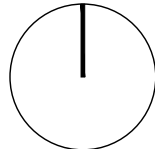
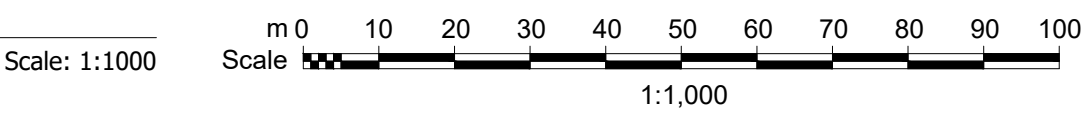


1 Plan View



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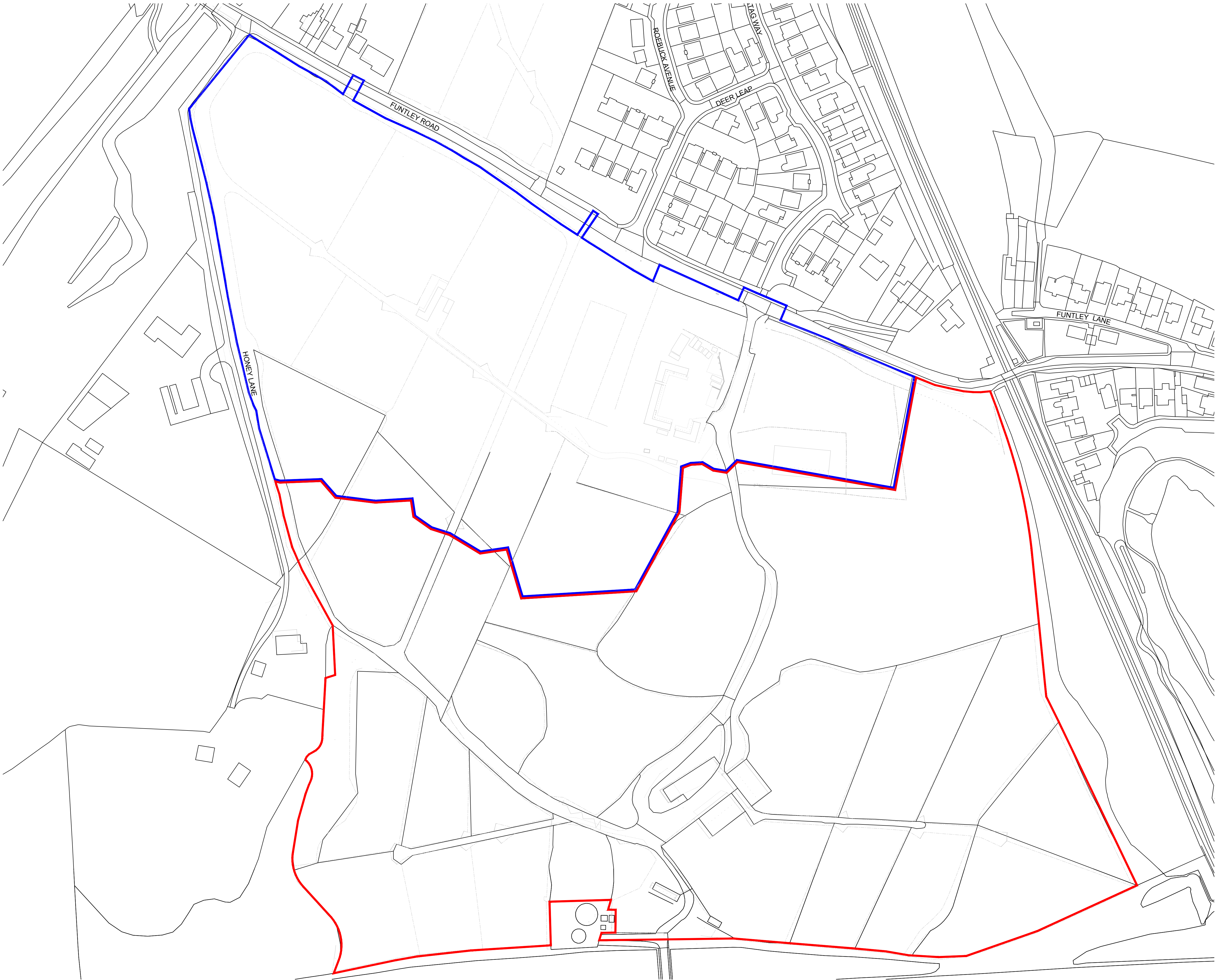
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P1	25.09.20	DORR	PLANNING ISSUE
	25.09.20	DORR	DRAFT
REV	DATE	DRAWN/CHECKED	DESCRIPTION
STATUS			PLANNING ISSUE
PROJECT	RD1731 Funtley Road, Hampshire		
DRAWING	Red line plan - outline application		
DATE	DRAWN/CHECKED	SCALE @ A1	DRAWING NO.
20.08.20	DORR	1:1000	RD1731-C1-L002
			REVISION NO.
			P1

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P2	06.05.21	DO/RR	PLANNING ISSUE
P1	25.09.20	DO/RR	PLANNING ISSUE
	25.09.20	DO/RR	DRAFT
REV	DATE	DRAWN/CHECKED	DESCRIPTION
STATUS			
PLANNING ISSUE			
PROJECT			
RD1731 Funtley Road, Hampshire			
DRAWING			
Red line plan - change of use application			
DATE	DRAWN/CHECKED	SCALE @ A1	DRAWING NO.
20.08.20	DO/RR	1:1000	RD1731-C1-L003
			REVISION NO.
			P2

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## **OFFICER REPORT FOR COMMITTEE**

**Date: 18/07/2018**

**P/18/0067/OA**

RESIDE DEVELOPMENTS LIMITED AND  
ATHERFOLD INVESTMENTS LTD

**FAREHAM  
NORTH**

AGENT: TURLEY

FOLLOWING DEMOLITION OF EXISTING BUILDINGS, RESIDENTIAL DEVELOPMENT OF UP TO 55 DWELLINGS (INCLUDING 3 CUSTOM-BUILD HOMES) (USE CLASS C3), COMMUNITY BUILDING INCORPORATING A LOCAL SHOP 250 SQM (USE CLASSES A1, A3, D1 & D2), ACCESSES AND ASSOCIATED LANDSCAPING, INFRASTRUCTURE AND DEVELOPMENT WORKS

LAND TO THE SOUTH OF FUNTLEY ROAD FUNTLEY FAREHAM

### ***Report By***

Richard Wright - 01329 824758

### ***Introduction***

Members' attention is drawn to the report at the beginning of this Committee agenda titled "Consideration of planning applications on this Agenda."

This planning application was first considered at the Planning Committee meeting on the 18<sup>th</sup> July 2018. Following consideration of all relevant planning matters, Members resolved to grant planning permission for the proposal subject to the prior completion of a planning obligation and the imposition of relevant conditions.

The following report is an updated version of the report presented to the Planning Committee on the 18<sup>th</sup> July 2018. The main updates made to the report can be summarised as followed:

- The Site Description and Description of Proposal section has been revised to better explain the current status of two further planning applications by the same applicant on land to the south of Funtley Road.
- Two further representations have been incorporated into the Representations section.
- The section of the report titled "Implication of Fareham's Current 5 Year Housing Land Supply Position (5YHLS)" has been updated to reflect the requirements of the revised National Planning Policy Framework (NPPF) and the implications of the recent judgment of the Court of Justice of the European Union (CJEU).

- References to the NPPF (2012) have been removed since that document has now been replaced.
- The section of the report which considers the community park and community building offered by the applicant has been updated to incorporate information previously provided as an Update to the Planning Committee meeting on 18<sup>th</sup> July this year.
- The section of the report titled “The planning balance” has been updated to reflect the requirements of the revised NPPF and the implications of the recent judgment of the Court of Justice of the European Union (CJEU).
- The Officer recommendation has been revised so that the design, delivery and management of SUDs on the site would be secured through a planning condition as opposed to a planning obligation through a Section 106 agreement. This requirement has been incorporated into the wording of Condition 3 which is revised accordingly.

### ***Site Description***

The site measures 5.98 hectares (14.8 acres) in area and is situated immediately to the south of Funtley Road. The site lies outside of the urban settlement boundary.

The site comprises grass land used for the grazing of horses and associated stabling and other structures, including a larger barn towards the eastern end of the site. A portion of the western part of the site is designated within the adopted local plan as an area of existing public open space and lies adjacent to The Deviation Line, a public bridleway (Bridleway 515).

The land gently rises from north to south away from the road. Alongside Funtley Road runs an established mature hedgerow, with some trees in places along that boundary, which is broken only where the vehicular entrance to the site is currently.

On the opposite side of Funtley Road to the north lies the existing housing development of Roebuck Avenue/Deer Leap/Stag Way which was built on the site of the former abattoir following planning permission being granted in 1997 (planning application reference P/97/0792/FP). To the west of that housing development, also opposite the current application site on the northern side of the road, lies a field which is the subject of another current development proposal by the same applicant reported elsewhere on this Planning Committee agenda (planning application reference P/17/1135/OA for the construction of 27 dwellings). That application also received a favourable resolution to grant permission at the Planning Committee meeting held on 18<sup>th</sup> July this year.

