

UPDATES

for Committee Meeting to be held on 21 March 2018

ZONE 1 - WESTERN WARDS

- (1) **P/17/1317/OA** **SARISBURY**
LAND TO THE EAST OF BYE ROAD SWANWICK SOUTHAMPTON SO31 7GX

Following the completion of the report, the Agent has raised several additional points regarding the content of the Committee Report:

1. The access road is located within the designated Urban Settlement Boundary.
2. In respect of the individual TPOs, they are no located within the application site itself, but are sited within the rear gardens of 11 and 15 Bye Road. The root protection areas extend within the site boundary, and have been considered by the Council's Tree Officer.
3. The laurel hedgerow along the northern boundary of the access road is proposed to be retained and protected during the construction. However, the condition of the hedgerow, and any additional landscaping would be considered further at reserved matters stage.

In addition, one further third party comment has been received, details of which have already been passed onto Members.

- (3) **P/18/0047/CU** **LOCKS HEATH**
151 LOCKS ROAD LOCKS HEATH SOUTHAMPTON SO31 6LF

Further information has been received that Hampshire County Council are currently consulting (A1009/SL) on a Traffic Order which would restrict vehicles waiting at the junction of Locks Road and Meadow Avenue which is just south of the application site. In addition, it is proposed to create two uncontrolled pedestrian crossings (dropped kerbs) in the same area.

ZONE 2 - FAREHAM

- (4) **P/17/0841/FP** **FAREHAM EAST**
LAND TO THE EAST OF FURZE COURT WICKHAM ROAD FAREHAM PO16 7SH

The Officer recommendation is hereby amended so that the suggested reason for refusal (d) reads:

(d) in the absence of a legal agreement to secure such, the development would fail to provide affordable housing at a level in accordance with Policy CS18 of the adopted Fareham Borough Core Strategy or an equivalent financial contribution towards off-site provision;

In addition it is recommended that a note for information be included to read:

Had it not been for the overriding reasons for refusal, the Local Planning Authority would have sought to address point e) through the imposition of a suitably worded planning condition and points d) & f) by inviting the applicant to enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990.

ZONE 3 - EASTERN WARDS

(6) **P/17/0920/FP**

PORTCHESTER EAST

**LAND TO THE WEST OF SEAFIELD ROAD & MORAUNT DRIVE; SOUTH OF
TATTERSHALL CRESCENT PORTCHESTER FAREHAM HAMPSHIRE**

Third party Bat Survey

Members are advised that the bat recordings taken by a third party were sent by the third party to the Hampshire Bat Group to verify the findings, the Council's Ecology Officer has been consulted further and advises that due to the type of the habitats present on site and the location of the site, the sound analysis carried out by Hampshire Bat Group has confirmed the absence of lesser horseshoe bats, which are rare, from the site which is expected. She further commented that the applicant's ecologist (Ecosupport) recorded the presence of more species and that the third party survey has under-recorded the bat species known to utilise the site for foraging or commuting. It is noted that *Nathusius pipistrelle* was not recorded by Ecosupport.

The Ecologist has confirmed that the very low use of the site by this species (only 2 passes over 15 nights) will not change the agreed mitigation for the site. The southern section of the site has been allocated as the 'Ecology Mitigation Area' which will be retained and enhanced through additional planting. Furthermore, addition of features such as water scrapes will create new habitats which are attractive to bats and the area will remain unlit and therefore avoiding any indirect impacts on bats using the site for foraging/commuting. Furthermore, the bat survey carried out by the third party is not in line with best practice guidelines (Collins, 2016). It is understood that the recordings were collected over the course of 15 evenings in the period 3/7/17 to 19/7/17. Best practice guidelines which are used in assessing submitted documents as part of any planning application state that a bat transect survey (moderate habitat suitability for bats) should comprise "One survey visit per month, between April to October, in appropriate weather conditions for bats".

Hedgerow

Since publication of the report, further questions have arisen over the status and age of the hedgerow to the western boundary of the site and the applicant's submission that it does not qualify as an Important Hedge under The Hedgerows Regulations 1997. Concern has also been raised in respect of a need to ensure that there is a 15m buffer between the hedgerow and proposed development. These issues are referenced in the report to Members alongside the responses from the Council's Ecology officer and Tree officer. The Tree officer agreed with the findings of the applicant's report; the Ecology officer commented that the Hedgerow will be retained and that the provision of a 15 m buffer as detailed in Natural England's standing advice only applies to Ancient Woodland and Veteran Trees and there is no statutory requirement in the current standing advice for a buffer distance related to Important Hedgerows.

Further information submitted via a third party indicates that the hedgerow is older than the date suggested within the applicant's report which officers commented on. The Council's Ecology officer has commented:

Having reviewed the various correspondence received, I refer to the Criteria for determining "important" hedgerows. The Regulations state that a hedgerow is "important" if it

- (a) has existed for 30 years or more; and
- (b) satisfies at least one of the criteria listed in Part II of Schedule 1.

The email from Pat Rook dated 16 March states that "This hedgerow is a field boundary shown on a map dated 1839 and therefore meets the criteria of being part of a field system that existed before the Inclosure Act (that is before 1845)." Based on this statement it satisfies point (a).

