

<b>Application Number and Registration Date</b>	<b>MO/2018/0041 (Detailed) 19-Jan-2018</b>
<b>Applicant</b>	<b>Mr L Nicholson</b>
<b>Case Officer</b>	<b>Mr Aidan Gardner</b>
<b>Amendments /amplifications</b>	<b>Amplified by letter dated 05/04/18.</b>
<b>Committee Date</b>	<b>6 June 2018</b>
<b>Ward(s)</b>	<b>Okewood</b>
<b>Proposal</b>	<b>Stationing of a caravan/mobile home for a temporary period of three years.</b>
<b>Site Description</b>	<b>Ash Copse Farm, Lyefield Lane, Forest Green, Dorking, Surrey, RH5 5SN</b>

**RECOMMENDATION: Approve subject to conditions**

**Summary**

The site lies in the south of the District close to the boundary with Guildford Borough in countryside beyond the Green Belt. Permission is sought for the erection of a cattle shed in connection with the establishment of an agricultural enterprise on the 14.6 hectare holding. Applications are also before the Council for the erection of a straw and hay barn and the siting of a mobile home for a three year period. Applications were previously submitted for the same proposals under applications MO/2017/1112, MO/2017/1113 and MO/2017/1114, which were refused on the grounds of the lack of connectivity between the three components owing to there being three differing application site areas and no legal agreement had been provided to address this shortcoming. There were no other grounds for refusal.

Under the current applications, each shows the site red edging drawn around the whole 14.6 hectare holding which imparts the desired connectivity between the various elements. On this basis, a recommendation to approve is being made.

## 1. Development Plan

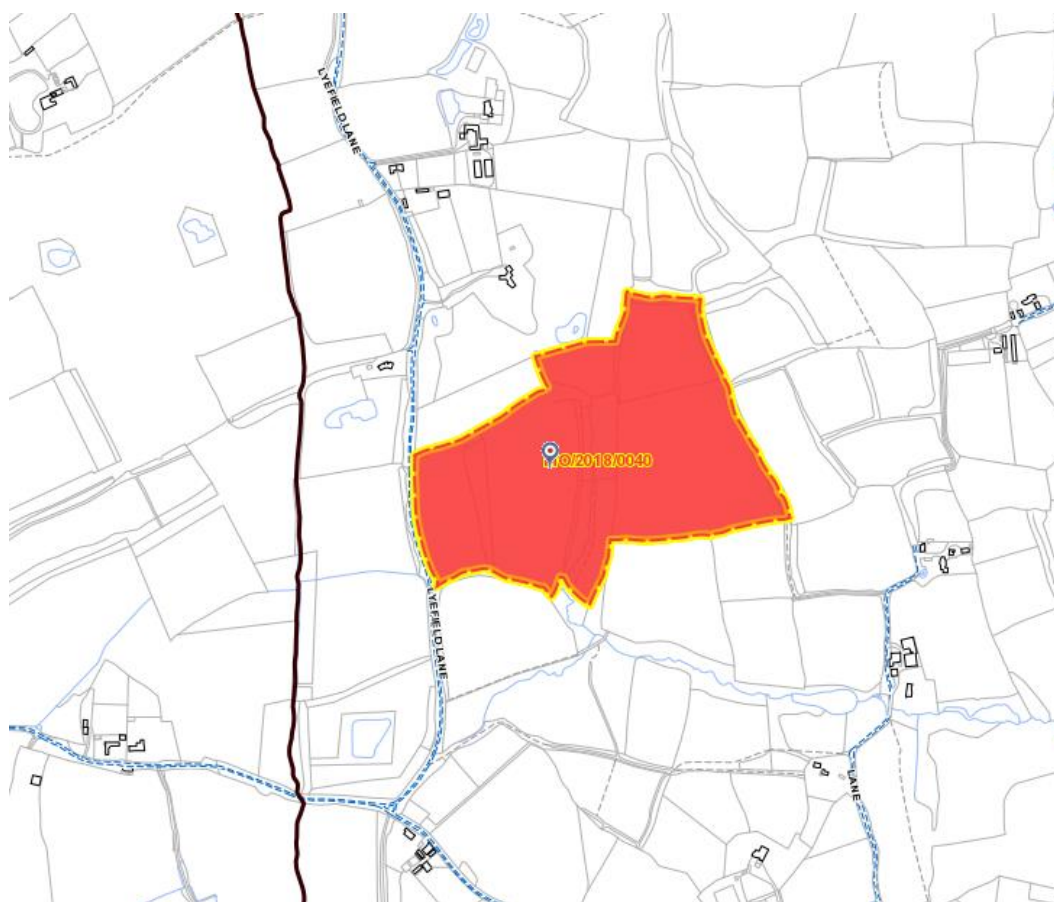
1.1. Countryside Beyond the Green Belt; Area of Great Landscape Value