Meanwhile to the south of the site the level of the land noticeably rises. This land which occupies the higher slopes of the hill is also currently given over to use as paddocks. A group of larger agricultural buildings and stables is located near the highest point of the land and these buildings and the surrounding paddocks are accessed via a track which runs from the entrance to the site at Funtley Road up the hill through an area of mature woodland. The woodland, as well as a separate cluster of mature trees on the land to the south of the site, is designated as an



ancient woodland Site of Importance for Nature Conservation (SINC). This land to the south of the application site is also subject of another planning application by the same applicant which proposes the use of the site as a community park (planning application reference P/18/0066/CU). That application also received a favourable resolution to grant permission at the Planning Committee meeting held on 18<sup>th</sup> July this year.

Beyond the land proposed to be used as a community park lies the M27 motorway. An existing bridge over the motorway, owned by Highways England, provides a right of vehicular access for the application site landowner. On the south side of the bridge lies the urban area of Fareham and immediately the other side of the bridge is a designated public footpath running east to west (Footpath 91a).

### ***Description of Proposal***

Outline planning permission is sought for up to 55 new dwellings (Use Class C3), including 3 custom build homes, following demolition of existing buildings on the site. Also proposed is a community building, incorporating a local shop, of 250 sqm (Use Classes A1, A3, D1 & D2) as well as associated accesses, landscaping, infrastructure and development works.

The application is submitted in outline with all matters reserved for future approval except for access. A revised parameters plan has been submitted which the applicant has requested be an approved document to set out the broad parameters of the development. Also submitted for illustrative purposes only is a concept masterplan.

Vehicular access into the site is proposed to be formed using the existing point of entry on the south side of Funtley Road. Improvements would be made to this junction including the provision of a formal bell mouth and footpaths to link in to the existing public footpaths on the south side of Funtley Road near to where an existing ramped pedestrian crossing already exists. A new pedestrian crossing of the same type is proposed to be inserted further along the road to the west near the junction with Roebuck Avenue.

The application also proposes forming a link through the site and the community park to the south, through to and over the existing M27 bridge and connecting up with the existing public footpath north of Thames Drive. The route is proposed to be suitable for pedestrians and cyclists and would involve the provision of a suitable surface and improvements to the section of existing public right of way at its southern end. This route is identified and set out on the submitted location plan and parameters plan.

The submitted concept masterplan shows how the development might be laid out with parcels of land for housing development positioned within a wider network of interconnected green spaces and 'corridors' through the built environment. These green spaces are shown as linking with the adjacent community park. Also shown

on the masterplan is a village green and an indicative location of where the proposed community building and shop might be.

Members are advised that two further applications by the same applicant on land to the south side of Funtley Road are currently undetermined but have previously received favourable resolutions to grant planning permission at the Planning Committee meeting held on 18<sup>th</sup> July this year. Planning application reference P/17/1135/OA proposes residential development of up to 27 dwellings on land to the north side of Funtley Road. Planning application reference P/18/0066/CU meanwhile proposes the change of use of land further south into a community park.

### ***Policies***

The following policies apply to this application:

#### **Approved Fareham Borough Core Strategy**

CS2 - Housing Provision

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS14 - Development Outside Settlements

CS15 - Sustainable Development and Climate Change

CS16 - Natural Resources and Renewable Energy

CS17 - High Quality Design

CS18 - Provision of Affordable Housing

CS20 - Infrastructure and Development Contributions

#### **Approved SPG/SPD**

RCCPS - Residential Car and Cycle Parking Standards Supplementary Planning Document,

#### **Design Guidance Supplementary Planning Document (Dec 2015)**

EXD - Fareham Borough Design Guidance Supplementary Planning Document

#### **Development Sites and Policies**

DSP1 - Sustainable Development



DSP2 - Environmental Impact

DSP3 - Impact on living conditions

DSP4 - Prejudice to adjacent land

DSP6 - New residential development outside of the defined urban settlement boundaries

DSP13 - Nature Conservation

DSP15 - Recreational Disturbance on the Solent Special Protection

Areas DSP40 - Housing Allocations

### ***Relevant Planning History***

Whilst there have been numerous planning applications for stables and other forms of development on the land these are not considered materially relevant to the consideration of this current planning application.

### ***Representations***

In response to this application 119 sets of comments have been received from 86 residents.

This is because some people chose to comment more than once after revised details were submitted by the applicant.

Sixty four people objected to the application on the following planning grounds:

- Object to further housing
- Welborne is enough
- Road is already hazardous to drivers, pedestrians, cyclists and children
- Roads are overcrowded already and unsuitable for additional 250 vehicles with narrow bridges
- Area subject to flooding - more detail is required on drainage before consent is considered
- Infrastructure unable to accommodate additional pressure
- Healthcare unable to cope
- Schools are at capacity
- Application previously refused - nothing has changed
- Harm to semi-rural character of Funtley
- Should be viewed in conjunction with P/17/1135/OA
- Support letters are not from Funtley residents
- Shop not required and is a red herring
- Countryside in current Local Plan
- Site is not brownfield
- Site is not sustainable

- Funtley is a village
- Impact on Wildlife
- Loss of trees
- Loss of horse riding and stabling
- Possible contamination due to ex-abattoir
- Sites should not be approved before the new Local Plan is properly considered
- Density of development not in keeping with the remainder of the area
- Percentage of affordable housing is disproportionately high and out of keeping-
- Inappropriate location for social housing
- Noise pollution
- Problems already with power failures
- Possible subsidence due to type of soil
- Potential for increase in crime
- Already overloaded sewerage system
- Plans hard to understand and inconsistent
- Overlooking and loss of privacy
- Loss of light
- Opening of bridge over motorway is a sweetener as owners previously shut; potentially dangerous if not properly constructed and difficult for Funtley residents to get to due to steep slope
- Park is worthless land as it slopes heavily - will adversely affect wildlife
- What will happen to existing bus stops on Funtley Road as currently on proposed junction

Twenty four people wrote in support of the application with the following comments:

- Sites are currently grazing and not accessible to public
- Development will allow public access
- Provision of Village Hall and Shop
- Land shown in draft Local Plan for development

### ***Consultations***

#### **EXTERNAL**

Hampshire County Council (Highways) - Additional information has been submitted addressing the outstanding matters previously raised regarding the sustainable travel improvements. The highway authority therefore raises no objection to the application subject to Section 106 obligations.

Hampshire County Council (Countryside Planning) -

Highways have commented that consideration should be given to the provision of a shared pedestrian/cycle path to tie in with the surface on Footpath 91a, we support this approach.

It is requested that the western end of Footpath 91a is also upgraded to provide onward cycle access to Bridleway 83b, this will include widening where possible,



surfacing to our Countryside Service Design Standards and installing wheel ramps so that cycle can be pushed up the stairs.

Hampshire County Council (Flood and Water Management Team) -

The general principles for the surface water drainage proposals are acceptable. We would recommend that further information on the proposals be submitted as part of a more detailed design phase.

Southern Water - No objection.

Hampshire County Council (Children's Services) -

This development is small and will not generate enough pupils to warrant a request being made towards additional education infrastructure. However, the footpath access to the local catchment area schools, Orchard Lea Infant and Junior, must be improved to provide opportunities for sustainable travel to school and to avoid further traffic congestion around these schools at drop off and pick up times. Consideration needs to be given to providing pedestrian and cycle access to the schools via a lit path.

In order to promote sustainable travel the developer must contribute a total of £15,000 to the production of school travel plans for both schools. This should be provided to HCC before the development starts.

Natural England - No objection.

INTERNAL

Hampshire County Council (Ecology) - No concerns raised following the submission of amended ecology reports.

Trees - No objection

Highways -

It is accepted that, whilst the site is fairly remote from a number of facilities, it is served by an hourly bus service and, with the provision of the link over the motorway, would be within walking and cycling distance of most routine travel attractors. To provide additional accessibility, a pedestrian access is proposed emerging onto Funtley Road at a central point on the frontage. The practicality of this will need to be reviewed when connectivity to the nearby footways is known.

In traffic impact terms, whilst the predicted traffic generation from the site is considered to

be low, it is considered that the circa 33 additional vehicles per peak hour would have no material impact on the surrounding road network.

In highway safety terms, the record of personal injury accidents does not indicate there is a particular defect affecting the safe operation of the highway. It is recommended however that the extent of the present 30mph speed limit zone should be reviewed with a view to including within it, the bends on Funtley Road to the west of the site. This should be included in any road safety audit that promotion of the site and its junction on Funtley Road would require.

It is considered the location of the site access junction, with visibility splays, would be acceptable although the access road should be perpendicular to Funtley Road. The junction and any further off-site highway works would be the subject of a Section 278 Agreement with Hampshire County Council.

The provision of the pedestrian and cyclist route leading south from the site would be considered to be a significant benefit for prospective and existing residents in west Funtley. The route would appear to need some improvements to make it fully functional, such as raised parapets on the M27 crossing, some new construction and the designation of a shared pedestrian/cyclist use on the existing public footpath leading to Thames Drive.

