

Planning Committee

14 December 2022

Application No.	22/00744/FUL		
Site Address	Land At Northumberland Close Bedfont Road Stanwell TW19 7LN		
Applicant	Valor Real Estate Partners LLP		
Proposal	Erection of two industrial and storage buildings (flexible Use Class B2/B8) and associated site infrastructure, including landscaping, parking and a new access from Bedfont Road.		
Officers	Paul Tomson/Vanya Popova		
Ward	Stanwell North		
Call in details	<p>Cllr John Doran has requested this application to be reported to the Planning Committee for a decision if recommended for approval.</p> <p>Whilst the officer recommendation is for refusal, the site is proposed to be allocated within the new emerging Local Plan and in accordance with the Planning Committee's Terms of Reference as set out in the Constitution, the Planning Development Manager has decided that, after consultation with the Chairman of the Planning Committee, this application should be submitted to the Planning Committee for determination.</p>		
Application Dates	Valid: 27.05.2022	Expiry: 26.08.2022	Target: Extension of time agreed until 23.12.2022
Executive Summary	<p>The site is located on the southern side of Bedfont Road, close to the northern part of the Borough and the southern boundary of Heathrow Airport. Northumberland Close extends southwards off Bedfont Road and provides access/egress to existing industrial units. The eastern side (southern end of Northumberland Close) of the application land contains an existing gated vehicular access. The site is surrounded on two sides with residential development.</p> <p>The proposal involves the erection of two industrial and storage buildings (flexible Use Class B2/B8) together with associated parking, service yards, new access from Bedfont Road, and other associated development. The scheme will comprise three separate units: Unit 1 will be the largest building and will be located towards the southern part of the site. It will be accessed via Northumberland Close. Units 2 and 3 will be located within the building towards the northern part of the site. These units will be accessed from Bedfont Road.</p>		

	<p>The proposal is similar to the two previous planning applications for commercial development on the site (19/00956/FUL and 15/00698/FUL) that were refused for a number of reasons, including on Green Belt grounds.</p> <p>The site is located within the Green Belt and is mainly free of development. The proposal constitutes '<i>inappropriate development</i>' in the Green Belt and will result in a very substantial loss of openness. Whilst the applicant has put forward some considerations in support of the scheme in the Planning Statement, these do not clearly outweigh the harm to the Green Belt, and other harm it will cause. Consequently, there are no '<i>very special circumstances</i>' to justify the development in the Green Belt.</p> <p>In terms of 'other harm', the proposed buildings are considered to have an unacceptable overbearing impact on the amenity of neighbouring residential properties. The proposal is also considered to cause an unacceptable level of noise, disturbance and light pollution to neighbouring properties.</p> <p>In addition, the proposed buildings, in terms of their scale, location and design, are considered not to respect the character of the area, will be visually obtrusive, and will fail to make a positive contribution to the street scene.</p> <p>Moreover, the applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that the proposed level of car parking is adequate to accommodate the demand generated by the proposal. This has the potential to result in parking taking place on the highway, which would have an unacceptable impact on highway safety, and parking stress in nearby roads to the detriment of the amenity of residential properties.</p> <p>It has not been demonstrated that the new access onto Bedfont Road will have sufficient visibility for vehicular traffic, which would have an unacceptable impact on highway safety.</p> <p>Furthermore, the applicant has failed to demonstrate that the proposal will not have a harmful impact on air quality.</p> <p>The applicant has also failed to demonstrate the extent to which protected species on the site may be affected by the proposed development. It is not therefore possible to ascertain the full impact of the proposal on protected species. They have also failed to demonstrate that proposed development will provide a measurable net gain in biodiversity on the site.</p>
<p>Recommended Decision</p>	<p>The application is recommended for refusal.</p>

MAIN REPORT

1. Development Plan

- 1.1 The following policies in the Council's Core Strategy and Policies DPD 2009 are considered relevant to this proposal:
- SP1 (Location of Development)
 - LO1 (Flooding)
 - EM1 (Employment Development)
 - EM2 (Employment Development on Other Land)
 - EN3 (Air Quality)
 - EN8 (Protecting and Improving the Landscape and Biodiversity)
 - EN11 (Development and Noise)
 - EN13 (Light Pollution)
 - EN1 (Design of New Development)
 - EN15 (Development on Land Affected by Contamination)
 - SP7 (Climate Change and Transport)
 - CC1 (Renewable Energy, Energy Conservation and Sustainable Construction)
 - CC2 (Sustainable Travel)
 - CC3 (Parking Provision)
- 1.2 It is also considered that the following Saved Local Plan policies are relevant to this proposal:
- GB1 (Green Belt)
 - BE25 (Areas of High Archaeological Potential)
- 1.3 Also relevant is the following Supplementary Planning Guidance: (SPG)
- SPG on Parking Standards Updated 2011
- 1.4 The policies contained within the National Planning Policy Framework (NPPF) 2021 is also relevant.
- 1.5 On 19 May 2022, the Council agreed that the draft Spelthorne Local Plan 2022 – 2037 be published for public consultation under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The public consultation for the Pre-Submission Publication version

of the Local Plan ended on 21st September 2022 and the local plan was submitted to the Planning Inspectorate on 25th November 2022.

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

ST1: Presumption in Favour of Sustainable Development

ST2: Planning for the Borough

E2: Biodiversity

E3: Managing Flood Risk

E4: Environmental Protection

EC1: Meeting Employment Needs

PS1: Responding to the climate emergency

PS2: Designing places and spaces

SP4: Green Belt

SP7: Heathrow Airport

ID1: Infrastructure and Delivery

ID2: Sustainable Transport for New Developments

- 1.7 It is relevant to note that the site was originally included within the Spelthorne Local Plan Preferred Options Consultation (Site Allocations) at the Regulation 18 stage as a potential allocation for 2000 sq. metres of commercial development. However, this has now been superseded by the latest Pre-Submission Local Plan where the site is allocated for housing. This previous commercial allocation carries no weight in decision making.

- 1.8 The Council's Emerging Plan now identifies the site for allocation for Residential (C3): approximately 80 units (SN1/005 – Land at Northumberland Close). There was no change the proposed site allocation when the Pre-Submission Local Plan was submitted to the Planning Inspectorate on 25/11/22.

- 1.9 A total of 3 representations, including 1 from the Environment Agency, have been received in relation to the site allocation in the emerging local plan. Issues raised include:

- Inconsistencies in the Council's assessment of individual sites. Another site in Sunbury was comparable, if not better suited, for housing but was rejected as an allocation.

- The site lends itself to a commercial use. Allocating it for housing is short-sighted when a commercial use is more appropriate for the longer term strategic economic interests of Spelthorne Borough. If allocated for commercial use, it would be an obvious extension to the existing Blackburn Trading Estate.

- General flooding advice from the Environment Agency.

1.10 In addition 30 representations were received from 10 individuals and organisations on policy EC1: Meeting Employment Needs. Several of these objected to the lack of provision of employment land.

2 Relevant Planning History

2.1 The application land is subject to some recent planning history with planning applications submitted in 2014, 2015 and 2019 for similar commercial proposals.

Ref. No.	Proposal	Decision and Date
19/00956/FUL	Erection of a building comprising 8,241 square metres to provide warehousing and distribution/logistics (Class B8) and associated offices together with associated access, loading/uploading, car-parking, servicing and landscaping.	Refused 18.09.2019
15/00698/FUL	Erection of a Class B1(Business) building with associated parking and landscaping, and construction of access onto Northumberland Close, together with dedication of land fronting Bedfont Road as Public Open Space.	Refused 04.08.2015 Appeal Withdrawn 14.07.2016
14/00511/FUL	Erection of a Class B1(Business) building with associated parking and landscaping, and construction of access onto Northumberland Close, together with dedication of land fronting Bedfont Road as Public Open Space.	Withdrawn 08.07.2014
95/00612/OUT	Erection of 17no one bedroom flats, 28 two bedroom flats, 36 three bedroom houses, car parking, access roads, public walks, & open space.	Refused 27.03.1995
SP/FUL/90/346	Erection of 1,692 sq. m (18,212 sq ft) of Class B8 storage and distribution warehousing with ancillary office accommodation, and provision of car and lorry parking.	Approved 19.09.1990

2.2 With regard to planning application 19/00956/FUL, this was considered at the Planning Committee on 18 September 2019 and was refused (as per Planning Officer's recommendation) on several grounds including:-

- Inappropriate development in the Green Belt and significant loss of openness
- Unacceptable overbearing impact on the nearby residential properties due the proposed building of its height, bulk and massing and positioning
- Unacceptable levels of noise and general disturbance associated with the proposal
- Inadequate level of parking provision within the site and impacting the on-street parking within the vicinity
- The proposed development leading to a significant increase in HGV movements over an access which was unsuitable geometry to accommodate the safe passage of that volume of HGVs. Consequently, raised concerns on the highway safety to all users