## 2. Relevant Planning History

MO/17/1112	Erection of cattle shed and associated hardstanding.	Refused 08/12/17. Appeal lodged.
MO/17/1113	Erection of storage shed for straw, hay and machinery and associated hardstanding.	Refused 08/12/17. Appeal lodged.
MO/17/1114	Stationing of a caravan/mobile home for a temporary period of three years.	Refused 08/12/17. Appeal lodged.

## 3. Description of Development

3.1. The application site lies off the eastern side of Lyefield Lane and extends to some 14.6 hectares. The site is in countryside beyond the Green Belt. Approximately 10.5 hectares of this is grassland, which is divided into 4 No. paddocks, with the remaining 4.1 hectares given over to woodland, part of which is designated as a Site of Nature Conservation Importance (SNCI) known as Gill Pond.



3.2. Towards the end of 2017, three planning applications were submitted in connection with the establishment of an agricultural enterprise on the land, including a mobile home. The three elements comprised a cattle shed (MO/17/1112), storage shed for

hay, straw and machinery (MO/17/1113 and a mobile home (MO/17/1114). These elements were the same as currently being applied for. However, the application sites were different in each case.

- 3.3. Officers concluded that, in terms of their impact upon the highway, the SNCI and adjoining properties, the proposals comprised in the application were acceptable. The principle of an agricultural business in this location was acceptable. However, the applications as submitted were for isolated buildings and could not therefore be considered to be reasonably necessary for an agricultural business. Due to the lack of interconnectivity of the submitted applications it would not have been possible to ensure that each individual proposal could be properly controlled. Also, no suitable legal agreement had been provided to ensure that the different proposals would be connected. It was therefore considered that the proposed development would have resulted in unsustainable development in the countryside since each of the proposals would not have been viable in its own right. The proposals were therefore contrary with the provisions of Section 3 of the NPPF, and Mole Valley Local Plan policy ENV3 and RUD14.
- 3.4. Planning permission for all three applications were refused, in December 2017, for the reasons as set out below:

**MO/2017/1112 and MO/2017/1113**

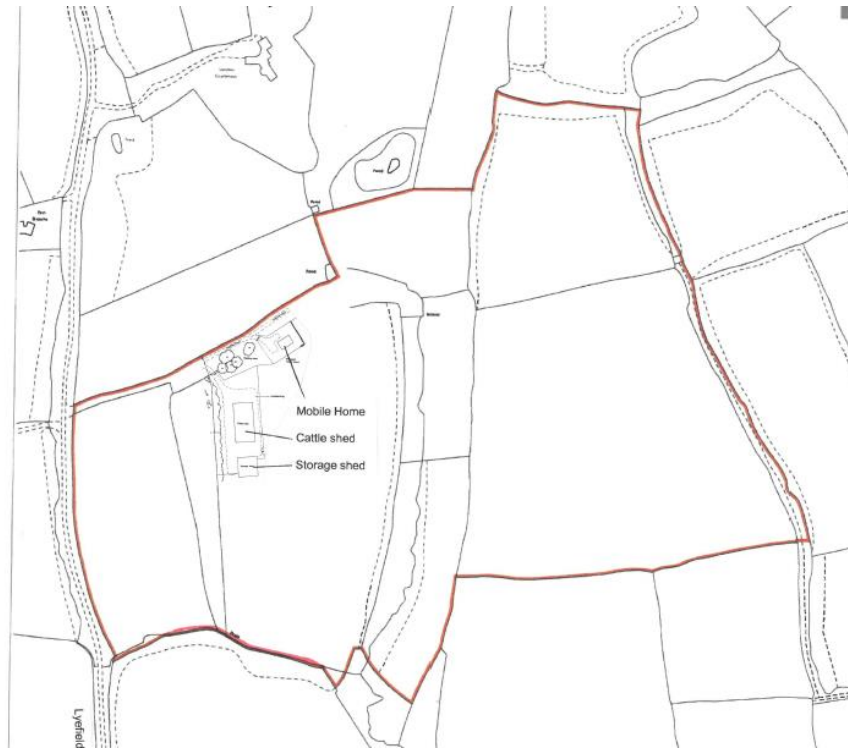
*The proposed development is considered to be unacceptable because it would result in a building in the countryside in an isolated location contrary to the provisions of Section 3 of the NPPF and Mole Valley Local Plan policies ENV3 and RUD14. Owing to the isolated position of the building on this plot of land it cannot be considered to be reasonably necessary for an agricultural business. In the absence of a legal agreement the lack of interconnectivity with other submitted applications in this immediate locality, there is no mechanism to ensure that the individual proposals are linked and properly controlled in this countryside location.*