Contaminated Land - No objection subject to a suitable planning condition requiring site investigation and remedial measures as necessary.

Environmental Health - No objection.

### ***Planning Considerations - Key Issues***

#### **IMPLICATION OF FAREHAM'S CURRENT 5-YEAR HOUSING LAND SUPPLY POSITION**

Members' attention is drawn to the report titled "Five year housing land supply position" elsewhere on this agenda. That report sets out this Council's local housing need along with this Council's housing land supply position. The report concludes that this Council has 4.95 years of housing supply against the new 5YHLS requirement. Based on the previous resolution of Members, that housing supply of 4.95 years currently includes the dwellings proposed by this planning application.

Members' attention is also drawn to the report titled 'How proposals for residential development should be considered in the context of this Council's 5 year housing land supply position', which is provided elsewhere in this agenda.

In the absence of a five year supply of deliverable housing sites, officers consider that policy DSP40 is the principal development plan policy that guides whether schemes will be considered acceptable.

#### **RESIDENTIAL DEVELOPMENT IN THE COUNTRYSIDE**

Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the urban areas.



Policies CS6 (The Development Strategy) goes on to say that development will be permitted within the settlement boundaries. The application site lies within an area which is outside of the defined urban settlement boundary.

Policy CS14 of the Core Strategy states that:

'Built development on land outside the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. Acceptable forms of development will include that essential for agriculture, forestry, horticulture and required infrastructure.'

Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map).

The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6, and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.

Policy DSP40: Housing Allocations, of Local Plan Part 2, states that

"Where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary, may be permitted where they meet all of the following criteria:

- i. The proposal is relative in scale to the demonstrated 5 year housing land supply shortfall;
- ii. The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement;
- iii. The proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps;
- iv. It can be demonstrated that the proposal is deliverable in the short term; and
- v. The proposal would not have any unacceptable environmental, amenity or traffic implications.

Each of these five bullet points are worked through in turn below.

#### POLICY DSP40(i)

The proposal for a development of 55 dwellings is considered to be relative in scale to the identified shortfall and therefore bullet point i) of Policy DSP40 is satisfied.

## POLICY DSP40(ii)

The second test of Policy DSP40 is that: "The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement".

The site is located beyond the settlement policy boundary and is therefore contrary to policies which aim to secure the majority of new housing within the urban area. The site does not lie adjacent to the existing urban settlement boundary. However, a significant section of the northern boundary of the site lies on the opposite side of Funtley Road to the existing housing estate at Roebuck Avenue, Deer Leap and Stag Way. This housing estate, which was granted planning permission in the late 1990s on the site of an abattoir, is also within the countryside in terms of its status within the current adopted local plan however its character and appearance is typical of an area found within the urban settlement boundary.

Bus stops are located close to the site on Funtley Road and the bus service runs approximately once an hour to Fareham and Wickham. However, the service neither starts particularly early nor finishes late and no buses run on a Sunday. There are very limited services within Funtley itself. The closest shop (McColls Newsagent) in Kiln Road for example is in the region of 1,200 metres (3/4 mile) from the site. Furthermore Officers are not convinced that the pedestrian and cycling arrangements from the application site to facilities are ideal at present either in the vicinity of the site itself or taking into account the steep climb up from Funtley into Fareham.

The proposed pedestrian and cycle right of way through the site southwards and over the M27 motorway bridge represents a substantial improvement to the accessibility of the site by providing sustainable transport links through to the existing urban area of Fareham. This new link brings Orchard Lea Infant and Junior Schools within a walking/cycling distance of approximately 650 metres from the application site and the shops and other services at Highlands Road Local Centre within 1.5km. Through the submitted travel plan the applicant proposes contributions towards the cost of new bikes for new residents to facilitate the use of this new pedestrian/cycle connection with Fareham. Bus vouchers are also proposed as part of that same scheme.

It should also be noted that part of the development proposed by the applicant comprises space for a shop and community building on the site itself meaning such facilities would be within a very short distance relatively speaking from those new homes being constructed. Officers acknowledge that the provision of a commercial enterprise such as a shop, cafe or other such use is dependent on market forces and a suitable and viable end use coming forward. Notwithstanding, the provision of space for such assists in increasing the relative accessibility of the site as would the provision of a community building subject to that facility being in a form which responded to local need.

In relation therefore to this second test of Policy DSP40, Officers consider the package of measures proposed by the applicant to materially improve the sustainability of the location. Notwithstanding, and although the site lies immediately opposite a housing development of an urban nature, the site does not lie adjacent to the existing urban settlement boundary.

#### POLICY DSP40(iii)

The third test of Policy DSP40 is that: "The proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps".

As mentioned earlier in this report, the site lies within the countryside but does not form part of a strategic gap. The site consists of the lower reaches of the hill slope which rises to the south where the proposed community park is to be located (planning reference P/18/0066/CU).

The 2017 Fareham Landscape Assessment identifies the site as falling within the Upper Meon Valley (Area 062b). The site is identified as being set within a predominantly high sensitive landscape that represents part of the Borough's undeveloped landscape resource and the rural setting and 'natural edge' of the settlement of Funtley. Its rural character is particularly distinctive through its rising ground and hilltop/ridgeline topography.

Development on the site would have significant detrimental effects on the character and quality of local views. The eastern part of the site is enclosed by strong hedgerows and tree cover and is less visible from Funtley Road. However, the land further west is more open and built development on this land will be clearly evident thereby affecting the integrity and quality of the rural character of the surrounding landscape. With this high sensitivity in mind the applicant has sought to minimise the adverse impacts of the development in their proposal including revisions made during the course of the application to the submitted parameters plan and masterplan.

It is proposed to use and improve the existing point of vehicular access into the site with one further pedestrian/cycle route being formed to Funtley Road. This would enable the vast majority of the northern boundary hedgerow along Funtley Road to be retained. Whilst the built form of housing would inevitably be visible over and through the boundary the hedgerow's retention would assist in preserving the character of Funtley Road as a rural lane. The submitted parameters plan shows a landscape buffer between the hedgerow and the start of housing development which would further reinforce this planted edge and set back the built form from Funtley Road reducing the visual impact.

The masterplan as well as the submitted parameter plan show two 'green' or 'view' corridors through the site. These corridors have been devised following the advice of the Council's Urban Designer that the importance of the high ground and its relationship back to the development core and Funtley Road, linking with the



existing housing development on the north side of the road, is a key element. The corridors act to integrate key landscape features of the community park land to the south and reduces the urbanising impact on the rural character of the area.

In comparison with the existing built form, namely the housing estate on the site of the former abattoir on the north side of Funtley Road, Officers consider the proposal compares favourably. The proposed development would provide up to 55 dwellings on a site which the revised parameters plan identifies as having a developable area of 2.48 hectares. The overall density of the scheme is therefore approximately 22 dwellings per hectare (dph). This is lower than the density of the existing housing development at Roebuck Avenue/Deer Leap/Stag Way which is around 28 - 32 dph.

Whilst matters of scale, appearance, layout and landscaping are all reserved matters, Officers consider the quantum proposed and the parameters set out in the submission mean the proposed development would be capable of being sensitively designed to respond positively to the character of the existing housing development nearby. The work carried out by the applicant in setting the parameters for development on the site, particularly the incorporation of key 'green' or 'view' corridors through the land, acts to minimise the adverse impact on the landscape character of the countryside.

Officers consider the proposal meets the third test of Policy DSP40.

#### POLICY DSP40(iv)

The fourth test of Policy DSP40 is that: "It can be demonstrated that the proposal is deliverable in the short term".

The applicant has indicated that should planning permission be granted they envisage the reserved matters being submitted for consideration and approved within two years. They estimate that development would commence within the following twelve months after approval of the reserved matters allowing the first completions in the year 2021.

The applicant has raised no objection to the imposition of a planning condition requiring the submission of reserved matters within 24 months of the date of outline permission being granted and implementation of the development within 12 months of those reserved matters being approved.

Officers consider the development to be deliverable in the short term thereby satisfying this test of Policy DSP40(iv).

#### POLICY DSP40(v)

The fifth and final test of Policy DSP40 is that: "The proposal would not have any unacceptable environmental, amenity or traffic implications".

#### FLOODING AND SURFACE WATER DRAINAGE

The applicant has submitted a Flood Risk Assessment & Drainage Strategy on which Officers have consulted the lead local flood authority Hampshire County Council. Hampshire County Council's Flood and Water Management team have responded to state that the general principles for the surface water drainage proposals for the development are acceptable. However, further information would be required at a later stage and should be secured through the imposition of a suitably worded planning condition in the event outline permission is granted.

A number of local residents have raised concerns over this issue and that flooding and surface water drainage problems already experienced in the area might be exacerbated by the development. Notwithstanding the positive response from the lead local flood authority, the applicant has produced a non-technical summary of the flood risk assessment. This summary explains that the current flooding in Funtley Road is likely to be caused by too much water flowing from the site into the road and the highway drain not being able to cope due to its restricted diameter. The development proposes to create balancing ponds into which surface water from roofs and other impermeable surfaces, as well as existing overland flow, would be routed. The ponds would attenuate the flow of water into the ditch alongside Funtley Road. This arrangement would provide a significantly wider benefit to the area as the ponds would intercept flood water from a large catchment area before it reaches and crosses the highway thereby greatly reducing incidences of flooding. As referred to above, HCC drainage engineers have agreed this scheme in principle subject to further detail at a later stage (e.g. reserved matters or discharge of planning conditions).