2.3 With regard to planning application 15/00698/FUL, this was refused for the following reasons:

- Inappropriate development in the Green Belt and significant loss of openness
- Unacceptable overbearing impact on the nearby residential properties due the proposed building of its height, bulk and massing and positioning
- Failed to demonstrate that the proposal with B1 use would be compatible with the surrounding highway infrastructure
- Unsatisfactory pedestrian access due to its proximity to the petrol filling station and access way existing onto one its vehicular access points
- Failed to demonstrate satisfactory impact upon the habitat and biodiversity of the site including in respect of any bats, badgers and hedgehogs which may present or use the site

3 Description of Current Proposal

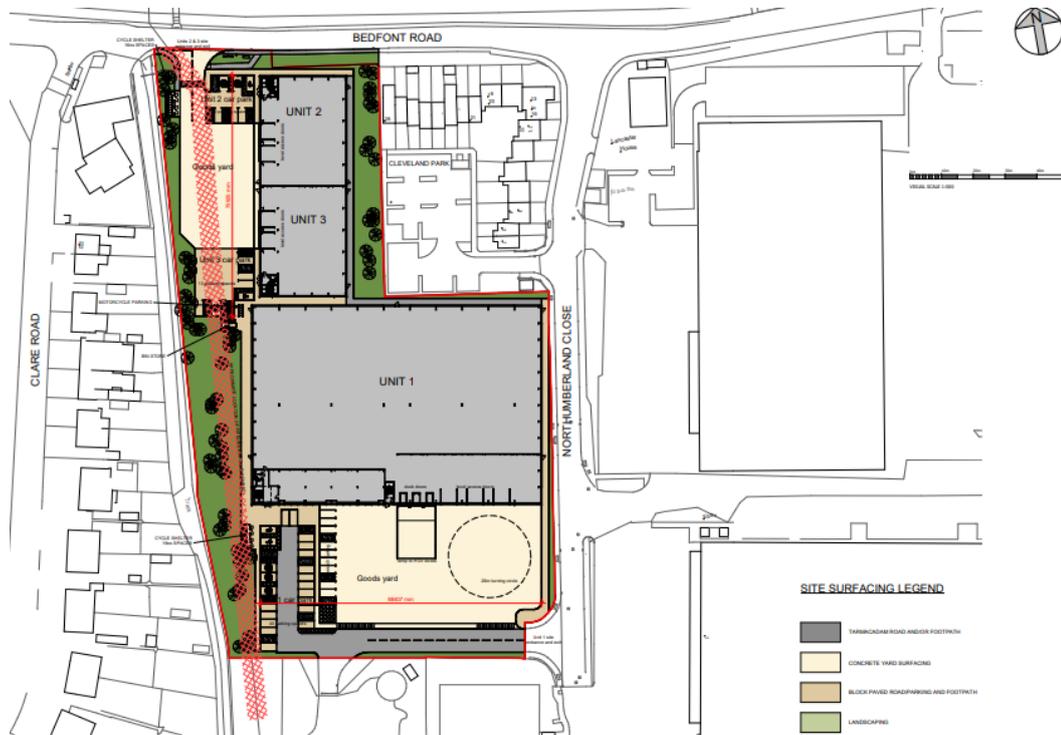
Location and Description of Site

3.1 The application site comprises 1.75 hectares and relates to an open and undeveloped area of land which is predominately covered with overgrown grass with trees and shrubs around. The site is located on the southern side of Bedfont Road, close to the northern part of the Borough and the southern boundary of Heathrow Airport. Northumberland Close extends southwards off Bedfont Road and provides access/egress to existing industrial units, some of which are airport related businesses such as baggage handling and freight firms. The eastern side (southern end of Northumberland Close) of the application land contains an existing gated vehicular access. The site is surrounded on two sides with residential development. To the north-east boundary of the site are a number of existing two storey terraced dwellings within a cul-de-sac named Cleveland Park. Further residential properties in the form of two storey semi-detached buildings (dwellings and flats) are situated within Clare Road. The rear gardens of these residential properties back onto the western boundary of the application site. A Petrol Station is located to the north west of the site. Further to the south (beyond an adjacent area of open land) is Stanwell Fields C of E Primary School.

- 3.2 The application site is located within the designated Green Belt. A small part on the western side of the site (east of Clare Road) is within an Area of High Archaeological Potential (ref. 6012 a10) and this relates to rectangular enclosures and ring ditches (The County Archaeologist states that these are particularly related to, but not limited to, Roman remains). The site is not located within an area with high risk flood zone (Flood Zone 1). The Duke of Northumberland's River is to the north, on the other side of Bedfont Road, approximately 25 metres away. To the east of the site, the land is designated as an Employment Area (Northumberland Close & Long Lane, Stanwell Employment Area).

Proposal

- 3.3 The proposal comprises the erection of two industrial and storage buildings (flexible Use Classes of B2 'Industrial and Manufacturing' and B8 'Storage and Distribution') with ancillary offices and associated site infrastructure including landscaping, parking and new access onto Bedfont Road. The total gross external floorspace (GEA) (including ancillary office space) comprises 8,511sq metres. The applicant seeks 24 hours a day, 7 days a week, operation flexibility within the entire site to allow opportunities for traffic associated with the development to be spread outside of peak hours.
- 3.4 The scheme proposes a large area of hardstanding with vehicle accesses via Northumberland Close and Bedfont Road. The supporting information indicates there will be two buildings separated by a 2.7 metres gap) which are divided into 3 units. Unit 1 is orientated towards the south. It is detached from the other units and will measure 62.1 metres long by 90.5 metres wide. It will be the largest unit within the site comprising 5,622sq metres external footprint (without including first floor ancillary offices). The vehicular entrance is via Northumberland Close and there is a service yard for loading and unloading activities from the HGV lorries where 6 loading docks are planned. The proposed layout plan indicates that the unit would provide 40 car parking spaces (main and overspill parking areas) both of which are located near the western boundary. The maximum height of this structure is shown to be 15 metres.
- 3.5 Units 2 and 3 are located within the other building with an orientation towards the north (facing onto Bedfont Road) with a goods yard for larger vehicles located towards the west (towards the rear private gardens of the Clare Road residential properties.). The external footprint of the building containing the two units will be 1,833sq metres in total (26.575 metres by 68.95 metres) whilst the maximum height of the building will be 13 metres. The subject structure would provide 20 parking spaces (10 parking spaces allocated for each unit). The proposed plans show no allocated lorry parking spaces within the site, although clearly there is scope for lorries to park/load/unload within the designated goods yard.
- 3.6 The illustration below outlines the layout of the site and the location of Unit 1,2 and 3. Full copies of the proposed site layout and elevations are provided as an Appendix.



4 Consultations

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

Consultee	Comment
County Highway Authority	The County Highway Authority raises two objections in relation highways safety and insufficient car parking.
Environment Agency	No objections, refers to the standard advice.
Sustainability Officer	Originally raised concerns in regarding to the given renewable energy generation. After re-consultation, the Sustainability Officer is satisfied with amended information.
Local Lead Flood Authority (Surrey County Council)	No objections, recommends condition and informative.
County Archaeologist	No objection, recommends a condition.
National Highways	Has raised number of queries regarding the Transport Assessment and formally requested that the Council refrained from determining the application until further information is provided. After re-consultation, the National Highways has raised no objection to the proposal in terms of the impact to the strategic road network (SRN). A condition has been recommended for the submission of Construction Traffic

	Management Plan.
Heathrow Airport Safeguarding (CAA)	No objection, recommends informative
Natural England	No objection.
Surrey Wildlife Trust	Considers that insufficient ecological survey information has been provided on whether the proposal would likely to cause an adverse effect on the legally protected species. Insufficient information has also been provided to demonstrate a biodiversity net gain on the site.
Tree Officer	Has raised concerns on the limited level of new tree planting. Also comments that the use of green walls should be considered for softening the building.
Thames Water	No objection, recommends informatives.
National Grid	No objection.
Germans (Oil Pipelines)	No objection, recommends an informative to be added to any permission.
Environmental Health (noise)	Raises an objection regarding noise impact that the development would have on the nearby residential properties. No mitigations have been proposed.
Environmental Health (Contaminated land)	No objection, recommends conditions and informatives.
Environmental Health (Air Quality)	Raises an objection on air quality grounds due to increase in HGVs and other vehicles in relation to the proposed development and consequent impact this will have on the air quality in the area.
Crime Prevention Officer	No objection, recommends an informative.
London Borough of Hounslow	No objection.
London Borough of Hillingdon	No comments have been received.
British Pipeline Agency (BPA)	No comments have been received.
Environmental Health (lighting)	Raises an objection regarding of light intrusion to nearby residential properties from this development based on the information contained within the report.

