would provide an opportunity to enhance the existing landscaping in this area of the site and would over time soften the appearance of the development.
Given the previous ‘in principle’ approval for the site, that the scheme is located adjacent to the existing leisure complex and would utilise the existing access arrangements, there would be no material visual harm to the Countryside. Furthermore, in taking this approach, the proposed development is considered to be situated in the best location, and has a clear synergy with existing development, therefore protecting the wider natural environment.

**Impact on Farnham/Aldershot Strategic Gap**

The policy position in respect of the Strategic Gap has not changed since the previous ‘call in’ decision where the SOS found that the benefits outweighed the harm and conflict with the development plan. In this case, the proposal would provide an additional community facility and the opportunity to improve the local public footpath network. These benefits are considered to outweigh any remaining harm to the area.

**Loss of Potential Minerals Site**

In granting planning permission, the SOS found that the development would not result in the sterilisation of the greater quantity of the mineral resource. Given that development was proposed on the current application site then and now, whilst the site is now within a Mineral Safeguarding Area under the Surrey Minerals Plan (Adopted July 2013) it is considered that the sterilisation of this area of land has already been accepted and there are no reasons sufficient to take a different view now. The views of the County Council as Mineral Authority will be made to the meeting. However, no overriding objection is anticipated on minerals safeguarding grounds.

**Amenity Issues**

The NPPF states that Local Planning Authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy D2 of the Local Plan deals with the compatibility of uses, refers to ‘sensitive uses’ and other uses such as housing and schools as being those which should be afforded protection from noise, disturbance and pollution. There is no noise sensitive development within the vicinity of the site and therefore amenity issues arise.

**Highway Issues**

The NPPF outlines that transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. In considering developments that generate significant amounts of movements, Local Authorities should seek to ensure they are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. Plans and decisions should take account of whether improvements can be taken within the transport network that cost-effectively limits the significant impact of the development.
The NPPF supports the adoption of local parking standards for both residential and non-residential development. The Council adopted a Parking Guidelines Document in October 2013 which follows the Surrey County Council Vehicular and Cycle Parking Guidance in January 2012. Development proposals should comply with the appropriate guidance as set out within these documents. The Council do not operate a standard for Day Nurseries, preferring to adopt an individual assessment/justification. The Surrey County Council Guidelines would require 7.5 spaces for staff and 19 for parents dropping off children; giving a total of 27 spaces. The scheme provides for a total of 17, giving a potential short fall of 10 spaces. However, given that the County Highway Authority has reviewed the details of the application and raises no objection on highway safety, capacity or parking grounds. Specifically, it is noted that the drop off of children does not take place in one go, but is spread over the peak AM/PM periods, and therefore the proposal is considered to comply with the overall thrust of this guidance.

Furthermore, the applicants Transport Statement finds that overall, the proposed development will not have significant adverse effects on the local road network, in terms of safety or capacity, and also finds that there would be sufficient parking provision to serve the proposed use. As such, there are no impediments on either transport or highway grounds that would prevent the grant of planning permission subject to conditions.

In conclusion on this matter, given the profile of parking requirements for parents dropping off children, the proposal is considered to be acceptable.

Potential Contamination

Officers would advise that no contamination issues were identified during the DLLC development and a safeguarding condition has been proposed which addresses the matter in the unlikely event that contamination is found during the subsequent development. The agent has also been asked to respond on this matter and officers will provide a further oral report to the meeting.

Section 106 Agreement

The applicant is currently preparing a legal agreement for completion which secures a widening to 3m of Footpath No. 102 in the locality of the application site and a financial contribution towards the future improvement of Footpath No. 102. These improvements are in accordance with Policies M4 and M5 of the Local Plan 2002.

At the time of writing this report the applicants envisage completing the legal agreement prior to the date of the Planning Committee meeting. Officers will therefore provide a further oral report to the meeting.

Crime and disorder

S.17(1) of the Crime and Disorder Act 1998 places a duty to consider crime and disorder implications on local authorities. In exercising its various
functions, each authority should have due regard to the likely effect of those functions on, and the need to do all that it can to prevent, crime and disorder in its area. This requirement is reflected in the National Planning Policy Framework, which states that planning policies and decisions should promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

Officers conclude that in light of the site layout, fencing and building design, adequate regard has been given to the security issues associated with this proposal and it would not conflict with Local Plan Policy D8 or the Crime and Disorder Act.