## ECOLOGY

Following additional information being provided by the applicant the Council's Ecologist has raised no objection to the proposals subject to appropriate biodiversity mitigation, enhancement and management measures being secured by condition. Natural England have also raised no objection. The submitted parameters plan shows the developable areas of the site to be set a minimum of 15 metres from the adjacent areas of ancient woodland SINC.

To fulfil the requirement under the Habitat Regulations Officers have carried out an Appropriate Assessment in relation to the likely significant effects on the coastal Special Protection Areas (SPAs) and have concluded that the application's compliance with the Solent Recreation Mitigation Strategy means that there will be no adverse effect on the integrity of the designated sites.

## AMENITY

The light to, outlook from or privacy enjoyed by neighbouring properties would not be materially harmed as a result of the proposed development.

The layout and scale of the development are some of the matters reserved for consideration at a later stage. In the event that outline planning permission is granted the reserved matters application would need to ensure that the dwellings

would be built in a manner which meets this Council's requirements in respect of light, outlook and privacy as set out in the recently adopted Fareham Borough Council Design Guidance (excluding Welborne) SPD.

Concerns have been raised regarding noise and disturbance during the construction process. In the event that planning permission is granted the timing of construction works could be controlled via condition.

## TRAFFIC

A number of the objections received raise concerns regarding the potential impact that the proposed development would have on local roads in terms of highway safety.

Policy CS5 (Transport Strategy and Infrastructure) states that the Council will permit development which does not adversely affect the safety and operation of the strategic local road network, public transport operations or pedestrian and cycle routes.

The Council's Transport Planner believes that the location and form of the site access with visibility splays would be acceptable and would not have an adverse impact on the safety of the highway.

The existing 30mph speed limit zone would need reviewing with a view to including within it more of Funtley Road to the west including the proposed pedestrian crossing point near the junction with Roebuck Avenue.

The anticipated additional traffic generated by the development would be in the region of 33 additional vehicles per peak hour. Officers consider this would have no material impact on the surrounding road network.

In summary of the above points, Officers consider there to be no unacceptable environmental, amenity or traffic implications likely to arise as a result of the proposed development. The proposal therefore accords with the fifth and final test of Policy DSP40.

## PROPOSED BENEFITS

In order to assess this application it is important to consider the benefits of the proposed development in order to afford them appropriate weight in the planning balance. The benefits of the scheme are set out in the applicant's submitted Planning Statement.

### a) Provision of market and affordable housing

Firstly the proposal would deliver 33 market houses. The provision of these homes would make a notable contribution towards addressing the Council's acknowledged shortfall in housing supply. Three of those houses would be provided as plots made available for custom built houses. The Council has a requirement under the Self-

build and Custom Housebuilding Act 2015 to provide a continuous provision of self and custom built houses, and to maintain a register of those within the Borough who wish to undertake such a project. To accord with the requirements of the Self-build and Custom Housebuilding Act 2015 each plot must be provided with appropriate services to enable the individuals to build out their plots without having to undertake expensive infrastructure development. Currently there are 97 people on the register and over a three year rolling period, the Council has a requirement to provide 35 dwellings by October 2019. Currently there is permission in place for four plots plus resolutions to grant a further twelve. The proposed custom build houses would contribute further to meeting this requirement.

The proposal would also deliver 22 affordable homes which equates to 40% of the total number of homes and therefore accords with the expectations of Policy CS18 of the adopted Fareham Borough Core Strategy.

#### b) Sustainable transport links

The application further proposes significant benefits in the form of improvements to sustainable transport links which would be enjoyed not only by occupants of the new houses but also by existing residents of Funtley. The main improvement proposed is the public right of way for pedestrians and cyclists to be formed through the site and the adjacent land to the south where the community park is proposed and over the M27 bridge to the urban area of Fareham beyond. This is considered by HCC Highways and Officers of this Council to be an essential element of the proposal, delivering sustainable transport links to the site in order to make the development acceptable in planning terms.

The provision of these improvements can be secured through appropriately worded planning obligations in a Section 106 legal agreement.

#### c) Open space and community park

The development will deliver on site open space including a Local Equipped Area of Play (LEAP) at a level consistent with the Council's adopted Planning Obligations SPD for the Borough of Fareham (excluding Welborne). This provision could be secured through a Section 106 agreement.

In addition the applicant proposes a significant amount of extra open space provision on the adjacent site to the south which is currently subject of a separate planning application for its change of use to a community park. The proposed public right of way through to the bridge across the M27 to the south would pass through the community park. The park would therefore be in close proximity to and fully accessible from the housing site hereby proposed and would represent a substantial benefit for both future and existing residents to which significant weight should be attached.

The applicant has agreed to transfer the land in question to the Council and to the payment of a financial contribution of £802,000 towards the associated ongoing maintenance of the community park. This figure provides sufficient funding for a



period of approximately 30 years and is based on costings provided by the Council's Head of Streetscene within whose service the responsibility for countryside park management lies. The land transfer and maintenance contributions would be secured through an obligation in the Section 106 agreement.

It is considered that the provision of the on- and off- site open space would compensate for the loss of the open space which currently forms part of the western end of the application site. Notwithstanding that this piece of land no longer appears to fulfil the function of publicly accessible open space, Policy CS21 of the adopted Fareham Borough Core Strategy is supportive of development leading to the loss of existing open space where such space is "poor quality, under-used or has low potential for open space and a better quality replacement site is provided which is equivalent in terms of accessibility and size".

#### d) Community building

The proposal includes a new building for community uses and a local shop. The applicant's proposal is that the community/shop building on the site would have a maximum size of 250 sq m. The building could be used for a range of uses as set out in the application (Use Classes A1, A3, D1 & D2). This could for example allow the building to be used entirely as a community use or as a combination of a community use and shop. The precise location, size, specification and type of community use facility required would be determined by the applicant and the Council. Those details would be a subject of the reserved matters application which would follow the grant of outline consent.

It is proposed to transfer 0.1 hectares of land within the site to the Council for the building and associated car parking and landscaping. Funding for the building would be provided on a pro-rata basis of £2,000 per sq m. for the community use element only. In the event the Council determines that improvements or provision of additional community facilities elsewhere in Funtley would be more beneficial the applicant agrees to provide the same sum on a pro-rata basis minus the floorspace of any remaining shop use on the application site.

The applicants have proposed that the shop be marketed to find a potential buyer and this will include the potential for the shop owner to also run the community building.

#### e) Other economic benefits

The applicant has submitted an Economic Benefits Assessment to further expand on the benefits of granting planning permission for the development. The assessment concludes that the development "represents an opportunity to support private sector investment into the local economy of Fareham Borough". The benefits of such include creating employment in the construction industry and other related trades during the building phase and the additional resident expenditure in local shops and services.

## DRAFT LOCAL PLAN

Members will be aware that the Draft Local Plan which addresses the Borough's development requirements up until 2036, was subject to consultation between 25th October 2017 and 8th December 2017.

The site of this planning application is proposed to be allocated for housing within the draft local plan. A number of background documents and assessments support the proposed allocation of the site in terms of its deliverability and sustainability which are of relevance. The Strategic Housing Land Availability Assessment (SHLAA) published in October 2017 with the draft local plan identifies the land as a "Developable Housing Site" with an indicative dwelling yield of 55 units. However, at this stage in the plan preparation process, the draft plan itself carries limited weight in the assessment and determination of this planning application.

## THE PLANNING BALANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the starting point for the determination of planning applications

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The site is outside of the defined urban settlement boundary and the proposal does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan.

Officers have carefully assessed the proposals against Policy DSP40: Housing Allocations which is engaged as this Council cannot demonstrate a 5YHLS against objectively assessed housing need. In weighing up the material considerations and conflicts between policies; the development of a greenfield site weighted against Policy DSP40, Officers have concluded that the proposal is relative in scale to the demonstrated 5YHLS shortfall and the applicant has demonstrated that if the development was granted planning permission it could be delivered in the short term.

The site is not located adjacent to the existing urban area as identified in the adopted local plan and its location has been found by Officers to be relatively poor in terms of its accessibility. However, the proposed improvements to sustainable transport links to service the site and surrounding area are a substantial improvement which Officers consider satisfactorily address the issue of accessibility.

Taking into account the parameters indicated by the applicant and the site's constraints, the quantum of development proposed would be capable of being delivered at a scale and density which responds well to the adjacent existing built up area. Measures have been proposed to mitigate the visual impact of the

development, notwithstanding, the proposal would harm the landscape character, appearance and function of the countryside.

Officers are satisfied that there are no outstanding amenity and ecology issues which cannot otherwise be addressed through appropriate use of planning conditions and obligations. There would be no materially harmful impact on highway safety.