5. Public Consultation

Planning Application - Consulting the Neighbours

- 5.1 Following receipt of the planning application, 79 properties were notified of the planning application. Furthermore, statutory site notices were displayed and the application was advertised in the local press. A total of 26 letters of representation were received objecting to the application.
- 5.2 The Council has also received a letter of objection from a planning consultant submitted on behalf of the Airport Industrial Property Unit Trust ('AIPUT') which owns the air cargo warehouse and logistics premises located to the east of Northumberland Close including Cargo Point and Dnata City. As part of the objection, a technical assessment of the highways impacts was submitted by a Transport Consultant raising a number of highway concerns.
- 5.3 Reasons for objecting include: -
- three similar proposals, two of which were previously refused
 - all previous reasons for refusal are still valid for this application
 - highway safety implications
 - increased volume of vehicular activity
 - there is already HGV pressure from the nearby industrial units
 - access and egress arrangement issues
 - lack of parking provision
 - increased stress within the on-street parking
 - proposed use
 - proposed hours of operation
 - health and wellbeing
 - noise and disturbance to the nearby residential properties
 - light pollution
 - overshadowing
 - over-bearing
 - enclosed feeling
 - loss of privacy
 - building size
 - loss of light
 - loss of view
 - impact on the public realm
 - air quality pollution
 - impact on the wildlife habitats within the land
 - this land should be proposed for housing
 - loss of Green Belt land
 - over-looking
 - already busy road
 - the proposal is closer to the residential properties than the previously proposed
 - there is demand for affordable housing
 - no very special circumstances have been demonstrated
 - design and location
 - visual impact

- inadequate local infrastructure
- nearby gas pipeline
- increased accidents
- effect on the enjoyment within the private gardens
- over-dominant
- health and safety
- increased density
- appearance
- flooding
- sustainability
- mass, bulk and height similar to the recently refused scheme
- misleading information as the site has been identified for potential allocation for residential scheme rather commercial use within the new Draft Local Plan

6. Planning Issues

- Green Belt
- Design and appearance
- Impact on neighbouring properties
- Highway issues/ parking
- Noise and disturbance
- Air Quality
- Flooding
- Biodiversity
- Renewable Energy
- External Lighting

7. Planning Considerations

Background

- 7.1 As referred above, similar proposals were refused planning permission in 2019 and 2015 for several reasons. In terms of the size of the development, separation distances and the nature of the use, the table (Table 1) below gives comparison between the three schemes:-

	2015 Refused Scheme	2019 Refused Scheme	Current Proposal
Footprint	6324sq metres	6921sq metres	7455sq metres
Floorspace (GIA)	7191sq metres	8241sq metres	8222sq metres
Maximum Height	10.4 metres	16.19 metres	Unit 1- 15 metres tall Unit 2 & 3- 13 metres tall
Height to the	8 metres	14 metres	Unit 1- 15 metres

eaves			(flat roof) Unit 2 & 3- 13 metres (flat roof)
Distance from building to boundary	Cleveland Park- 10 metres Clare Road- 14 metres	Cleveland Park- 17.9 metres from the Office structure, 4-7.5 metres from the proposed green wall Clare Road- 21 metres	Cleveland Park- Unit 2 and 3- 10.3 metres Unit 1- 2.8 metres Clare Road Units 1 & 2- 32 metres Unit 1- between 23 and 28 metres
Length	136.5 metres	165 metres	131.05 metres (with 2.7 metres separation with both buildings)
Use	B1- with facilities for alternative B8 use if required in the future	B8- cargo warehouse with ancillary B1 offices	Flexible Use Classes of B2 'Industrial and Manufacturing' and B8 'Storage and Distribution' with ancillary offices
Hours of Operation	12 hours a day from 7:30am	24/7 operation	24/7 operation
Proposed parking	84 car-parking spaces, 16 lorry bay parking spaces with 36 bicycle spaces	58 car-parking spaces, 50 bike spaces and 10 spaces designated for lorry parking bays	Overall- 60 car-parking and 32 cycle spaces (Unit 1- 40 car parking spaces and 16 cycle spaces Unit 2- 10 car parking spaces and 8 cycle spaces Unit 3- 10 car parking spaces and 8 cycle spaces)

Table 1: Comparison between the previously refused schemes and the current proposal

Green Belt

- 7.2 The site lies within the Green Belt. Section 13 of the NPPF sets out the Government's policy with regard to protecting Green Belt land. It states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The policy is similarly reflected in the Council's Saved Local Plan Policy GB1.
- 7.3 Paragraph 138 of the NPPF 2021 sets out the five purposes of the Green Belt:-
- To check the unrestricted sprawl of large built-up area;
 - To prevent neighbouring towns merging into one another;
 - To assist in safeguarding the countryside from encroachment;
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 7.4 The Council's Local Plan Policy GB1 was saved from the 2001 Local Plan and therefore pre-dates the current NPPF. However, in accordance with paragraph 219 of the NPPF, Policy GB1 is broadly consistent with the Green Belt policy within the NPPF and is afforded a significant weight. Policy GB1 does not allow for any development unless it is one of a number of acceptable uses set out in the policy and also maintains the openness of the Green Belt. This differs from the more recent and more up to date national policy which allows exceptions to this when the identified harm to the Green Belt is clearly outweighed by other considerations that constitute very special circumstances. The site is presently unallocated and is within the Green Belt in the adopted local plan, and therefore should be considered within this context. Indeed, s38(6) the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan (unless material considerations indicate otherwise) and not in accordance with an emerging plan, although emerging policies may be a material consideration.
- 7.5 With regards to the current and future extent of the Green Belt, paragraphs 140-141 of the NPPF stipulate that once Green Belt boundaries have been established they should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. As part of the preparation of a new Local Plan, Ove Arup & Partners Ltd (Arup) were appointed by Spelthorne Borough Council in 2017 to undertake a Stage 1 Green Belt Assessment (GBA) to assess and confirm whether the Spelthorne Green Belt meets the purposes as defined in the NPPF. The NPPF was revised in 2021 but the GBA is still considered relevant. The GBA does not, in itself, determine whether Green Belt land should be released or explore the potential suitability of areas of Green Belt for development, however, it does provide evidence of the performance of the Green Belt against the five purposes above and recommends areas that would warrant

further consideration by the Council as part of the process of preparing a new local plan.

- 7.6 The GBA identified two tiers of land parcels: Strategic Green Belt Areas ('Strategic Areas') and Local Green Belt Areas ('Local Areas'). The assessment divided Spelthorne into two strategic areas. The application site lies within 'Strategic Area B' which is described in paragraph 4.3.1 of the GBA as "a band of Green Belt maintaining separation between a number of settlements including Ashford / Sunbury-on-Thames / Stanwell, Staines-upon-Thames / Shepperton / Walton-on-Thames, and Chertsey, Addlestone, and Egham." In its conclusion (section 7), the assessment affirms that this area "plays an important role in meeting the fundamental aim of the Green Belt through preventing sprawl from settlements in Surrey by keeping land permanently open".
- 7.7 The GBA then divided the Green Belt into smaller parcels with defining features such as motorways, A and B roads, railway lines, rivers, brooks and reservoirs as their boundaries for the purpose of the assessment, however it is important to note that the Green Belt is often perceived as a much larger or continuous area. The application site is outlined in red and is situated within Local Area 5 shown in Figure 1.

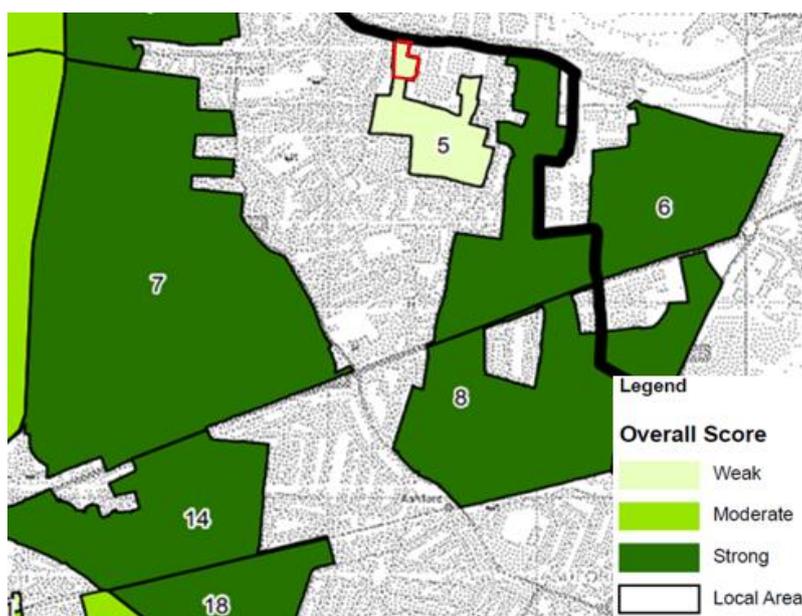


Figure 1: Extract from 'Map 5.5 Overall Assessment Scores' from Spelthorne Green Belt Assessment by ARUP (2018). Application site added in red.