**MO/2017/1114**

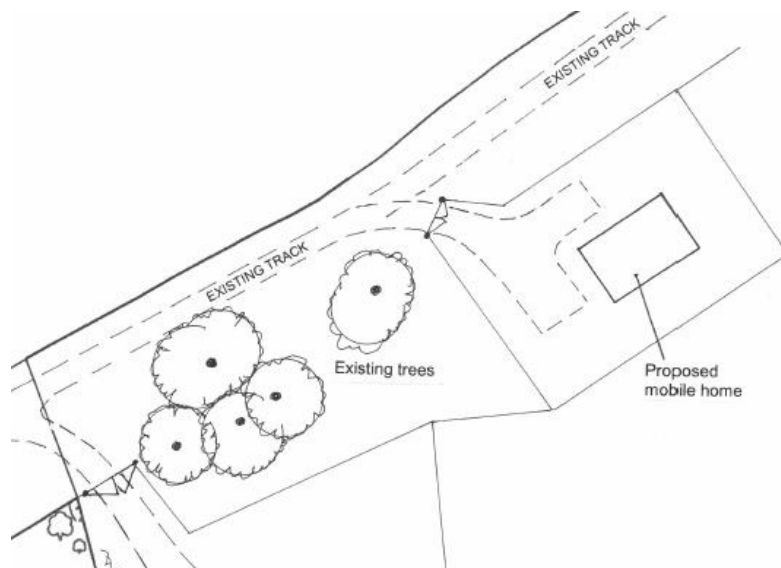
*The proposed development is considered to be unacceptable because it would result in a temporary caravan in the countryside in an isolated location, unconnected to any agricultural business contrary to the provisions of Section 6 of the NPPF and Mole Valley Local Plan policy ENV3. Owing to the isolated position of the caravan on this plot of land it cannot be considered to be reasonably necessary for an agricultural business. In the absence of a legal agreement the lack of interconnectivity with other submitted applications in this immediate locality, there is no mechanism to ensure that the individual proposals are linked and properly controlled in this countryside location.*

- 3.5. The current applications have been submitted in an attempt to address the issues of concern in the previous applications. The proposals are identical; however, in each case, the application site is the same and is drawn around the whole 14.6 hectare area of land.
- 3.6. Although three applications are under consideration by the Council, it is considered that there would be greater clarity through avoidance of cross-referencing, by setting out all three proposals and the issues raised, under this report.
- 3.7. As before, there are three applications: MO/18/0040, for a cattle shed and associated hardsurfacing; MO/18/0041 for a mobile home for temporary period of three years and;

MO/18/0042, for a storage shed. The position of the three elements on the site is shown below:



- 3.8. **Mobile home (MO/18/0041):** This would be located at the head of the access track from Lyefield Lane alongside the northern boundary. This is proposed for a temporary period of three years.



- 3.9. A mobile home is proposed due to the nature of the activity being proposed, the animals present and the need for a person to be present on the site, for welfare, feeding and security purposes.

4. **Consultations, Representations and Planning Policies: Please see report to application MO/18/0040**

## 5. Main Planning Issues

5.1. The main planning issues for consideration are as follows:

- The principle of development;
- Design and Impact on the character of the countryside;
- Impact on the amenities of neighbouring properties;
- Impact on SNCI and biodiversity;
- Impact on the highway

### Principle of the development

5.2. The NPPF states that policies within the local plan should follow the approach of the presumption in favour of sustainable development. Section 3 of the NPPF outlines the Government's approach to development in rural areas with the aim of supporting a prosperous rural economy. Paragraph 28 states:

*'Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should ... promote the development and diversification of agricultural and other land-based rural businesses...'*