Climate change and sustainability

The Local Plan does not require this type of development to achieve a particular rating of the Code for Sustainable Homes or include renewable energy technologies. The lack of any policy backing in this regard however prevents conditions being added to require this.

Effect upon SPA

As the proposal is for a day nursery only in use for five days a week, it is not likely to result in a material increase in the number of people resident upon the site and would not therefore have a likely significant effect upon the integrity of the SPA. An appropriate assessment is therefore not required.

Biodiversity and compliance with Habitat Regulations 2010

The NPPF states that the Planning System should contribute to and enhance the natural and local environment by minimising impacts upon biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

When determining planning application, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

In addition, Circular 06/2005 states ‘It is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development, is established before planning permission is granted.’

The National Environment and Rural Communities Act 2006 states that the Council as local planning authority has a legal duty of care to protect biodiversity.
The application site does not fall within a designated SAC, SNCI or SSSI. It is not within 200m of ancient woodland or water, and no buildings are currently present. The applicant has completed a biodiversity checklist which shows that a biodiversity survey is not required in this instance and the ecological value of the site would be conserved.

**Water Frameworks Regulations 2011**

The European Water Framework Directive came into force in December 2000 and became part of UK law in December 2003. It gives us an opportunity to plan and deliver a better water environment, focusing on ecology. It is designed to:

- enhance the status and prevent further deterioration of aquatic ecosystems and associated wetlands which depend on the aquatic ecosystems
- promote the sustainable use of water
- reduce pollution of water, especially by ‘priority’ and ‘priority hazardous’ substances
- ensure progressive reduction of groundwater pollution

The proposal would not conflict with these regulations.

**Accessibility and Equalities Act 2010 Implications**

Policy D9 of the Waverley Borough Local Plan encourages and seeks provision for everyone, including people with disabilities, to new development involving buildings or spaces to which the public have access. Officers consider that the proposal complies with this policy. A full assessment against the relevant Building Regulations would be captured under a separate assessment should permission be granted. From the 1st October 2010, the Equality Act replaced most of the Disability Discrimination Act (DDA). The Equality Act 2010 aims to protect disabled people and prevent disability discrimination. Officers consider that the proposal would not discriminate against disability, with particular regard to access. It is considered that there would be no equalities impact arising from the proposal.

**Human Rights Implications**

The proposal would have no material impact on human rights.

**Environmental Impact Regulations 2011**

An assessment has been undertaken as to whether the proposal is considered to be EIA development under Schedule 1 or 2 of the EIA Impact Regulations 2011 as a variation of a previous EIA development [WA/2007/0430]. It has been concluded that the development is unlikely to have a significant environmental effect.
In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of paragraphs 186-187 of the NPPF. This included:

- Provided or made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.
- Provided feedback through the validation process including information on the website, to correct identified problems to ensure that the application was correct and could be registered;
- Have proactively communicated with the applicant through the process to advise progress, timescales or recommendation.

**Conclusion**

The proposal would fully accord with the NPPF in that it would result in a sustainable form of development in economic, social and environmental terms. Given the lack of any material harm to the Countryside, Strategic Gap and local amenities, and with the resulting improvements to the footpath network and financial contributions, and provision of community facilities, Officers consider that the material considerations in favour of the scheme outweigh any remaining conflict with National and Local Plan policy.

Accordingly, subject to the receipt of a completed S106 legal agreement regarding footpath provision/contributions, it is considered that planning permission should be granted subject to safeguarding conditions.

**Recommendation A**

That, subject to receipt of a completed S.106 Agreement within three months of the date of this Area Committee in respect of footpath improvements and contributions, permission be GRANTED subject to the following conditions:

1. **Condition**
   
   The plan numbers to which this permission relates are 4246-05 Rev 05 and 4246-06 Rev02. The development shall be carried out in accordance with the approved plans. No material variation from these plans shall take place unless otherwise first agreed in writing with the Local Planning Authority.