My understanding is that the email dated 16 March refers to one of the criteria listed under Part II of Schedule 1 (Archaeology and history Criteria, point 5) and therefore concludes that the hedge is classified as an "important hedgerow". As the criteria used is "Archaeology & History" and clearly

outside the remit of "Ecology", I have no comments.

However, I understand that the hedgerow will be retained as part of the proposals and not removed and therefore The Hedgerows Regulations 1997 would not be relevant (as stated before in my previous emails). In relation to a buffer to protect the hedgerow, the latest masterplan shows that there will be no development within the southern section of the site. There are however "gravel and grass paths" proposed to the east of the hedgerow for use by the residents/public. In terms of ecology, a gravel/grass path in an area allocated as public open space and "Ecology Mitigation Area" is not considered to have any adverse impacts to the nearby hedgerow and therefore the inclusion of a buffer zone is not applicable. In relation to the northern section of the site, inclusion of a buffer is welcomed which could be secured through a planning condition. However, as mentioned before in my previous correspondence, a 15m buffer only applies to Ancient Woodlands and Veteran Trees (Natural England & Forestry Commission Standing Advice) not important hedgerows. Unfortunately there is no statutory requirement for a minimum buffer distance between an important hedge and a development.

Officer advice is that the Ecology officer and Tree officer are satisfied that the development could proceed with appropriate mitigation and on this basis, there would not be a sustainable material planning reason to withhold consent on ecology or arboricultural grounds.

Ecology

Since publication of the report further concern has been raised about inaccuracies relation to ecology aspects; that the applicant's ecologist failed to adhere to best practice guidelines, and that within the officer committee report the Council has 'dismissed' submitted third party concern.

The third party also states that when undertaking her reptile surveys and report (submitted to the Council in January this year), best practice guidelines were adhered to. The Council's Ecology officer was consulted when the report was originally submitted and her comments are set out in the report to Members. The case officer has consulted the Council's Ecology officer further who has no further comments; she previously raised concern in relation to the third party reptile report (i.e. access limitations to the application site to carry out the surveys and including non-adult numbers in the population estimate) still stands.

Notwithstanding the above, an onsite receptor site (as opposed to an off-site receptor site is still considered the best option for this site as it has been demonstrated that the retained habitats could be enhanced and improved for reptiles.

Brent Geese and Waders

A third party has suggested that officers have 'dismissed' the site and not used due diligence as one of National importance for Brent Geese and Waders and that she has documented the site as 'teeming' with Red List waders. The Ecology officer comments and officer comments in respect of policy DSP14 are set out in the officer report. In response to the third party concern, the Ecologist has been further consulted: The Ecology officer has responded:

1. The new classification by Natural England shows that the site is not of any value for Brent geese and waders. The new Solent Brent Geese and Waders Strategy by Natural England which the LPA's have reviewed and are in the process of submitting feedback is due to be published imminently. The main changes from the old strategy is the complete removal of the term 'uncertain'. Notwithstanding this, the overgrown nature of the habitats on site makes the site unsuitable for BG&Ws. BG&Ws rely on short grass (e.g. amenity grassland or grazed fields) and arable fields growing winter cereals.

The statement from third party emails "Natural England cannot be expected to comment with any accuracy on fundamentally flawed or outdated information which can be further proven to be invalid and unfair." is incorrect. Natural England do not necessary rely on the submitted ecology reports. They are the governing body in developing mitigation strategies in relation to BG&Ws and therefore have access to their own most up to date data. They are the consultee which are expected to comment on designated sites and the issue of BG&Ws. It is evident from the correspondence

received from Natural England that they had not raised any concerns in relation to site's suitability or survey requirement, which HCC supports. Natural England has welcomed the measures such as creation of water scrapes, areas of open grassland and limited public accessibility in the "Ecology Mitigation Area" which is likely to increase the suitability of the site for BG&Ws.

2. Badgers - The inclusion of a mesh wire is necessary to protect the "Ecology Mitigation Area" from dog walkers and has been agreed with Natural England. This is to encourage BG&Ws to the area. This will not fragment badger habitat as badgers are capable of digging under the fencing. Furthermore, where necessary badger access provision will be incorporated within the fencing to maintain permeability across the site. The badger access could comprise gaps at the base of the mesh wire which are approx. 220mm wide by 360mm high. As mentioned before on a number of occasions, it is common and acceptable practice for LPAs to stipulate a condition whereby on sites where badgers are present, a pre-construction badger check will be carried out to ensure no new setts have been created. This takes into account the mobile nature of the badgers and the risk of missing setts during the original surveys.

The third party concerns and discussion between them and officers is documented and careful consideration has been given to these issues. In taking account of these issues, it is necessary overall to consider whether the issues raised and level of concern fundamentally alter the officer recommendation in this case. Officer advice is that the Ecology officer and Tree officer are satisfied that the development could proceed with appropriate mitigation and on this basis, there would not be a sustainable reason to withhold consent on ecology or arboricultural grounds.

An additional late representation has been received - the points raised are covered in the third party representations set out within the officer report.