5.3. Policy ENV3 of Mole Valley Local Plan relates to development in the countryside beyond the Green Belt. This policy states:

*In the rural areas not covered by the Green Belt, and outside the area of Ockley defined in accordance with Policy RUD3, the countryside will be protected for its own sake, and development adversely affecting its open character will not be permitted.*

*Development within the countryside beyond the Green Belt will only be acceptable for the reasonable needs of agriculture, and forestry or comprises essential facilities for outdoor sport and outdoor recreation, mineral extraction and waste disposal...*

### Previous applications

5.4. The Council's Agricultural Consultant has assessed the business case submitted with the application and has concluded that the proposed cattle shed has been designed as suitable for its intended purposes, and would be reasonably necessary for the purposes of agriculture within the site. However, the agricultural business proposed had yet to be established on the site, which conflicts with point 1 of Mole Valley Local Plan policy RUD14 which states that new agricultural buildings will be permitted where it can be demonstrated that the proposed development 'is to be sited on agricultural land which is in use for agriculture for the purposes of a trade or business'.

5.5. It was noted that the proposed business had not been started in any existing agricultural buildings and there did not appear to be any investigation into alternative locations with existing agricultural buildings.

5.6. The submitted site for the previous application showed the application site solely drawn around the proposed cattle shed, with access to the highway. This raised two issues, firstly that that 'red line' did not include any of the surrounding land which the supporting information submitted with the application stated is to be used as grazing in connection with the proposed agricultural business. Secondly, the site plan did not incorporate the locations of the two other buildings that it would be used in connection

with, i.e. the straw barn and the mobile home which were proposed under two separate applications.

- 5.7. From the site plan, it could be adduced that the cattle shed could have been used independently of the other proposed buildings and from the surrounding land. This was contrary to the information submitted in the Agricultural Appraisal. The issue with the 'red line' on the site plan was also present on the other two applications submitted. The Council contacted the planning agent to request that this issue be addressed. However, no amended drawings were received as the agent considered that amendments were not necessary. The agent took the view that conditions could be imposed under a grant of planning permission to ensure that the proposed enterprise would be inter linked.
- 5.8. Legal advice was sought from the Council's Legal Services Manager who advised that, since the proposals had been submitted under three separate planning applications with different site 'red lines' which did not correspond to each other, any planning condition would not be enforceable. As such, the condition would be contrary to paragraph 206 of the NPPF.
- 5.9. An alternative way of linking the applications could have been by way of a suitable legal agreement to ensure that the different development proposals were linked to the operation of the proposed agricultural business. Section 106 obligations are a mechanism which makes a development proposal acceptable in planning terms that would not otherwise be acceptable. However, the agent did not consider that such an agreement was necessary and declined to provide one.
- 5.10. It was therefore concluded that the proposals would have amounted to new development in the countryside where an agricultural use had not previously been established. It was considered that, due to the lack of interconnectivity of the submitted applications, it would not have been possible to ensure that each individual proposal could be properly controlled. Also, no suitable legal agreement had been provided to ensure that the different proposals would be connected. It was therefore considered that, due to this discrete manner in which the applications had been presented, the proposals would have resulted in unsustainable development in the countryside, contrary to the provisions of Section 3 of the NPPF and Mole Valley Local Plan policies ENV3 and RUD14.
- 5.11. All three applications were refused permission. Appeals have been lodged.
- 5.12. Under the current applications, all three have the site edging drawn around the whole 14.6 hectare area of land which allows connectivity between the three elements. As such, it is considered that a sufficient degree of control can be achieved through the imposition of appropriate conditions and that a legal agreement is not required.
- 5.13. It is therefore considered that the reasons for the refusal on the previous planning applications have been addressed.

#### The impact on the character of the countryside

- 5.14. The NPPF states in paragraph 17 point 5 that the 'different roles and character of different areas' should be taken into account, and should recognise 'the intrinsic character and beauty of the countryside'.
- 5.15. Policy RUD14 of the Mole Valley Local Plan relates to agricultural development requiring planning permission. This policy states:

*New agricultural, horticultural or forestry buildings will be permitted where it can be demonstrated that the proposed development:*