In balancing the objectives of adopted policy which seeks to restrict development within the countryside alongside the shortage in housing supply, officers acknowledge that the proposal could deliver 55 dwellings, including affordable housing and custom build properties, in the short term. The contribution the proposed scheme would make towards boosting the Borough's housing supply weighs in favour of granting planning permission. The proposed development would also deliver onsite open space, a community building and a community park on adjacent land to the south. These would be long term community assets and their provision weighs in favour of granting planning permission.

There is a clear conflict with development plan policy CS14 as this is development in the countryside. Ordinarily, Officers would have found this to be the principal policy such that a scheme in the countryside should be refused. However, in light of the Council's lack of a five year housing supply, development plan policy DSP40 is engaged and Officers have considered the scheme against the criteria therein. The scheme is considered to satisfy four of the five criteria and in the circumstances, officers consider that more weight should be given to this policy than CS14 such that, on balance, when considered against the development plan as a whole, the scheme should be approved.

As set out in the report titled 'How proposals for residential development should be considered in the context of this Council's 5 year housing land supply position', Officers consider that the implications of the CJEU judgment (*People Over Wind, Peter Sweetman v Coillte Teoranta*) and paragraph 177 of the NPPF mean that the application of the presumption in favour of sustainable development set out in paragraph 11 of the same Framework is not a relevant consideration.

In the event that this approach is subsequently found to be incorrect as a consequence of a Court decision or a clarification in government policy, Officers have considered the application in the alternative and assessed the proposals having regard to the 'tilted balance' test set out at paragraph 11 of the NPPF.

In undertaking a detailed assessment of the proposals throughout this report and now applying the 'tilted balance' to those assessments, Officers consider that:

(i) there are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed, particularly when taking into account that any significant effect upon Special Protection Areas can be mitigated through a financial contribution towards the Solent Recreation Mitigation Strategy; and

(ii) any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

Therefore, even if paragraph 11 of the NPPF were a relevant consideration, Officers find that having applied the 'tilted balance', they would have similarly concluded that planning permission should be granted for the proposals.

Having carefully considered all material planning matters, including all new planning considerations arising since the proposal was considered by the Planning Committee on the 18<sup>th</sup> July, Officers continue to recommend that planning permission be granted subject to the following matters.

### ***Recommendation***

1) Subject to the applicant entering into a planning obligation under Section 106 of the Town and Country Planning Act 1990 on terms drafted by the Solicitor to the Council in respect of the following:

- a) To secure the delivery of 40% of the permitted dwellings as affordable housing;
- b) To secure three of the permitted dwellings as custom-built properties;
- c) To secure provision of a pedestrian and cycle public right of way through the site from Funtley Road (north) to Thames Drive (south); associated works to upgrade bridge over M27 motorway (including structural survey) and commuted sum for future maintenance;
- d) To secure provision of, laying out (including provision of capital equipment required to establish the park) and transfer of community park land to Fareham Borough Council and a financial contribution of £802,000 towards the associated ongoing maintenance costs of operating the community park;
- e) To secure the on-site provision of public open space including local equipped area of play (LEAP) in accordance with the Council's adopted Planning Obligations SPD, a financial contribution towards associated maintenance costs and transfer of the public open space to Fareham Borough Council;
- f) To secure a financial contribution towards the Solent Recreation Mitigation Partnership (SRMP) in order to mitigate the 'in combination' effects that an increase in residential units on the site would cause through increased recreational disturbance on the Solent Coastal Special Protection Areas;
- g) To secure a financial contribution towards the production of school travel plans in the area (£15,000);
- h) To secure a financial contribution towards the revision of the existing traffic regulation order (TRO) to allow the speed limit restrictions on Funtley Road to be amended (£5,000);
- i) To secure submission and implementation of travel plan;
- j) To secure details of the delivery of the community building, the transfer of land 0.1 hectares in size on application site and funding on a pro-rata basis of £2,000 per sq. m of community use floorspace (to a maximum of £500,000) for provision



of community/shop building and associated management arrangements for community use element along with pedestrian and vehicular access rights between the site of the community building and Funtley Road, or at the request of the local planning authority the same sum for the provision or improvement of community facilities within Funtley calculated on a pro-rata basis minus the floorspace of any remaining shop use on the application site.

2) Delegate to the Head of Development Management in consultation with the Solicitor to the Council to make any minor modifications to the proposed conditions or heads of terms or any subsequent minor changes arising out of detailed negotiations with the applicant which may necessitate the modification which may include the variation, addition or deletion of the conditions and heads as drafted to ensure consistency between the two sets of provisions;

#### GRANT OUTLINE PERMISSION:

Subject to the following conditions:

1) Application for approval of details of the appearance, landscaping, layout and scale of the development (referred to as the 'reserved matters') shall be made to the local planning authority before the expiration of twenty-four months from the date of this permission. Work shall be commenced in pursuance of this permission no later than twelve months from the approval of the final reserved matter.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

2) The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

- a) D2546\_509 - Revised Application Site Boundary Received 21 May 2018
- b) Drawing no. D2546\_032\_REVI - Parameters Plan - received 6th June 2018
- c) Technical Note - Potential Mitigation Measures for Bridge Over M27 - received 20th April 2018
- d) Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018
- e) 1712047 SK03B - Pedestrian\_Cycle Improvements Received 21 May 2018
- f) Drawing no. 1712047 SK05A - Pedestrian and Cycle Improvements - south section -received 31st May 2018
- g) Ecological Assessment - Ecology Solutions - May 2018

REASON: To avoid any doubt over what has been permitted.

3) No development hereby permitted shall commence until a surface water drainage strategy has been submitted to and approved by the local planning authority in writing. The strategy shall include the following elements:

- a) Full details of the means of surface water drainage from the site;

- b) The detailed design of Sustainable Urban Development Systems (SUDS) to be used on the site as well as details on the delivery, maintenance and adoption of SUDS features.
- c) Assessment of surface water drainage discharge from the site in combination with the development site to the north of Funtley Road (planning application reference P/17/1135/OA) to demonstrate that:
  - i. the greenfield runoff rate will not exceed 13.1 l/s during the 1 in 100 year storm +(40%CC);
  - ii. the surface water discharged to the Funtley Road ditch will comply with CIRIA C753 2015 Table 26.2 & Table 26.3.

The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of surface water.

- 4) No development hereby permitted shall commence until details of the means of foul water drainage from the site have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of foul water.

- 5) No development hereby permitted shall take place until a Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved by the local planning authority in writing. The submitted plan shall be devised fully in accordance with the outline ecological mitigation and enhancements measures contained within the approved "Ecological Assessment - May 2018 - Ecology Solutions". The submitted plan shall include the following:

- a) A Reptile and Dormouse Mitigation Strategy;
- b) A Japanese Knotweed Eradication Scheme;
- c) A Badger Protection Strategy;
- d) Details of the timing of clearance works;
- e) A detailed scheme of biodiversity enhancements;
- f) Details of a soft landscaping scheme including provisions for buffer planting associated with the adjacent areas of ancient woodland;
- g) Details of darkened corridors for foraging/commuting bats;
- h) A Landscape/Ecology Management Plan including details of the maintenance of mitigation and enhancement measures.

The development shall be carried out fully in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan unless otherwise agreed in writing by the local planning authority.

REASON: To provide ecological compensation, management and enhancements.

6) No development shall commence until an Arboricultural Impact Assessment and Method Statement for tree/hedgerow protection has been submitted to and approved by the Local Planning Authority in writing and the approved scheme has been implemented. The tree/hedgerow protection shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site.

REASON: To ensure that the trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability during the construction period.

7) No development hereby permitted shall commence until an intrusive site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority (LPA). The intrusive site investigation and risk assessment shall include assessment of the risks posed to human health, the building fabric and the wider environment such as water resources, and where the site investigation and risk assessment reveal a risk to receptors, it shall include a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the LPA. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, an independent competent person shall confirm in writing that the works have been completed in full and in accordance with the approved scheme. Such confirmation shall include photographic evidence and, if considered necessary by the local planning authority, as built drawings of the development.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place.

8) No development hereby permitted shall commence on site until a Construction Management Plan (CMP) setting out how provision is to be made on site for the parking and turning of operatives' vehicles, wheel cleaning, the areas to be used for the storage of building materials, plant, excavated materials and huts associated with the implementation of the approved development, has been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be carried out in accordance with the CMP and areas identified in the CMP for specified purposes shall thereafter be kept available for those uses at all times during the construction period, unless otherwise agreed in writing with the LPA.

REASON: In the interests of highway safety and/or in order to secure the health and wellbeing of the trees and vegetation which are to be retained at the site and/or to ensure that the occupiers of nearby residential properties are not subjected to unacceptable noise and disturbance during the construction period.

9) No development hereby permitted shall commence until details of the width, alignment, gradient and type of construction proposed for any roads, footways and access, including all relevant horizontal and longitudinal cross sections showing the existing and proposed ground levels, together with details of street lighting (where appropriate), the method of disposing of surface water, and details of a programme for the making up of roads and footways, have been submitted to and approved by the Local Planning Authority in writing. The development shall be subsequently carried out in accordance with the approved details.

REASON: To ensure that the roads are constructed to a satisfactory standard.