- 7.8 In the assessment, Local Area 5 was identified as a weakly performing against the Green Belt purposes. The GBA does not on its own decide if a piece of land is to be retained or removed from the Green Belt, as this can only be done through the Local Plan process. The current programme for the new local plan anticipates that the adoption will in September 2023.
- 7.9 The NPPF policy states at para 48 that.....

Local planning authorities may give weight to relevant policies in emerging plans according to:

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

7.10 The Pre-Submission Local Plan Regulation 19 was submitted to the Planning Inspectorate on 25th November 2022. The date of the examination has not been set but is expected to be in the Spring 2023. The emerging policies are a material consideration in the determination of the application. The site is allocated for housing in this emerging plan. In terms of the proposed allocation of the site (for residential purposes, not classes B2 and B8 as proposed under this application), given the key objectives of the NPPF is to boost the supply of housing, it is considered that the emerging policy which allocates the site for housing is consistent with that part of the NPPF. The Council has received three representations in relation to this allocation. With reference to para 48 of the NPPF, the new local plan is not yet at an advanced stage of preparation (a), and there are unresolved objections (b). In view of this, it is concluded that in this particular case, the emerging policies can only be given limited weight in development management decision making. As a consequence, given the requirement under s 38(6) of the Planning and Compulsory Purchase Act 2004, it is considered that the adopted Green Belt status carries substantial weight in the determination of this application. Any application on Green Belt land must be assessed against national and local Green Belt policy including the five purposes of the Green Belt, and whether the development is appropriate or inappropriate within the Green Belt. This is considered in the paragraphs below.

7.11 It is relevant to note that the reason for the change in the Local Plan site allocation from employment to residential was because the Council no longer considered there was exceptional circumstances to exist or realise to meet development need for employment land with the previous Heathrow Airport expansion plans now paused. However, the Council does have exceptional circumstances for meeting housing needs in the Borough.

Inappropriate Development

7.12 The site is currently free of development and is laid with vegetation. The proposal involves the erection of two industrial/storage buildings, associated roadways, parking areas, service yards and other associated development. The proposed development would not fit into any of the limited 'exceptions' to inappropriate development listed in paragraphs 149 or 150 of the NPPF. The proposal therefore constitutes 'inappropriate development' in the Green Belt.

7.13 The NPPF states that *"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."* *"When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential*

harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."

Green Belt Openness

- 7.14 The NPPF 2021 still requires there to be an assessment of the impact on the openness of the Green Belt and the purposes of including land within it. The essential characteristics of Green Belt land is its openness and its permanence. These characteristics serve all five purposes of the Green Belt (defined in section 7.3 above) against which the proposed development will be assessed.
- 7.15 The courts have considered the correct approach to openness, notably in *Turner v SSCLG* [2016] EWCA Civ 466 and *R (on the application of Samuel Smith Old Brewery and others) v North Yorkshire County Council* [2020] UKSC3. The courts have made clear that openness is open-textured and a number of factors are capable of being relevant when it comes to the facts of a specific case. The matters relevant to openness in any particular case are a matter of planning judgment. Relevant factors may include both visual and spatial considerations. These are examined within the following paragraphs.
- 7.16 The existing site is free of development and is laid with trees and other vegetation. The proposed development will lead to almost all of the site being built upon creating a very substantial loss of openness which will result in spatial harm. Very little of the remaining site will be laid with landscaping. Unit 1 will measure 91 metres in width, 62 metres in length and up to 15 metres in height. It will extend across most of the width of the overall site. The building comprising Units 2 and 3 will measure 27 metres in width, 70 metres in depth and up to 13 metres in height. It will cover a large part of the northern area of the site. The proposed service yards, parking areas and roadways, together with the associated goods and vehicles using them will also cause a harmful loss of openness.
- 7.17 The loss of openness of the Green Belt in visual terms will also be very substantial. Viewed from Bedford Road, the northern boundary is currently lined with existing trees, hedging and a grass highway verge, and has a semi-rural appearance. The proposal will result in the removal of part of the existing vegetation and will replace the road frontage with the 13 metre-high building accommodating Units 2 and 3, together with the new access, parking area and service yard. All of these elements (plus the parked vehicles and goods) will be clearly visible from Bedford Road. Moreover, the site viewed from Northumberland Close and Cleveland Park is currently open laid with trees and other vegetation. Indeed, the boundary between the site and Cleveland Park has the appearance of being at the edge of the urban area with the application site having a contrasting semi-rural appearance. Replacing this open appearance with the proposed buildings situated close the boundaries of the site and rising up to 15 metres in height, will result in a very substantial loss of openness visually. The service yard and other associated development serving Unit 1 will also be situated close to Northumberland Close and will be visually harmful to the openness of the Green Belt.

- 7.18 Taking into account the amount of development proposed, it is considered that the existing openness of the Green Belt will be very substantially harmed both visually and spatially. The essential character of the Green Belt is its openness. The development of the site as proposed will fundamentally change the characteristics of this site away from open to intensely developed. The loss of openness weighs heavily against the merits of the scheme. This is in addition to the substantial harm caused by the inappropriateness of the development.

Assessment of Harm

- 7.19 As quoted above, paragraph 138 of the NPPF sets out that the Green Belt serves five purposes against which proposed development within the Green Belt should be assessed.
- 7.20 The proposed development is considered to create unrestricted urban sprawl conflicting with the first of the five purposes set out in paragraph 138 of the NPPF. The site is at the edge of the large built-up area of Ashford/Sunbury/Stanwell. There is currently a clear boundary between the residential area of Stanwell marked by the end of the rear gardens of the dwellings in Clare Road, and the existing industrial area to the south and east of the application site. Whilst it is recognised that the site is largely enclosed by existing built development and has very limited connections to the wider Green Belt, the proposed development will erode this boundary and create urban sprawl.
- 7.21 Moreover, the proposed development will be erected on land currently free of development and is considered to cause encroachment into the countryside. Whilst the site is largely surrounded by built form and is not clearly connected to the wider countryside, when viewed from the urban area edges of Clare Road and Cleveland Park the site does have a semi-rural appearance and the proposed development will lead to encroachment of the countryside. It therefore fails to comply with the third of the five purposes of the Green Belt ('to assist in safeguarding the countryside from encroachment').
- 7.22 The NPPF states the inappropriate development should not be approved except in 'very special circumstances', which would not exist unless the potential harm to the Green Belt and any other harm is clearly outweighed by other considerations. The applicant has put forward some considerations in their Planning Statement, which they consider justifies the development in the Green Belt. These considerations are summarised towards the end of this report under the Section 'Other Considerations'.

Design and appearance

- 7.23 Policy EN1 of the Core Strategy and Policies Development Plan Document (CS&P DPD) states that the Council will require a high standard of design and layout of new development. Proposals for new development should demonstrate that they will create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines

layout, materials and other characteristics of adjoining buildings and land and achieving a satisfactory relationship to adjoining properties.

7.24 Section 12 of the NPPF: Achieving well-designed places, refers to design and in particular that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

7.25 It states in paragraph 130 that:

'Planning policies and decisions should ensure that developments:-

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

7.26 *Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.*

7.27 The surrounding area comprises a mixture of building types including residential two storey buildings (to the north-east and west of the site), existing industrial units along Northumberland Close containing buildings of varying heights. The proposal would have a similar appearance in terms of scale and style in terms of external materials and design to the nearest existing industrial units located within Northumberland Close. Furthermore, the proposed appearance is of typical industrial buildings. However, it is relevant to note that the existing warehouse development is well set back from the highway which gives a degree of open separation between the main

buildings and the boundaries. Furthermore, they are fronted with trees which gives more sense of place. The proposed plans indicate that the two buildings would extend beyond the building line of the nearby residential properties' rear elevations of Cleveland Park to the north and east. Given the proposed height and size, the development would appear as noticeably dominant and overbearing when viewed in the context from the street scene of Northumberland Close and Bedford Road in each direction. The close proximity to the northern and eastern boundaries would not pay regard to the degree of spaciousness between and around the nearby buildings. Furthermore, due to the minimal separation between the proposed two buildings the development would have the appearance as one continuance structure extending along the site from north to south (131.05 metres long). Although some space for landscaping is proposed, it would not be extensive around the site. As a result, when seen from the Bedford Road and Northumberland Close, the proposal would appear as dominant. It is also relevant to note the Council's Tree Officer raised concerns on the level of planting area adjacent with Cleveland Park and to the level of new tree planting along the western boundary.