   **Reason**

   In order that the development hereby permitted shall be fully implemented in complete accordance with the approved plans and to accord with Policies D1 and D4 of the Waverley Borough Local Plan 2002.
2. **Condition**

No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

**Reason**

In the interest of the character and amenity of the area in accordance with Policies D1 and D4 of the Waverley Borough Local Plan 2002.

3. **Condition**

No development shall take place until a detailed hard and landscaping scheme, including all details of boundary treatments, bunding and external built play equipment has been submitted to and approved by the Local Planning Authority in writing. The landscaping scheme shall be carried out strictly in accordance with the agreed details and shall be carried out within the first planting season after commencement of the development or as otherwise agreed in writing with the Local Planning Authority. The landscaping shall be maintained to the satisfaction of the Local Planning Authority for a period of 5 years after planting, such maintenance to include the replacement of any trees and shrubs that die or have otherwise become, in the opinion of the Local Planning Authority, seriously damaged or defective. Such replacements to be of same species and size as those originally planted.

**Reason**

In the interest of the character and amenity of the area in accordance with Policies D1 and D4 of the Waverley Borough Local Plan 2002.

4. **Condition**

No development shall commence until a detailed scheme of external lighting has been submitted to and approved in writing by the Local Planning Authority. The development should be carried out in strict accordance with the approved details.

**Reason**

To minimise emissions of light in the interests of the amenities of the area and in accordance with Policy D1 of the Waverley Borough Local Plan 2002.

5. **Condition**

No new development shall be occupied until space has been laid out within the site in accordance with the approved plans for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The parking/turning area shall be used and retained exclusively for the designated purpose.
Reason
In the interests of the safety and convenience of highway users and in accordance with policies M14 and M17 of the Waverley Borough Local Plan 2002.

6. Condition
No development shall commence until a detailed scheme for secure cycle parking has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details.

Reason
In order to provide adequate facilities for this mode of transport and in accordance with Policy M2 of the Waverley Borough Local Plan 2002.

7. Condition
Prior to the first occupation of the development the applicant shall:
(a) submit for the written approval of the Local Planning Authority a Travel Plan, in accordance with the aims and objectives of the National Planning Policy Framework 2012 shall be submitted to and approved in writing by the Local Planning Authority. This shall be implemented in accordance with the approved details and thereafter maintain and develop the Travel Plan to the satisfaction of the Local Planning Authority.

Reason
In the interests of promoting sustainable development and the promotion of extended options for travel other than by car in accordance with Policy M5 of the Waverley Borough Local Plan 2002.

8. Condition
In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 15)-15.2) of the appeal decision, reference: APP/R3650/V/07/1202212, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15)-15.2) of the appeal decision, reference: APP/R3650/V/07/1202212, and which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 15)-15.3) of the appeal decision, reference: APP/R3650/V/07/1202212

Reason
To ensure that development adequately deals with any contaminated land or water found during the development in accordance with Policy D1 of the Waverley Borough Local Plan 2002.
Informatives

1. "IMPORTANT" This planning permission contains certain conditions precedent that state 'before development commences' or 'prior to commencement of any development' (or similar). As a result these must be discharged prior to ANY development activity taking place on site. Commencement of development without having complied with these conditions will make any development unauthorised and possibly subject to enforcement action such as a Stop Notice. If the conditions have not been subsequently satisfactorily discharged within the time allowed to implement the permission then the development will remain unauthorised.

2. There is a fee for requests to discharge a condition on a planning consent. The fee payable is £97.00 or a reduced rate of £28.00 for household applications. The fee is charged per written request not per condition to be discharged. A Conditions Discharge form is available and can be downloaded from our web site.

   Please note that the fee is refundable if the Local Planning Authority concerned has failed to discharge the condition by 12 weeks after receipt of the required information.

3. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of paragraph 186-187 of the National Planning Policy Framework 2012.

Recommendation B

That, in the event that Recommendation A is not met, permission be REFUSED for the following reason:

1. The applicant has failed to complete the legal agreement which secures a widening to 3m of Footpath No. 102 in the locality of the application site and a financial contribution towards the future improvement of Footpath No. 102; accordingly, in the absence of these improvements there is insufficient justification for the proposed development, contrary to Policies C2, C4, M4 and M5 of the Waverley Borough Local Plan 2002.