10) No development hereby permitted shall commence until details of the internal finished floor levels of all of the proposed buildings in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

REASON: To safeguard the character and appearance of the area and to assess the impact on nearby residential properties.

11) No development hereby permitted shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include proposed mitigation measures in relation to any archaeological remains found as necessary. The development shall be carried out in accordance with the approved scheme.

REASON: In order to ensure that the site, which is located in an area where there is potential for archaeological discovery, is adequately investigated prior to development.

12) No development shall proceed beyond damp proof course level until a scheme for sound attenuation against traffic and railway noise has been submitted to and approved in writing by the local planning authority in writing. The scheme shall assess the impact of noise from vehicles and trains and identify the measures necessary to attenuate against noise nuisance to future occupants. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent avoidable disturbance to residents from noise.

13) No development shall proceed beyond damp proof course level until details of secure cycle storage have been submitted to and approved by the Local Planning Authority in writing. The approved secure cycle stores shall be provided before any



dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To encourage cycling as an alternative mode of transport.

14) No development shall proceed beyond damp proof course level until details of the proposed bin storage areas (including bin collection points) have been submitted to and approved by the Local Planning Authority. The details shall include the siting, design and the materials to be used in construction. The approved bin storage and collection areas shall be provided before any dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To ensure that the character and appearance of the development and the locality are not harmed.

15) No development shall proceed beyond damp proof course level until details (including samples where requested by the Local Planning Authority) of all proposed external facing and hardsurfacing materials have been submitted to and approved by the LPA in writing.

The development shall be carried out in accordance with the approved details.

REASON: To secure the satisfactory appearance of the development.

16) No work on site relating to the construction of any of the development hereby permitted (Including works of demolition or preparation prior to operations) shall take place before the hours of 0800 or after 1800 Monday to Friday, before the hours of 0800 or after 1300 Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To protect the occupiers of nearby residential properties against noise and disturbance during the construction period.

17) None of the development hereby approved shall be occupied until the pedestrian crossing points and means of vehicular access shown on the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018" has been provided. The access shall be subsequently retained.

REASON: In the interests of highway safety.

18) No dwelling hereby permitted shall be first occupied until the visibility splays at the junction of the estate road/access with existing highway have been provided in accordance with the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018". The visibility splays shall thereafter be kept clear of obstruction (nothing over 0.6m in height) at all times.

REASON: In the interests of highway safety

19) None of the development hereby approved shall be occupied until a plan of the position, design, materials and type of boundary treatment to be erected to all boundaries has been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatment has been fully implemented. It shall thereafter be retained at all times unless otherwise agreed in writing with the Local Planning Authority.

If boundary hedge planting is proposed details shall be provided of planting sizes, planting distances, density, and numbers and provisions for future maintenance. Any plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To protect the privacy of the occupiers of the neighbouring property, to prevent overlooking, and to ensure that the development harmonises well with its surroundings.

20) The landscaping scheme, submitted under Condition 1 shall be implemented and completed within the first planting season following the commencement of the development or as otherwise agreed in writing with the Local Planning Authority and shall be maintained in accordance with the agreed schedule. Any trees or plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To ensure the provision, establishment and maintenance of a standard of landscaping.

21) No development shall proceed beyond damp proof course level until a scheme detailing the relocation of the existing bus stop on the south side of Funtley Road adjacent to the vehicular entrance to the site has been submitted to and approved by the local planning authority in writing. No dwelling hereby permitted shall be first occupied until the bus stop has been relocated in accordance with the approved scheme.

REASON: In the interests of highway safety.

### ***Notes for Information***

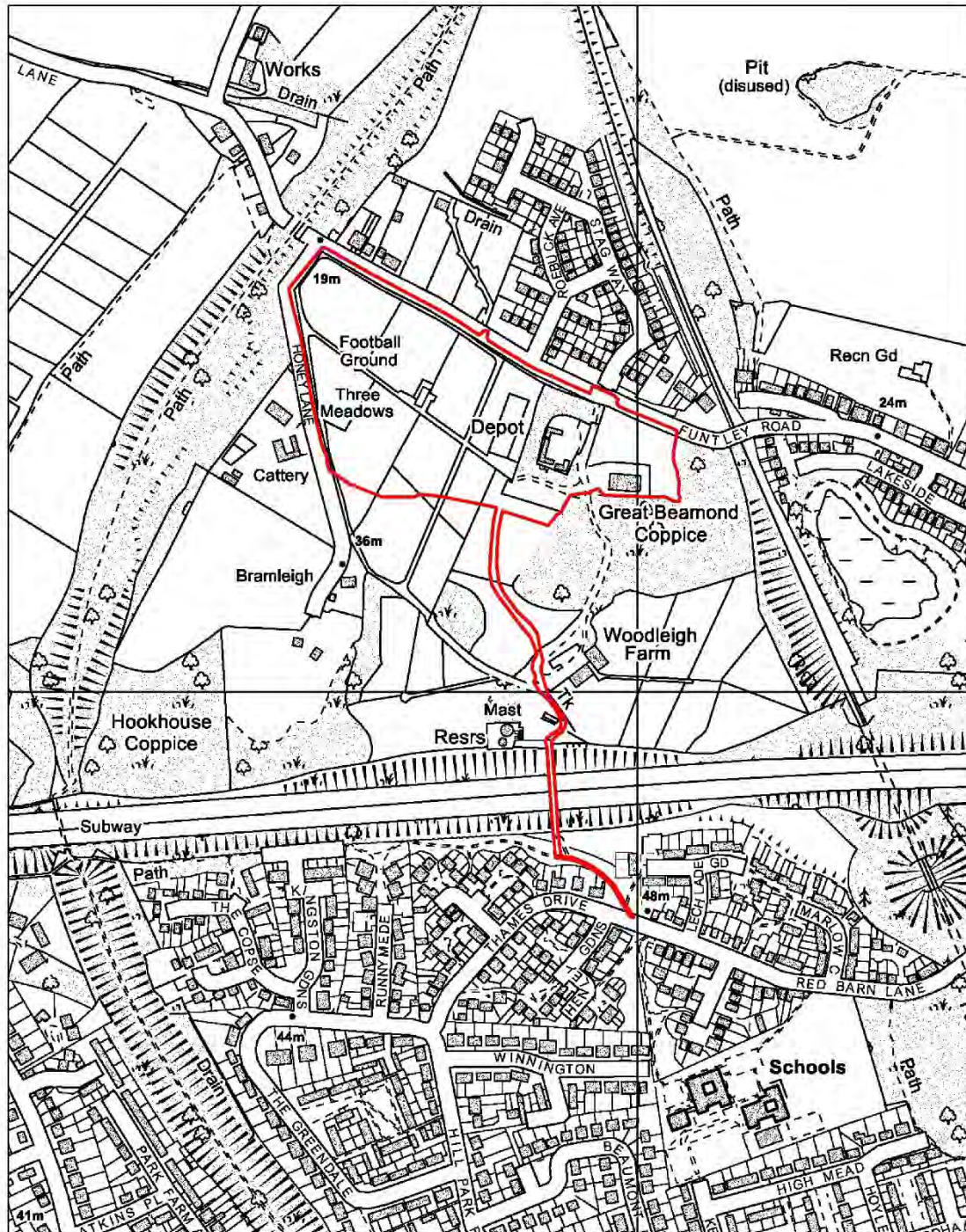
a) The applicant is advised to contact Southern Water to discuss the need for a formal application for connection to the public sewerage system. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 330 303 0119) or visit [www.southernwater.co.uk](http://www.southernwater.co.uk).

### ***Background Papers***

P/18/0067/OA; P/18/0066/CU; P/17/1135/OA; P/17/0045/OA

# FAREHAM

BOROUGH COUNCIL



Land to the South of Funtley Road  
Scale 1:5,000



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## **OFFICER REPORT FOR COMMITTEE**

**Date: 18/07/2018**

**P/18/0067/OA**

RESIDE DEVELOPMENTS LIMITED AND  
ATHERFOLD INVESTMENTS LTD

**FAREHAM  
NORTH**

AGENT: TURLEY

FOLLOWING DEMOLITION OF EXISTING BUILDINGS, RESIDENTIAL DEVELOPMENT OF UP TO 55 DWELLINGS (INCLUDING 3 CUSTOM-BUILD HOMES) (USE CLASS C3), COMMUNITY BUILDING INCORPORATING A LOCAL SHOP 250 SQM (USE CLASSES A1, A3, D1 & D2), ACCESSES AND ASSOCIATED LANDSCAPING, INFRASTRUCTURE AND DEVELOPMENT WORKS

LAND TO THE SOUTH OF FUNTLEY ROAD FUNTLEY FAREHAM

### ***Report By***

Richard Wright - 01329 824758

### ***Introduction***

Members' attention is drawn to the report at the beginning of this Committee agenda titled "Consideration of planning applications on this Agenda."

This planning application was first considered at the Planning Committee meeting on the 18<sup>th</sup> July 2018. Following consideration of all relevant planning matters, Members resolved to grant planning permission for the proposal subject to the prior completion of a planning obligation and the imposition of relevant conditions.