- 7.28 Moreover, paragraph 174(b) of the NPPF explains that planning policies and decision should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The existing site is open and undeveloped which has a semi-rural character comprising trees and hedging along the Bedford frontage. Within the site the grassland and other vegetation has a pleasant character. Replacing this land with the proposed development will result in the loss of this part of the countryside.
- 7.29 Whilst it has been noted that the Council did not object on design and appearance within the previously refused scheme, the current layout however is materially different and has substantially worse impact on the character and appearance within the surrounding area. The proposed building back in 2019 was set in from each boundary, in particular in relation to Bedford Road and Northumberland Close.
- 7.30 For the reasons state above, it is considered that the proposal would unacceptably harm the character and appearance of the area and would be detrimental when viewed from the street scene not paying regards to the building pattern and would appear as unduly dominant and conspicuous in views from Northumberland Close and Bedford Road. This conflicts with the objectives of Policy EN1 of the CS&P DPD (2009) and the NPPF.

Impact on neighbouring residential properties

- 7.31 Policy EN1b of the Core Strategy and Policies DPD 2009 (CS & P DPD) states that:

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

- 7.32 The Council's Supplementary Planning Document on the Design of Residential Extensions and New Residential Development 2011 (SPD) provides further details for the policies of the CS & P DPD. Whilst the SPD relates to residential development and is not directly relevant to new commercial developments, it does provide useful guidance regarding impact of new buildings and their relationship with neighbouring dwellings. For example, the minimum recommended SPD separation distance for 3-storey development is 15 metres (back to boundary) and 30 metres (back to back).
- 7.33 One of the reasons the previous scheme (19/00956/FUL) was refused was:
"The proposed development in terms of its design, scale and location is considered to have a harmful overbearing impact on the amenity of neighbouring residential properties, contrary to Policy EN1 of the Core Strategy and Policies DPD 2009."
- 7.34 It was considered that the previous scheme would have an unacceptable overbearing impact on the existing residential properties in Clare Road that back onto the site. The continuous mass of the 164 metre long western elevation of the new building would be visually obtrusive and dominating when viewed from these adjacent properties. Moreover, in relation to Cleveland Park, the previous proposal was considered to result in an extensive mass of building form which would create an overbearing and detrimental impact on the occupiers of the neighbouring properties.
- 7.35 With regard to the current proposal, both of the new buildings will be situated further away from the western boundary, and the existing residential properties in Clare Road, compared to the refused scheme. The western side elevation of Unit 1 will be 15m in height, but set back from the rear boundaries of the neighbouring properties by between 23m and 28m. The separation distances between the proposed western elevation and the rear 2-storey elevation of 200 – 218 Clare Road will vary between 45m – 49m. With regard to Unit 2, the proposed western elevation will be 13m in height and set back from the rear boundaries of 220 & 222 Clare Road by between 32m - 33m. The gap between the proposed western elevation and the rear elevation of the neighbouring properties is approximately 51m. It is considered that the proposed buildings are set back sufficiently far away from the western boundary so as not to have an unacceptable overbearing impact on the neighbouring residential properties in Clare Road.
- 7.36 However, with regard to the proposed service yard and parking area serving Units 2 and 3, this is located much closer to the western boundary. At its closest point the service yard is only 8.5m away from the rear boundary of 222 Clare Road. Bearing in mind the yard's proximity and that the development will be operating on a 24-hour basis, it is considered that noise and general disturbance associated with this particular element of the scheme will have an unacceptably harmful impact on the amenity of the neighbouring properties in Clare Road. It is considered that the impact of the service yard and parking area of Unit 1 will be harmful to neighbouring properties. The issue of noise and disturbance is covered in more detail in the Noise section below.
- 7.37 With regard to Cleveland Park, the proposed northern rear elevation of Unit 1 will be located next to the southern boundary of the neighbouring residential

development. Unit 1 will be set-in from the boundary by only 2.5m – 4m and will be 15m in height. It is acknowledged that the area of Cleveland Park located closest to Unit 1 comprises the parking area and access road, with the existing houses situated further to the north. However, given the sheer scale of the proposed northern elevation and its proximity to the boundary, it is considered that the proposal will have an unacceptable overbearing and overshadowing impact on the amenity of the neighbouring properties and the setting of the residential estate. With regard to Units 2 and 3, this building will be set-in from the existing western boundary of Cleveland Park by 10.15m – 12m. A landscape buffer strip will be provided between the rear elevation of Units 2 and 3 and the boundary. The proposed height of the rear elevation will be 13m. Whilst the proposed set-back distance (and height) and its consequent impact on Cleveland Park will be less harmful compared to Unit 1, the combined effect of all 3 units on the amenity of Cleveland Park will be extremely harmful. Almost the entire southern and western boundaries of the residential development will be enclosed by the high, expansive and bulky buildings, creating an unacceptable overbearing and overshadowing effect. The proposal will therefore fail to comply with the requirements of Policy EN1b of the CS & P DPD.

Noise and disturbance

- 7.38 Policy EN11 of the CS & P DPD states that the Council will seek to minimise the adverse impact of noise by requiring developments that generate unacceptable noise levels to include measures to reduce noise to an acceptable level.
- 7.39 Whilst the current applicant has stated that the future occupiers of the new units is not known at this stage, the development will operate 24 hours a day, 7 days a week. Consequently, any noise emitting from the units, together with associated traffic movements, will occur throughout the night, as well as during the day. As mentioned above, the site is adjoined by existing residential properties to the west in Clare Road, and to the north-east in Cleveland Park. There is also a school located further to the south (Stanwell Fields), although this does not directly adjoin the application site.
- 7.40 It is relevant to note that the previous planning application (19/00956/FUL) was refused on noise grounds in relation to neighbouring residential properties. The noise and disturbance associated with the use of the service yard and parking areas was considered to be unacceptable. This was considered to not only emit noise from traffic movements, but also additional types of noise such as operatives slamming doors, vehicles reversing alarms, and banging noise associated with warehouse work. Although the applicant proposed high acoustic fencing to be installed along the boundaries as a mitigation measure, this was not considered an acceptable solution and would not be sufficient to reduce noise to acceptable levels.
- 7.41 The current applicant has submitted a noise assessment. The noise assessment states that the main issues of noise associated with the operation of the development are traffic noise (i.e., vehicle movements and operations on-site, in particular HGV movements) and fixed plant noise. It also considers the noise impact during the construction phase. The noise assessment

concludes that the proposed predicted receptor operational noise levels are considerably lower than existing ambient noise levels (traffic and airport noise). The report advises that criteria for good living and resting conditions, as defined by BS8233, is predicted to be met at all receptor locations with windows closed. Also, acceptable levels of fixed plant noise can be achieved on the site and can be controlled through the imposition of planning conditions. No noise mitigation measures are considered necessary.

- 7.42 The Council's Environmental Health Officer was consulted on the planning application and has responded by raising an objection on noise grounds. She has recommended that the application is refused for this reason. She considers the submitted noise assessment to be inadequate. It lacks sufficient information and does not give a true consideration of noise impacts in relation to neighbouring properties. For example, the existing noise monitoring in the area undertaken to understand the existing background noise levels was carried out at only one monitoring point, which is very close to existing commercial/industrial units to the east and south of the site, and further away from Clare Road. It is not considered this is representative of existing background noise levels in Clare Road where it would be expected to be lower. In addition to plant noise, other operational noise such as slamming of doors, the clattering of shutters and the reversing of vehicle alarms are likely to cause disturbance to nearby residents, particularly those in Clare Road. Moreover, the BS8233 assessment concludes that although noise limits are exceeded with windows open at nearest noise sensitive receptors, windows would be closed for the majority of the year. It is not considered that this is a reasonable assumption. Residents and the nearby school should be able to have windows open without being unreasonably disturbed by noise from the development. The Environmental Health Officer also makes a number of other concerns regarding the inadequate noise assessment.
- 7.43 Taking into account the lack of information provided in the submitted noise assessment, the comments made by the Environmental Health Officer, and the proximity of the site to neighbouring residential properties and the nearby school, it is considered that the noise and general disturbance created by the proposed development will have a harmful impact on the neighbouring properties, contrary to Policy EN11 of the CS & P DPD.