- 1. is to be sited on agricultural land which is in use for agriculture for the purposes of a trade or business;*
- 1. is reasonably necessary for the purposes of agriculture within the holding;*
- 2. would not detract significantly from the appearance and openness of the countryside;*
- 3. would not cause unacceptable levels of noise, effluent discharge or damage to Sites of Nature Conservation Importance identified in Policies ENV9, ENV10, ENV11, ENV12 and ENV13;*
- 4. would not adversely affect the amenities of any nearby residential properties;*
- 5. does not replace buildings converted to non-agricultural uses which could reasonably have continued in agricultural use;*
- 6. would not generate volumes of traffic that would prejudice highway safety or cause significant harm to the environmental character of country roads*

*Subject to the above, the Council where possible will require that new agricultural or forestry buildings*

- a) are well-related in terms of their location, size and colour to existing agricultural buildings;*
- b) avoid prominent locations and blend into the landscape;*
- c) are located near an existing dwelling on the holding if their use requires surveillance*

5.16. The proposed mobile home would be sited along the northern side of the site at the head of the access drive, upon an area of hardstanding. No details of the mobile home are provided; however, the plans indicate the mobile home would be measure some 10 metres by 6.5 metres.

5.17. The NPPF contains little guidance around the need for agricultural accommodation, in contrast to the comprehensive information contained in the Planning Policy Guidance Notes and Planning Policy Statements which it replaced. There is no mention of functional and financial tests. Paragraph 55 states that local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances. One of these includes: the essential need for a rural worker to live permanently at or near their place of work in the countryside.

5.18. The applicant's agent expands on the essential needs justification in his design and access statement. It is proposed to develop the calf rearing enterprise so that, by year three, there would be about 250 calves raised, of which about 100 would be reared on the holding and the rest sold as weaned calves. The enterprise of itself requires a worker to live on the farm next to the cattle and calf shed. This is because there would be a steady flow of infant calves arriving at the farm and welfare needs to be provided to ensure the animals are fed properly and treated in the event of poor health. The attention this requires can be intensive in its demands.

5.19. The quail part of the enterprise also needs attention on a regular basis. Equipment can fail during the incubation period and temperature needs to be carefully monitored. If there are problems with the quail, a response is needed within 15 minutes.

5.20. Both the pig and sheep enterprise would contribute to a need to live at the site, although the agent states that on their own, neither would be of a scale that warrants a dwelling.

- 5.21. The Agricultural Advisor has reviewed the applicant's documents and has concluded that there is justification for a mobile home at the site. Conditions are recommended restricting the occupation of the mobile home and the duration of the stationing.
- 5.22. It is therefore considered that the proposed mobile home would not have an adverse impact on the character of the area and would comply with the provisions of paragraph 55 of the NPPF.

#### The impact upon the amenities of neighbouring properties

- 5.23. It is considered that there would be separation distance to ensure that the proposed mobile home would not have an impact on the reasonable privacy or amenities of the neighbouring properties.

#### Impact on SNCI and biodiversity

- 5.24. The 14.6 hectare holding includes two areas of woodlands, one of which is a SNCI. Therefore an Ecological Survey was submitted with the application. The comments submitted by Surrey Wildlife Trust on the report state that as the proposed building would use the existing track for access and would not result in any works to the tree or removal of shrubs, it would not have an impact on biodiversity. SWT advise that, should the application be approved, a precautionary working method should be followed to avoid killing or injuring reptiles during the development. Surrey Wildlife Trust also state that Bats are a European Protected Species (EPS) covered by the Conservation Regulations 2010 and are protected under the Wildlife and Countryside Act 1981. It is an offence to kill, injure or disturb a bat, or damage and destroy a breeding site. Therefore the application should be encouraged to incorporate bat roosting opportunities.
- 5.25. Suitable conditions and informatives are recommended to attend to these issues.

#### Impact on the Highway

- 5.26. The Highway Authority has considered all three applications in terms of highway safety and the subsequent effect on the free-flow of traffic on Lyefield Lane. Highways acknowledge that the lane is currently very narrow in places, with limited opportunities for passing of two vehicles.
- 5.27. The information submitted estimates that the use of the site would equate to an average number of trips which would be less than eight vehicular movements per day, which would equal less than one movement per hour between the beginning of the morning peak and end of the evening peak periods. It is also considered that, without any further planning permission, some level of agricultural use could be made of the site which would generate some vehicular movements.
- 5.28. The Highway Authority have reviewed the points of concern raised in the third party representations and reaffirm their view that the development would be unlikely to have a material negative impact on the highway.