The following report is an updated version of the report presented to the Planning Committee on the 18<sup>th</sup> July 2018. The main updates made to the report can be summarised as followed:

- The Site Description and Description of Proposal section has been revised to better explain the current status of two further planning applications by the same applicant on land to the south of Funtley Road.
- Two further representations have been incorporated into the Representations section.
- The section of the report titled "Implication of Fareham's Current 5 Year Housing Land Supply Position (5YHLS)" has been updated to reflect the requirements of the revised National Planning Policy Framework (NPPF) and the implications of the recent judgment of the Court of Justice of the European Union (CJEU).



- References to the NPPF (2012) have been removed since that document has now been replaced.
- The section of the report which considers the community park and community building offered by the applicant has been updated to incorporate information previously provided as an Update to the Planning Committee meeting on 18<sup>th</sup> July this year.
- The section of the report titled “The planning balance” has been updated to reflect the requirements of the revised NPPF and the implications of the recent judgment of the Court of Justice of the European Union (CJEU).
- The Officer recommendation has been revised so that the design, delivery and management of SUDs on the site would be secured through a planning condition as opposed to a planning obligation through a Section 106 agreement. This requirement has been incorporated into the wording of Condition 3 which is revised accordingly.

### ***Site Description***

The site measures 5.98 hectares (14.8 acres) in area and is situated immediately to the south of Funtley Road. The site lies outside of the urban settlement boundary.

The site comprises grass land used for the grazing of horses and associated stabling and other structures, including a larger barn towards the eastern end of the site. A portion of the western part of the site is designated within the adopted local plan as an area of existing public open space and lies adjacent to The Deviation Line, a public bridleway (Bridleway 515).

The land gently rises from north to south away from the road. Alongside Funtley Road runs an established mature hedgerow, with some trees in places along that boundary, which is broken only where the vehicular entrance to the site is currently.

On the opposite side of Funtley Road to the north lies the existing housing development of Roebuck Avenue/Deer Leap/Stag Way which was built on the site of the former abattoir following planning permission being granted in 1997 (planning application reference P/97/0792/FP). To the west of that housing development, also opposite the current application site on the northern side of the road, lies a field which is the subject of another current development proposal by the same applicant reported elsewhere on this Planning Committee agenda (planning application reference P/17/1135/OA for the construction of 27 dwellings). That application also received a favourable resolution to grant permission at the Planning Committee meeting held on 18<sup>th</sup> July this year.

Meanwhile to the south of the site the level of the land noticeably rises. This land which occupies the higher slopes of the hill is also currently given over to use as paddocks. A group of larger agricultural buildings and stables is located near the highest point of the land and these buildings and the surrounding paddocks are accessed via a track which runs from the entrance to the site at Funtley Road up the hill through an area of mature woodland. The woodland, as well as a separate cluster of mature trees on the land to the south of the site, is designated as an

ancient woodland Site of Importance for Nature Conservation (SINC). This land to the south of the application site is also subject of another planning application by the same applicant which proposes the use of the site as a community park (planning application reference P/18/0066/CU). That application also received a favourable resolution to grant permission at the Planning Committee meeting held on 18<sup>th</sup> July this year.

Beyond the land proposed to be used as a community park lies the M27 motorway. An existing bridge over the motorway, owned by Highways England, provides a right of vehicular access for the application site landowner. On the south side of the bridge lies the urban area of Fareham and immediately the other side of the bridge is a designated public footpath running east to west (Footpath 91a).

### ***Description of Proposal***

Outline planning permission is sought for up to 55 new dwellings (Use Class C3), including 3 custom build homes, following demolition of existing buildings on the site. Also proposed is a community building, incorporating a local shop, of 250 sqm (Use Classes A1, A3, D1 & D2) as well as associated accesses, landscaping, infrastructure and development works.

The application is submitted in outline with all matters reserved for future approval except for access. A revised parameters plan has been submitted which the applicant has requested be an approved document to set out the broad parameters of the development. Also submitted for illustrative purposes only is a concept masterplan.

Vehicular access into the site is proposed to be formed using the existing point of entry on the south side of Funtley Road. Improvements would be made to this junction including the provision of a formal bell mouth and footpaths to link in to the existing public footpaths on the south side of Funtley Road near to where an existing ramped pedestrian crossing already exists. A new pedestrian crossing of the same type is proposed to be inserted further along the road to the west near the junction with Roebuck Avenue.

The application also proposes forming a link through the site and the community park to the south, through to and over the existing M27 bridge and connecting up with the existing public footpath north of Thames Drive. The route is proposed to be suitable for pedestrians and cyclists and would involve the provision of a suitable surface and improvements to the section of existing public right of way at its southern end. This route is identified and set out on the submitted location plan and parameters plan.

The submitted concept masterplan shows how the development might be laid out with parcels of land for housing development positioned within a wider network of interconnected green spaces and 'corridors' through the built environment. These green spaces are shown as linking with the adjacent community park. Also shown

on the masterplan is a village green and an indicative location of where the proposed community building and shop might be.

Members are advised that two further applications by the same applicant on land to the south side of Funtley Road are currently undetermined but have previously received favourable resolutions to grant planning permission at the Planning Committee meeting held on 18<sup>th</sup> July this year. Planning application reference P/17/1135/OA proposes residential development of up to 27 dwellings on land to the north side of Funtley Road. Planning application reference P/18/0066/CU meanwhile proposes the change of use of land further south into a community park.

### ***Policies***

The following policies apply to this application:

#### **Approved Fareham Borough Core Strategy**

CS2 - Housing Provision

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS14 - Development Outside Settlements

CS15 - Sustainable Development and Climate Change

CS16 - Natural Resources and Renewable Energy

CS17 - High Quality Design

CS18 - Provision of Affordable Housing

CS20 - Infrastructure and Development Contributions

#### **Approved SPG/SPD**

RCCPS - Residential Car and Cycle Parking Standards Supplementary Planning Document,

#### **Design Guidance Supplementary Planning Document (Dec 2015)**

EXD - Fareham Borough Design Guidance Supplementary Planning Document

#### **Development Sites and Policies**

DSP1 - Sustainable Development

DSP2 - Environmental Impact

DSP3 - Impact on living conditions

DSP4 - Prejudice to adjacent land

DSP6 - New residential development outside of the defined urban settlement boundaries

DSP13 - Nature Conservation

DSP15 - Recreational Disturbance on the Solent Special Protection

Areas DSP40 - Housing Allocations

### ***Relevant Planning History***

Whilst there have been numerous planning applications for stables and other forms of development on the land these are not considered materially relevant to the consideration of this current planning application.

### ***Representations***

In response to this application 119 sets of comments have been received from 86 residents.

This is because some people chose to comment more than once after revised details were submitted by the applicant.

Sixty four people objected to the application on the following planning grounds:

- Object to further housing
- Welborne is enough
- Road is already hazardous to drivers, pedestrians, cyclists and children
- Roads are overcrowded already and unsuitable for additional 250 vehicles with narrow bridges
- Area subject to flooding - more detail is required on drainage before consent is considered
- Infrastructure unable to accommodate additional pressure
- Healthcare unable to cope
- Schools are at capacity
- Application previously refused - nothing has changed
- Harm to semi-rural character of Funtley
- Should be viewed in conjunction with P/17/1135/OA
- Support letters are not from Funtley residents
- Shop not required and is a red herring
- Countryside in current Local Plan
- Site is not brownfield
- Site is not sustainable

- Funtley is a village
- Impact on Wildlife
- Loss of trees
- Loss of horse riding and stabling
- Possible contamination due to ex-abattoir
- Sites should not be approved before the new Local Plan is properly considered
- Density of development not in keeping with the remainder of the area
- Percentage of affordable housing is disproportionately high and out of keeping-
- Inappropriate location for social housing
- Noise pollution
- Problems already with power failures
- Possible subsidence due to type of soil
- Potential for increase in crime
- Already overloaded sewerage system
- Plans hard to understand and inconsistent
- Overlooking and loss of privacy
- Loss of light
- Opening of bridge over motorway is a sweetener as owners previously shut; potentially dangerous if not properly constructed and difficult for Funtley residents to get to due to steep slope
- Park is worthless land as it slopes heavily - will adversely affect wildlife
- What will happen to existing bus stops on Funtley Road as currently on proposed junction

Twenty four people wrote in support of the application with the following comments:

- Sites are currently grazing and not accessible to public
- Development will allow public access
- Provision of Village Hall and Shop
- Land shown in draft Local Plan for development

### ***Consultations***

#### **EXTERNAL**

Hampshire County Council (Highways) - Additional information has been submitted addressing the outstanding matters previously raised regarding the sustainable travel improvements. The highway authority therefore raises no objection to the application subject to Section 106 obligations.

Hampshire County Council (Countryside Planning) -

Highways have commented that consideration should be given to the provision of a shared pedestrian/cycle path to tie in with the surface on Footpath 91a, we support this approach.

It is requested that the western end of Footpath 91a is also upgraded to provide onward cycle access to Bridleway 83b, this will include widening where possible,

surfacing to our Countryside Service Design Standards and installing wheel ramps so that cycle can be pushed up the stairs.

Hampshire County Council (Flood and Water Management Team) -

The general principles for the surface water drainage proposals are acceptable. We would recommend that further information on the proposals be submitted as part of a more detailed design phase.