Transportation issues

- 7.44 Policy CC2 of the CS&P DPD states that the Council will seek to secure more sustainable travel patterns by only permitting traffic generating development where it is or can be made compatible with the transport infrastructure in the area taking into account:
- (i) number and nature of additional traffic movements, including servicing needs;
 - (ii) capacity of the local transport network;
 - (iii) cumulative impact including other proposed development;
 - (iv) access and egress to the public highway; and
 - (v) highway safety

- 7.45 Paragraph 111 of the NPPF states that ‘Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’
- 7.46 It is relevant to note that the previous application (19/00956/FUL) for a new warehousing and distribution/logistics (B8) building with associated offices was partly refused on highway safety and parking grounds. In particular, the access from the site onto Northumberland Close was not considered suitable to accommodate the volume of HGV’s that the development would generate. Moreover, the applicant had failed to demonstrate to the satisfaction of the Local Planning Authority that the level of car parking proposed was adequate to accommodate the demand generated by the proposal, which had the potential to result in parking taking place on the adjacent highway.
- 7.47 With regard to the current scheme, it is proposed that two separate accesses will be created. Unit 1 will be accessed from Northumberland Close, via the existing access that currently leads to the Thames Water site to the south of the application site. Unit 1 will have a parking area comprising 40 car parking spaces. There will also be a large goods yards in front of the building. Units 2 and 3 will be accessed from Bedfont Road in the north-western corner of the site. Each unit will have a small car park with 10 spaces. There will also be a goods yard located at the front of the buildings. Overall, there will be a total of 60 car parking spaces provided on the site. There will also be 32 cycle parking spaces.
- 7.48 The County Highway Authority (CHA) was consulted on the planning application and has raised an objection on highway safety grounds in relation to the proposed access being created onto Bedfont Road. The CHA has made the following comments on this issue in their consultation response:

“Bedfont Road (C238) is subject to a 40mph posted speed limit. In accordance with Design Manual for Roads and Bridges, the visibility requirements for a road such as this are 120 metres in either direction, measured from a 2.4 metre setback from the edge of carriageway to the nearside edge of the carriageway.

Following a request for demonstration of visibility splays from the new site access off Bedfont Road, the Applicant has depicted 2.4 metre x 43 metres visibility splays in accordance with Manual for Streets {MfS} guidance for a 30mph posted speed limit.

The CHA is of the view that the standards that the Applicant has used would not be suitable for a road such as Bedfont Road which experiences a high proportion of heavy goods vehicle traffic and serves as a feeder road primarily for large industrial sites. The guidance set out in Manual for Streets is applicable to “lightly-trafficked residential streets” and other streets where the street has a significant “place” function, such as high streets. It is widely considered that on roads with speeds over 37mph, which the CHA believes Bedfont Road regularly experiences based on observation during site visits, that MfS is not applicable. However, no data has been provided to demonstrate that existing vehicle speeds in the vicinity of the proposed

access are below this, and therefore the application must be assessed on the assumption that vehicle travel at the posted 40mph speed limit.

The Applicant has suggested that the 30mph speed limit, which starts to the west of the proposed access, could be extended eastwards on Bedfont Road to an unspecified point along the site frontage and be accompanied by speed calming features. However, details have not been provided as to what features might be used or where they would be located. As a result, it is not possible to reliably assess whether the proposed access onto Bedfont Road would be acceptable under a 30mph speed condition.”

- 7.49 Therefore, the County Highway Authority has recommended refusal on the ground that, if permitted, the proposed development would lead to the introduction of a new access to Bedfont Road where it has not been suitably demonstrated that there is sufficient visibility for vehicular traffic in both the leading and trailing directions. This would have unacceptable impact on highway safety contrary to the National Planning Policy Framework 2021 and Policy CC2 of Spelthorne Borough Council’s Core Strategy and Policies Development Plan Document February 2009.
- 7.50 In view of this, and given the policy in the NPPF, the application is recommended for refusal for this reason.
- 7.51 In terms of parking provision, Policy CC3 of the CS & P DPD states that the Council will require appropriate parking provision to be made for off-street parking in development proposals in accordance with its maximum parking standards.
- 7.52 The Spelthorne Council’s Parking Standards date from an original document from 2001 and pre-date the first NPPF which was published in 2012. However, it is considered that they are still relevant and some weight should be given to them in the decision making process. The Surrey County Council Parking Guidance is more recent (2021) and is applied Surrey-wide. Given the date of the publication and that is consistent with the NPPF 2021, it is considered that significant weight should be given to it.
- 7.53 The applicant is seeking a flexible use for all three units, either Use Class B2 (Industrial) or B8 (Storage or Distribution). These two Use Classes can generate different levels of demand for car parking, with different parking standards as a result. Spelthorne Borough Council’s Parking Standards recommend for Use Class B2 (Industrial) that 1 car space per 35 sq. m. of floor space. With regard to Use Class B8, Spelthorne’s Parking Standards stipulate 1 car space per 100 sq. m. Surrey’s Parking standards recommended between 1 space per 100 sq. m. (storage only) and 1 space per 70 sq. m. (distribution only). The following table sets out the different maximum parking standards on the type of flexible use. It also shows the proposed shortfalls.

	<u>Proposal</u>	<u>CHA</u>		<u>SBC</u>	
	B2/B8	B2	B8	B2	B8
Unit 1	40	208	63 – 89	179	63
Unit 2	10	38	11 – 16	33	12
Unit 3	10	38	11 – 16	33	12
Total	60	284	85 – 121	245	87
Shortfall		224	25 - 61	185	27

- 7.54 Whilst the above Parking Standards allow for reduced provision of car parking where there are good options for sustainable travel, it is considered that the options for sustainable travel in this particular location are limited and are insufficient to justify such a significant shortfall against these Parking Standards. The closest railway station (Heathrow Terminal 4 Underground) is over 2 kilometres away. Bus stops on Clare Road provide the only meaningful option for sustainable travel to the site. However, the CHA has considered estimated journey times from a range of local and regional destinations and it appears public transport journeys that require connections are likely to take significantly longer than car journeys. As a result, it is most likely employees with access to a vehicle would opt to drive to work. The proposed cycle parking facilities on the site meet the cycle parking standards for a scheme of this size. However, the CHA notes that cycle infrastructure in the vicinity of the site is poor and would not encourage employees to cycle to work.
- 7.55 The impact of a significant shortfall of parking has been assessed by the CHA. Parking restrictions are in place on Northumberland Close and Bedfont Road, which may discourage parking in locations that could cause a highway safety concern. However, there is some unrestricted on-street parking along Clare Road and a small part of Northumberland Close which would attract overflow parking. In any case, these locations are already well used by others for parking, and spaces may not be available. The result of this would be that employees and visitors to the site would be likely to opt to park on Northumberland Close and Bedfont Road, contrary to the existing parking restrictions and prejudicial to the safety and free-flow of traffic on the highway. In addition, it is further considered that the lack of sufficient parking space on site would encourage employees and visitors to park in Cleveland Park which is a car park solely used by the residents. Moreover, employees and visitors are likely to park along Clare Road and other nearby roads which would likely add to the strong competition for parking spaces. This would create parking stress for local residents. The application is therefore unacceptable on parking grounds and is recommended for refusal for this reason.

Flooding

- 7.56 Policy LO1 of the Core Strategy and Policies Development Plan Document (CS&P DPD) seeks to reduce flood risk and its adverse effects on people and property. The NPPF states that Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

- 7.57 As already highlighted above, the application site is located within the Flood Zone 1 which represents land having a low probability of river flooding with less than 1 in 1000 risk (0.1%). The applicant has submitted a Flood Risk Assessment which considered other flood risks as low and concluded the overall floor risk to be low on this site. The Environment Agency, Thames Water and the Lead Local Flood Authority (Surrey County Council) were consulted on the proposal and raised no objection, subject to conditions and informatives.
- 7.58 The proposal is therefore considered to have no material impact on flood risk and to be compliant with Policy LO1 of the CS&P DPD.

Renewable Energy

- 7.59 Policy CC1 of the Core Strategy and Policies Development Plan Document (CS&P DPD) states that the Council will require residential development of one or more dwellings and other development involving new building or extensions exceeding 100 sqm to include measures to provide at least 10% of the development's energy demand from on-site renewable energy sources, unless it can be shown that it would seriously threaten the viability of the development.
- 7.60 The applicant has submitted an energy report which states that various energy measures will be incorporated into the design of the scheme. Following the proposed amendments within the revised Energy and Sustainability Statement, the proposed energy strategy considers the use of Air Source Heat Pumps and Photovoltaic solar panels being utilised, which provides 17.57% of the energy demand of the development. The Council's Sustainability Officer was consulted and is satisfied that the renewable energy requirement (10%) will be met. This can be secured by a condition.