(7) **P/17/1451/OA** **HILL HEAD**
LAND WEST OF OLD STREET STUBBINGTON FAREHAM

COMMENTS FROM HAMPSHIRE COUNTY COUNCIL - COUNTRYSIDE SERVICE

Revised comments from Hampshire County Council Countryside Service have been received as follows:

"[It has been indicated that FBC Officers consider] that only the first of our five below conditions would be necessary for the development to be acceptable in planning terms.

1. The buffer to be designed in consultation with HCC, with further exploration of its long-term management options, with HCC having first refusal on its ownership. Should HCC take on ownership/management of the buffer we would expect a commuted sum covering an in-perpetuity period (80 years), or the provision of a suitable annual contribution from the site's management company.
2. A developer contribution towards providing a significant biodiversity gain within Titchfield Haven Nature Reserve. We will be able to provide further details of this contribution in due course, but we would expect it cover an in-perpetuity period (80 years).
3. A developer contribution towards enhancing access provision in the local area, to draw residents away from sensitive areas. We will be able to provide further details of this contribution in due course.
4. The provision of a pedestrian crossing across Marsh Lane to create a more attractive on-site path, with an appropriate gate solution to prevent unauthorised access onto the reserve.
5. The applicant engages the future residents in the sensitivities of the site's location, including through the provision of a welcome pack (to include an annual membership to the reserve), funding for staff time to liaise with and engage new residents, and a developer contribution towards replacing one of the hides on the reserve.

We would expect any development at this location - adjacent to a National Nature Reserve - to

provide a net gain in biodiversity to the reserve. Indeed this appears to be the approach taken by the applicant, supported by Natural England, in proposing the green space to the west to be an 'extension' to the NNR. As it stands however, we do not consider that the proposed extension could effectively form part of the NNR which we manage, and therefore would only perform a buffer role. The proposal would also reduce the size of the existing buffer, so would therefore need to be of sufficient quality to mitigate for this. Our conditions aimed to ensure that this quality be achieved, alongside a number of other conditions which would help minimise any adverse impacts upon the NNR that 150 dwellings could generate, as well as delivering a significant net gain in biodiversity at the NNR.

In addition, we requested that the applicant provide a further assessment regarding the potential impact of the development upon the NNR, to help us better develop any suitable mitigation. The submitted 'Assessment of Likely Significant Effects' however considers the impacts upon the SPA, and not the NNR directly (paragraph 5.1).

Due to this lack of information, and without all of our prerequisite conditions being taken forward, we would like to make it clear that we maintain our objection to this proposal."

Officers have considered these comments against the limitations set out at Regulation 122 of The Community Infrastructure Levy Regulations 2010 and, with the exception of details of the long-term management of the nature reserve buffer/extension and associated costs, do not consider the suggested contributions can be justified in this instance. The advice set out in the Officer report therefore remains the same with regards these issues.

COMMENTS FROM HAMPSHIRE COUNTY COUNCIL - CHILDREN'S SERVICES

Hampshire County Council Children's Services have commented on the application as follows:

"The proposed development lies within the catchment area of Crofton Hammond Infant and Junior Schools. These schools are full as are the other primary phase schools in this area. As such the development will create additional pressure for primary school places.

In line with HCC's Children's Services Developers' Contributions Policy the development should contribute to provision of infrastructure at local schools due to the additional pressure that will be placed on school places locally. Further investigation is necessary to identify what provision should be made so no details can be provided at this stage.

The pupil yield is likely to be 48 primary age pupils based on 160 dwellings of two beds or more. In line with the policy a contribution of £14,539 per pupil place should be made. This totals £697,872. This amount should be able to be used flexibly to respond to the proposed strategy for delivering any additional facilities that may be required or to assist with home to school transport costs.

Even where there is apparently sufficient capacity to cater for all, or part, of the additional demand, there may still be a need for additional facilities at a school. The reason for this is that the method of assessing capacity does not take full account of the need for schools to have dedicated space for specialist facilities, such as ICT (Information and Communications Technology). Also, the inclusion of children with special educational needs in mainstream schools means that schools need spaces which can be used for individual or small group teaching, which is unlikely to have been provided in the original room allocations. In other words, schools which have theoretical spare capacity will be using those spaces for legitimate educational uses, which will need to be rehoused before those teaching spaces can be brought back into use for general teaching purposes. There may also be factors, such as an undersized hall, which would mean that it would be difficult to meet present day educational requirements if the school was full to its assessed capacity. These can be referred to as "suitability" issues."

Officers note that the comments refer to the number of dwellings proposed as being 160 as opposed to the revised figure of 150 units for which outline permission is now sought. Notwithstanding, the requirement is for a financial contribution from the applicant towards education provision. Had the application been considered acceptable in all other regards Officers would have

sought to agree this contribution with the applicant and it being secured through an appropriately worded Section 106 legal agreement. In the absence however of the means to secure such, the lack of a financial contribution towards education provision if considered by Officers to constitute an additional reason for refusal."

The Officer recommendation is therefore amended to include an additional reason for refusal as follows:

(m) in the absence of a legal agreement to secure such, the proposal would fail to provide a financial contribution towards education provision.