#### Conclusion

- 5.29. It is considered that the principle of an agricultural business in this location is acceptable. Further, it is considered that the proposal would not have an adverse impact on the highway network, the SNCI and biodiversity, nor adversely impact on adjoining properties.



## 6. Recommendation

Permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out and completed in all respects strictly in accordance with the submitted documents and plan numbers KCC2391/04 and 10 contained within the application and no variations shall take place.

Reason: To accord with the terms of the submitted application and to ensure minimal impact on local amenity and the environment in accordance with Mole Valley Core Strategy policy CS14 and Mole Valley Local Plan policy ENV22.

3. Any new or altered hard surfacing to be provided shall be constructed from either porous materials or shall make adequate provision for the direction run-off from the hard surface to a permeable or porous area.

Reason: To prevent the increased risk of flooding, in accordance with Mole Valley Local Plan policy ENV25 and policies CS14 and CS20 of the Mole Valley Core Strategy.

4. Prior to any further development works on site, a Landscape and Ecological Management Plan, to include a Sensitive Lighting Management scheme, shall be submitted for the approval in writing of the Local Planning Authority and thereafter implemented in accordance with the approved details and permanently maintained..

Reason: To safeguard the ecological interest of the site in accordance policy CS15 of the Mole Valley Core Strategy and the National Planning Policy Framework.

5. The mobile home hereby permitted shall be removed and the land restored to its former condition on or before 30 June 2021 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority.

Reason: Permission is given in this case, having regard to the circumstances appertaining to the site in question, but only on a strictly limited basis so that the position may be reviewed in the light of circumstances prevailing at the expiry of the permission in accordance with policy ENV3 of the Mole Valley Local Plan.

6. This permission shall enure solely for the benefit of the applicant, Mr Luke Nicholson and his resident dependents.

Reason: A strictly personal permission is granted in this case having regard to the special circumstances appertaining thereto in accordance in policy ENV3 of the Mole Valley Local Plan.

## Informatives

1. The applicant is reminded of the need to obtain a European Protected Species (EPS) Licence from Natural England prior to any works of demolition of the existing barns, based upon the mitigation, compensation and enhancement actions presented within the paragraphs 18.7 - 18.10 of the applicant's Bat Survey; also, to undertake all the actions detailed in the method statement, which must support an EPS application. This will help ensure that the proposed development is in compliance with the statutory provisions contained within the Wildlife and Countryside Act 1981.
2. The applicant is reminded that Part One of the Wildlife and Countryside Act 1981 makes it an offence to intentionally kill, injure or take any wild birds or intentionally to damage, take, or destroy its nest whilst it is being built or used. The developer should take action to ensure that development activities such as building demolition and vegetation or site clearance are timed to avoid the bird nesting season of March to August inclusive.
3. The applicant is advised that Precautionary working should be undertaken under the watch of a suitably qualified ecologist in line with best practice guidance and should include:-
  - All clearance works will be undertaken when common reptiles are likely to be fully active i.e. during the April to September period
  - Clearance of logs, brash, stones, rocks or piles of similar debris will be undertaken carefully and by hand.
  - Clearance of tall vegetation should be undertaken using a strimmer or brush cutter with all cuttings raked and removed the same day. Cutting will only be undertaken in a phased way which may either include:
    1. Cutting vegetation to a height of no less than 30mm, clearing no more than one third of the site in anyone day or;
    2. Cutting vegetation over three consecutive days to a height of no less than 150mm at the first cut, 75mm at the second cut and 30mm at the third cut
  - Following removal of tall vegetation using the methods outlined above, remaining vegetation will be maintained at a height of 30mm through regular mowing or strimming to discourage common reptiles from returning.
  - Ground clearance of any remaining low vegetation (if required) and any ground works will only be undertaken following the works outlined above.
  - Any trenches left overnight will be covered or provided with ramps to prevent common reptiles from becoming trapped.
  - Any building materials such as bricks, stone etc. will be stored on pallets to discourage reptiles from using them as shelter. Any demolition materials will be stored in skips or similar containers rather than in piles on ground. Should any common reptiles be discovered during construction, which are likely to be effected by the development, works will cease immediately. The developer will then seek the advice of a suitably qualified and experienced ecologist and works will only proceed in accordance with the advice they provide.
4. The applicant is strongly advised to take note of the contents of the letter from Surrey Wildlife Trust on MO/17/1113 dated 18/09/17 over the necessity to take a precautionary approach in the construction process in the build process.