Ecology

- 7.61 The National Planning Policy Framework (NPPF) 2021 at paragraph 174 seeks to ensure that both planning policies and decisions contribute to and enhance the natural and local environment. Furthermore, the same documents states that *"if significant harm to biodiversity 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"*.
- 7.62 Policy EN8 of the Core Strategy and Policies Development Plan Document (CS&P DPD) states that the Council will seek to protect and improve the landscape and biodiversity of the Borough by ensuring that new development, wherever possible, contributes to an improvement in the landscape and biodiversity and also avoids harm to features of significance in the landscape or of nature conservation interest. It is also important to note the guidance regarding protected species in Circular 06/2005. This states that *"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*

the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

- 7.63 The area of land on which the proposal with the associated hardstanding is to be built is currently undeveloped land (free of development) which is predominately covered with overgrown grass with trees and shrubs around.
- 7.64 The proposed development site falls within the Impact Risk Zone (IRZ) for Staines Moor SSSI and South West London waterbodies SPA and Ramsar sites. The IRZ for this protected site states "Large infrastructure such as warehousing / industry where total net additional gross internal floorspace following development is 1,000m² or more" may impact on the special interest of the protected site(s). Natural England was consulted and raised no objection to the proposal.
- 7.65 Surrey Wildlife Trust (SWT) was consulted to provide a technical review of ecological information that has been submitted to ensure that all ecological aspects have been appropriately considered prior to determination or discharging conditions. After reviewing the supporting information, serious concerns were raised over the proposal and in relation to the ecology.
- 7.66 The SWT noted that the submitted Ecological Appraisal report identifies the presence of mammal runs and habitat suitable for badgers within the development site. It was however noted that the report does not confirm likely absence of active setts due to dense impenetrable vegetation. Disturbance or closure of active badger setts without appropriate derogation licensing would be contrary to the legislation. The SWT considers that the report is unclear on the extent of impacts and whether setts are present, affected, active or disused. Impact avoidance, mitigation and compensation measures cannot therefore demonstrate that adverse impacts on this protected species will not occur. The proposed mitigation is to undertake careful and ecologically supervised clearance of vegetation with licensing if badger setts are found. However, other methods to establish presence or likely absence of badgers (such as a site survey during winter when vegetation may be lower or camera trap surveys on mammal runs) do not appear to have been considered. The SWT has therefore advised that on the basis of the currently submitted information, the LPA does not have sufficient information that demonstrates the badger will not be harmed by the proposed development, both through direct loss of a potentially active sett and loss of associated foraging areas. The LPA does not currently have sufficient information to ensure that the development as proposed will not be contrary to the statutory objectives of the Badgers Act 1992 and the Wildlife and Countryside Act 1981.
- 7.67 In relation to bats, the Surrey Wildlife Trust acknowledged that the proposed development appears to affect habitats that provide suitable roosting, foraging and commuting habitat for bats. Suitable habitat for bats existing locally and bat records indicate local presence. The SWT noted, therefore, a reasonable likelihood of bats being present and adversely affected by the proposed development. The submitted ecological appraisal states that two crack willows have potential bat roosting features and other trees may also support such features and 'the site will need to be re-visited with appropriate equipment to access the trees on site'. The submitted Illustrative Masterplan

(DLA.2104.L.07.P03) indicates that construction activity to facilitate the proposed development would remove a number of individual trees (including the crack willows) and groups of trees. These trees do not appear to have been subject to detailed bat roost potential evaluation. The SWT has advised that it is therefore not possible to determine whether or not bat roosts could be lost or disturbed through the loss or damage to these trees. The Ecological Appraisal also notes that the site 'forms part of a green corridor linking habitats to the south with the two rivers north of the site and so may be of importance to foraging and commuting bats' and therefore, further bat activity surveys are recommended. The applicant has not submitted these further activity surveys and therefore there is insufficient supporting information to determine the importance of the site for bats.

- 7.68 The site is proposed to be operational 24 hours a day and the impact of lighting associated with this usage will need to be considered in line with the findings of the bat activity survey. The Ecological Appraisal states that 'A specific lighting strategy will be dependent on the results of the further bat activity surveys' which has not been provided at this stage.
- 7.69 In line with the legislation and planning policy and guidance, the SWT advises that the LPA has a duty to consider impacts to bats when assessing applications and due to the lack of surveys the LPA does not have sufficient information on which to base a decision under Regulation 55(9)(b). The LPA cannot be sure that the applicant will be able to maintain the population at favourable condition status as the importance of the proposed development site for bats is not known and therefore appropriate avoidance, mitigation and compensation measures cannot be determined.
- 7.70 The submitted Ecological Appraisal suggests that the site provides good foraging and nesting opportunities for birds within the trees, woodland and dense scrub, with the grassland on site providing foraging opportunities for common species. The report states that the loss of nesting and foraging habitat will be significant. Furthermore, the Bird Hazard Management Plan states that the proposed development will be likely to reduce the existing bird population significantly. The Surrey Wildlife Trust has advised that the submitted information is unclear why no further bird surveys are recommended given the quality of the habitat and the extent/magnitude of the impact. The presence/likely absence of birds, the conservation status of bird species present (to include priority species) and the number of bird territories that will be lost is currently unknown.
- 7.71 In regard to biodiversity net gain, the Surrey Wildlife Trust acknowledged that the proposed development will result in a net loss of biodiversity (A loss of -12.23 biodiversity units (89.75% loss) and a gain of +1.15 hedgerow units). It has been advised that the documentation submitted by the applicant does not clearly demonstrate that the proposed development will result in a measurable net gain.
- 7.72 It is relevant to note that the previous planning application was not refused on biodiversity grounds as the submitted information at the time was considered acceptable as it demonstrated that there were no protected species within the site and that no further ecological surveys were required. Surrey Wildlife Trust

was satisfied with the submitted information. However, the ecological surveys within the previous application are now more than two years old. Government guidance states that “surveys should be up to date and ideally from the most recent survey season.” The National Planning Policy Framework (2021) also states that “The right information is crucial to good decision making, particularly where formal assessments are required.” Therefore, it does not constitute up to date information.

- 7.73 Consequently, the proposal is considered unacceptable on ecological grounds, contrary to Policy EN8, Circular 06/2005 and the NPPF.

Air Quality

- 7.74 Policy EN3 of the CS & P DPD states that the Council will seek to improve the air quality of the Borough and minimise harm from poor air quality by refusing development where the adverse effects on air quality are of a significant scale, either individually or in combination of other proposals, and which are not outweighed by other considerations or effects and cannot be appropriately and effectively mitigated.
- 7.75 The applicant has submitted an Air Quality Assessment (AQA) which has been considered by the Council’s Environmental Health Officer. However, she rejected this particular AQA because it contains number of errors and insufficient information justifying that the proposal would be acceptable on air quality grounds.
- 7.76 The application is for industrial and storage buildings which will be accessed by HGVs and vans, the technology for low emission HGVs is not well established and for vans there are few long wheelbase models that are electric. The AQA acknowledges that HGVs are likely to remain diesel powered for the foreseeable future. The Council’s Pollution Control Officer raised concerns that no mitigation is recommended in the assessment and that the development could worsen the risk of exceedance at sensitive receptors. Therefore, Council’s Pollution Control Officer recommends a refusal on the grounds of potential air quality impacts.
- 7.77 It is noted that the Council’s Environmental Health Department removed their original objection within the previous planning application (ref. 19/00956/FUL). However, the air quality assessments have been carried out over different assessment years with different traffic data and by different consultants.
- 7.78 In a view of inadequate AQA and the comments from the Council’s Pollution Control Officer, it is recommended that the planning application is refused on air quality grounds.

Lighting

- 7.79 Policy EN13 seeks minimise the adverse impact of light pollution on the environment and ensure that lighting proposals do not adversely affect amenity or public safety.

- 7.80 The applicant states that the proposed will operate 24 hours a day, 7 days a week. The scheme will involve the installation of external lighting around the site in the form of various lamps on columns and lights to be installed on the external elevations of the buildings. The service yards and parking areas will be lit by lamps on 6 metre or 8 metres high columns.
- 7.81 The applicant has submitted an External Lighting Assessment, which assesses the impact of the proposed external lighting on the surrounding area and neighbouring properties. The Assessment concludes that the scheme meets the minimum levels for security and working purposes while also meeting acceptable requirements in relation to the surrounding area.
- 7.82 The Council's Environmental Health Officer was consulted on the submitted Assessment. She has raised an objection due to concerns about the risk of light intrusion to nearby residents from the development based on the information contained within the Assessment. She has made the following comments:
- The Assessment refers to the site being classed as an 'E3 Environment Zone' (medium district brightness areas, such as industrial or residential estates). The criteria referred to in the conclusion of the Assessment states that this will be met. However, it seems to be based on the permitted levels for an 'E4 Environmental Zone' (high district brightness areas, such as town centres and commercial areas).
 - The Assessment states that the 'light trespass' at the site has not been calculated. It is therefore not understood how it can be confirmed as being below the maximum permitted level of light intrusion for an 'E3 Environmental Zone'.
 - There is no reference in the report to the curfew time. In the absence of this information, it is assumed to mean 23:00hrs. There is a note at the bottom of the Assessment Summary Matrix in the report that states an assumption that no luminaires will be left on post-curfew. There is no information about the proposed operational times of the development and given the intended use as industrial and storage buildings, it might be unreasonable to assume that there will be no use that will require external lighting beyond this curfew time. [*Officer note: the applicant has confirmed that the development will operate 24 hours a day*].
 - The plan submitted with the Assessment indicates that there might be some light spill to the residential properties closest to the development in Clare Road.
 - The loss of the existing green space that serves as a buffer between Clare Road and the existing commercial/industrial units to the East and South of the proposed development has not been acknowledged in the report. It would also mean that Cleveland Park would effectively become surrounded by industrial/commercial units on 3 sides and a busy road on the 4th, all of which would be sources of light.

- 7.83 Whilst the Council did not refuse the previous planning application (19/00956/FUL) on lighting grounds (the Council's Environmental Health Officer did not object to the previous application on lighting grounds), this current proposal is different. Unlike the current application, there was no service yard and access provided off Bedfont Road, adjacent to the houses in Clare Road. The
- 7.84 Taking into account the comments from the Environmental Health Officer, it is considered that the proposed external lighting will have an unacceptable impact on the amenity of the neighbouring residential properties, contrary to the requirements of Policy EN13 of the CS & P DPD. This is in addition to the harm from the noise and general disturbance created by the development.

Other Considerations

- 7.85 The applicant has put forward some considerations in their Planning Statement in support of their scheme in the Green Belt. The considerations are summarised below with a response to the points from the Local Planning Authority: -
1. Redevelopment of the site will support local and regional employment growth and high levels of floorspace demand in the logistics sector. It will contribute towards building a strong, responsive and competitive economy.

Response

- 7.86 It is noted that the proposed development will bring significant economic benefits. Although the proposed occupier is not known, the applicant has indicated in their Planning Statement that the development will create up to 228 jobs when it is in operation. It is considered that limited weight should be given in favour of this particular consideration.
2. The proposed development supports the broader role and function of Heathrow Airport (as the UK's only uses in close proximity in an area with incredibly constrained supply).

Response

- 7.87 It is recognised that this type of development is likely to operate in connection with nearby Heathrow Airport, in a similar manner to the adjacent commercial uses on the other side of Northumberland Close (i.e. air freight warehousing and distribution). However, it is noted that the applicant is seeking permission for a flexible use that also includes Use Class B2 (General Industry). This is a general statement provided by the applicant. No evidence has been provided to demonstrate why a new airport related commercial development of this size and layout is required on this particular site. Likewise, no evidence has been provided to show the existing capacity constraints at Heathrow, nor has information been provided of existing vacancy levels in similar warehouse development around the airport. It is considered that limited weight in favour of the development should be given to this particular consideration.

3. The proposal represents the efficient use of an infill site that can be developed without harm to Green Belt principles, adjacent to existing industrial operations and in a sustainable location, as supported by national policy.

Response

- 7.88 The proposal is not considered to be an efficient use of an infill site. It constitutes inappropriate development in the Green Belt and will cause a very substantial loss of openness for the reasons given above. The site adjoins existing residential properties to the west in Clare Road and to the north-east in Cleveland Park. As mentioned above, the proposal is considered to cause unacceptable harm to the amenity of neighbouring residential properties. This particular consideration has no weight in favour of the scheme.

4. The level of harm to the Green Belt caused by the loss of the site would be minimal as it does not serve any of the five Green Belt purposes defined by the NPPF.

Response

- 7.89 It is noted that the site together with the wider Green Belt area in this part of Stanwell has been considered to be 'performing weakly' in the Council's Green Belt Assessment Stage 1 (2018). The purpose of the Green Belt Assessment was to provide evidence of how different areas perform against the Green Belt purposes set out in paragraph 138 of the NPPF. This evidence was taken into account by the Council alongside other evidence in preparing the new Local Plan. Whilst the site is proposed in the emerging Local Plan to be taken out of the Green Belt and allocated for housing, at this stage the emerging plan has limited weight, the site is designated as Green Belt, and the proposal must be assessed on this basis. As mentioned above, the proposal constitutes inappropriate development, it will cause a very substantial loss of openness, and conflicts with the purposes of the Green Belt set out in the NPPF. This consideration has no weight in favour of the scheme.

5. Spelthorne Borough Council has identified the site as a preferred option for Green Belt releases to meet an identified need for commercial floorspace which has only increased since the evidence base was published.

Response

- 7.90 The site is not proposed to be allocated for commercial purposes in the emerging Local Plan. Rather, it is identified in the Pre-submission Local Plan, submitted to the Planning Inspectorate on 25 November 2022,) as a site to be allocated for residential (C3): approximately 80 units (Site ID: SNI/005) as mentioned above Heathrow Airport expansion plans have been put on hold

and the Council did not consider there was exceptional circumstances to allocate this site for commercial purposes. Consequently, this consideration has no weight in favour of the proposal.

Equalities Act 2010

- 7.91 This planning application has been considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.92 The question in every case is whether the decision maker has in substance had due regard to the relevant statutory need, to see whether the duty has been performed.
- 7.93 The Council's obligation is to have due regard to the need to achieve these goals in making its decisions. Due regard means to have such regard as is appropriate in all the circumstances.
- 7.94 The development has been designed so that it is accessible for disabled people. There will be 8 no. disabled parking spaces provided on the site and these will be located close to the building entrances. The applicant states that the main entrance doors will meet all current Building Regulations Part M requirements.
- 7.95 The NPPF defines people with disabilities as individuals that have a physical or mental impairment, which has a substantial and long-term adverse effects on their ability to carry out normal day-to-day activities. This can include but is not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs. It is considered that it would be possible for individuals with disabilities to access the development.

Human Rights Act 1998

- 7.96 This planning application has been considered against the provisions of the Human Rights Act 1998.
- 7.97 Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.
- 7.98 Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, i.e. peaceful enjoyment of

one's possessions which could include a person's home, and other land and business assets.

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

Conclusion

- 7.100 The development constitutes inappropriate development in the Green Belt and this, in itself, weighs heavily against the merits of the scheme. The development will result in a very significant reduction in the openness of the Green Belt and this adds substantial weight against the proposal. Furthermore, the development conflicts with two of the five purposes of Green Belts in paragraph 138 of the NPPF, which adds substantial weight against the merits of the scheme. The development will cause additional harm to the character and appearance of the area, highway safety, overbearing impact on neighbouring properties, unacceptable noise and disturbance, light pollution, loss of biodiversity, and harm to air quality. It is considered that the considerations put forward by the applicant in favour of the proposal have limited or no weight (individually or cumulatively) and they do not clearly outweigh the substantial harm the proposal will cause to the Green Belt, the character of the area, neighbouring residential properties, highway safety, biodiversity and air quality. Consequently, it is not considered that very special circumstances exist.

- 7.101 Accordingly, the application recommended for refusal.

8. Recommendation

- 8.1 REFUSE for the following reasons:

1. The development represents inappropriate development in the Green Belt for which no very special circumstances have been demonstrated. It will result in the site having an urban character, will diminish the openness of the Green Belt and conflict with the purposes of including land within it. In particular, it would not comply with the Green Belt purposes: to check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment. It is therefore contrary to Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 and Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework 2021.

2. The proposed development, in terms of its design, scale and location, is considered not to respect the character of this semi-rural area, will be visually obtrusive and fails to make a positive contribution to the street scene. The proposal is therefore contrary to Policy EN1 of the Core Strategy and Policies DPD 2009 and the National Planning Policy Framework 2021.
3. The proposed development, in terms of its design, scale and location is considered to have an unacceptable overbearing and overshadowing impact on the amenity of the neighbouring properties in Cleveland Park, contrary to Policy EN1 of the Core Strategy and Policies DPD 2009.
4. The noise, general disturbance and light pollution associated with the proposed development is considered to have an unacceptable impact on the amenity of neighbouring properties, contrary to Policies EN11 and EN13 of the Core Strategy and Policies DPD 2009 and the National Planning Policy Framework 2021.
5. If permitted, the proposed development would lead to the introduction of a new access to Bedfont Road where it has not been suitably demonstrated that there is sufficient visibility for vehicular traffic in both the leading and trailing directions, which would have an unacceptable impact on highway safety contrary to the National Planning Policy Framework 2021 and Policy CC2 of Spelthorne Borough Council's Core Strategy and Policies Development Plan Document February 2009.
6. It has not been demonstrated that the proposed level of parking provision is adequate to accommodate the demand generated by the proposal. This has the potential to result in parking taking place on the highway in the vicinity of the development that would have an unacceptable impact on highway safety. In addition, the proposal would result in an unacceptable impact on parking stress in residential roads within the locality, which would be detrimental to the amenity of residential properties. Therefore, the proposal contrary to the objectives of the National Planning Policy Framework 2021, and Policies CC2 and CC3 of Spelthorne Borough Council's Core Strategy and Policies DPD 2009.
7. An inadequate ecological survey has been submitted with the application and it is not therefore possible to ascertain the current impact of the proposal on protected species. Furthermore, the applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that the proposal will achieve a net gain in biodiversity on the site. The proposal is therefore contrary to Circular 06/2005, Policy EN8 of the Council's Core Strategy and Policies DPD 2009, and Section 15 of the National Planning Policy Framework 2021.
8. The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that the proposed development will not have a harmful impact on air quality in the area. The proposal could therefore potentially cause harm to the health of nearby residents, contrary to Policy EN3 of the Core Strategy and Policies DPD 2009.

Informative

In assessing this application, officers have worked in accordance with the requirements of the NPPF. This includes the following:

- a. Made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development
- b. 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