Southern Water - No objection.

Hampshire County Council (Children's Services) -

This development is small and will not generate enough pupils to warrant a request being made towards additional education infrastructure. However, the footpath access to the local catchment area schools, Orchard Lea Infant and Junior, must be improved to provide opportunities for sustainable travel to school and to avoid further traffic congestion around these schools at drop off and pick up times. Consideration needs to be given to providing pedestrian and cycle access to the schools via a lit path.

In order to promote sustainable travel the developer must contribute a total of £15,000 to the production of school travel plans for both schools. This should be provided to HCC before the development starts.

Natural England - No objection.

INTERNAL

Hampshire County Council (Ecology) - No concerns raised following the submission of amended ecology reports.

Trees - No objection

Highways -

It is accepted that, whilst the site is fairly remote from a number of facilities, it is served by an hourly bus service and, with the provision of the link over the motorway, would be within walking and cycling distance of most routine travel attractors. To provide additional accessibility, a pedestrian access is proposed emerging onto Funtley Road at a central point on the frontage. The practicality of this will need to be reviewed when connectivity to the nearby footways is known.

In traffic impact terms, whilst the predicted traffic generation from the site is considered to

be low, it is considered that the circa 33 additional vehicles per peak hour would have no material impact on the surrounding road network.

In highway safety terms, the record of personal injury accidents does not indicate there is a particular defect affecting the safe operation of the highway. It is recommended however that the extent of the present 30mph speed limit zone should be reviewed with a view to including within it, the bends on Funtley Road to the west of the site. This should be included in any road safety audit that promotion of the site and its junction on Funtley Road would require.

It is considered the location of the site access junction, with visibility splays, would be acceptable although the access road should be perpendicular to Funtley Road. The junction and any further off-site highway works would be the subject of a Section 278 Agreement with Hampshire County Council.

The provision of the pedestrian and cyclist route leading south from the site would be considered to be a significant benefit for prospective and existing residents in west Funtley. The route would appear to need some improvements to make it fully functional, such as raised parapets on the M27 crossing, some new construction and the designation of a shared pedestrian/cyclist use on the existing public footpath leading to Thames Drive.

Contaminated Land - No objection subject to a suitable planning condition requiring site investigation and remedial measures as necessary.

Environmental Health - No objection.

### ***Planning Considerations - Key Issues***

#### **IMPLICATION OF FAREHAM'S CURRENT 5-YEAR HOUSING LAND SUPPLY POSITION**

Members' attention is drawn to the report titled "Five year housing land supply position" elsewhere on this agenda. That report sets out this Council's local housing need along with this Council's housing land supply position. The report concludes that this Council has 4.95 years of housing supply against the new 5YHLS requirement. Based on the previous resolution of Members, that housing supply of 4.95 years currently includes the dwellings proposed by this planning application.

Members' attention is also drawn to the report titled 'How proposals for residential development should be considered in the context of this Council's 5 year housing land supply position', which is provided elsewhere in this agenda.

In the absence of a five year supply of deliverable housing sites, officers consider that policy DSP40 is the principal development plan policy that guides whether schemes will be considered acceptable.

#### **RESIDENTIAL DEVELOPMENT IN THE COUNTRYSIDE**

Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the urban areas.



Policies CS6 (The Development Strategy) goes on to say that development will be permitted within the settlement boundaries. The application site lies within an area which is outside of the defined urban settlement boundary.

Policy CS14 of the Core Strategy states that:

'Built development on land outside the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function. Acceptable forms of development will include that essential for agriculture, forestry, horticulture and required infrastructure.'

Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map).

The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6, and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.

Policy DSP40: Housing Allocations, of Local Plan Part 2, states that

"Where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary, may be permitted where they meet all of the following criteria:

- i. The proposal is relative in scale to the demonstrated 5 year housing land supply shortfall;
- ii. The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement;
- iii. The proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps;
- iv. It can be demonstrated that the proposal is deliverable in the short term; and
- v. The proposal would not have any unacceptable environmental, amenity or traffic implications.

Each of these five bullet points are worked through in turn below.

#### POLICY DSP40(i)

The proposal for a development of 55 dwellings is considered to be relative in scale to the identified shortfall and therefore bullet point i) of Policy DSP40 is satisfied.

## POLICY DSP40(ii)

The second test of Policy DSP40 is that: "The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement".

The site is located beyond the settlement policy boundary and is therefore contrary to policies which aim to secure the majority of new housing within the urban area. The site does not lie adjacent to the existing urban settlement boundary. However, a significant section of the northern boundary of the site lies on the opposite side of Funtley Road to the existing housing estate at Roebuck Avenue, Deer Leap and Stag Way. This housing estate, which was granted planning permission in the late 1990s on the site of an abattoir, is also within the countryside in terms of its status within the current adopted local plan however its character and appearance is typical of an area found within the urban settlement boundary.

Bus stops are located close to the site on Funtley Road and the bus service runs approximately once an hour to Fareham and Wickham. However, the service neither starts particularly early nor finishes late and no buses run on a Sunday. There are very limited services within Funtley itself. The closest shop (McColls Newsagent) in Kiln Road for example is in the region of 1,200 metres (3/4 mile) from the site. Furthermore Officers are not convinced that the pedestrian and cycling arrangements from the application site to facilities are ideal at present either in the vicinity of the site itself or taking into account the steep climb up from Funtley into Fareham.

The proposed pedestrian and cycle right of way through the site southwards and over the M27 motorway bridge represents a substantial improvement to the accessibility of the site by providing sustainable transport links through to the existing urban area of Fareham. This new link brings Orchard Lea Infant and Junior Schools within a walking/cycling distance of approximately 650 metres from the application site and the shops and other services at Highlands Road Local Centre within 1.5km. Through the submitted travel plan the applicant proposes contributions towards the cost of new bikes for new residents to facilitate the use of this new pedestrian/cycle connection with Fareham. Bus vouchers are also proposed as part of that same scheme.

It should also be noted that part of the development proposed by the applicant comprises space for a shop and community building on the site itself meaning such facilities would be within a very short distance relatively speaking from those new homes being constructed. Officers acknowledge that the provision of a commercial enterprise such as a shop, cafe or other such use is dependent on market forces and a suitable and viable end use coming forward. Notwithstanding, the provision of space for such assists in increasing the relative accessibility of the site as would the provision of a community building subject to that facility being in a form which responded to local need.

In relation therefore to this second test of Policy DSP40, Officers consider the package of measures proposed by the applicant to materially improve the sustainability of the location. Notwithstanding, and although the site lies immediately opposite a housing development of an urban nature, the site does not lie adjacent to the existing urban settlement boundary.

#### POLICY DSP40(iii)

The third test of Policy DSP40 is that: "The proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the Countryside and, if relevant, the Strategic Gaps".

As mentioned earlier in this report, the site lies within the countryside but does not form part of a strategic gap. The site consists of the lower reaches of the hill slope which rises to the south where the proposed community park is to be located (planning reference P/18/0066/CU).

The 2017 Fareham Landscape Assessment identifies the site as falling within the Upper Meon Valley (Area 062b). The site is identified as being set within a predominantly high sensitive landscape that represents part of the Borough's undeveloped landscape resource and the rural setting and 'natural edge' of the settlement of Funtley. Its rural character is particularly distinctive through its rising ground and hilltop/ridgeline topography.

Development on the site would have significant detrimental effects on the character and quality of local views. The eastern part of the site is enclosed by strong hedgerows and tree cover and is less visible from Funtley Road. However, the land further west is more open and built development on this land will be clearly evident thereby affecting the integrity and quality of the rural character of the surrounding landscape. With this high sensitivity in mind the applicant has sought to minimise the adverse impacts of the development in their proposal including revisions made during the course of the application to the submitted parameters plan and masterplan.

It is proposed to use and improve the existing point of vehicular access into the site with one further pedestrian/cycle route being formed to Funtley Road. This would enable the vast majority of the northern boundary hedgerow along Funtley Road to be retained. Whilst the built form of housing would inevitably be visible over and through the boundary the hedgerow's retention would assist in preserving the character of Funtley Road as a rural lane. The submitted parameters plan shows a landscape buffer between the hedgerow and the start of housing development which would further reinforce this planted edge and set back the built form from Funtley Road reducing the visual impact.

The masterplan as well as the submitted parameter plan show two 'green' or 'view' corridors through the site. These corridors have been devised following the advice of the Council's Urban Designer that the importance of the high ground and its relationship back to the development core and Funtley Road, linking with the

existing housing development on the north side of the road, is a key element. The corridors act to integrate key landscape features of the community park land to the south and reduces the urbanising impact on the rural character of the area.

In comparison with the existing built form, namely the housing estate on the site of the former abattoir on the north side of Funtley Road, Officers consider the proposal compares favourably. The proposed development would provide up to 55 dwellings on a site which the revised parameters plan identifies as having a developable area of 2.48 hectares. The overall density of the scheme is therefore approximately 22 dwellings per hectare (dph). This is lower than the density of the existing housing development at Roebuck Avenue/Deer Leap/Stag Way which is around 28 - 32 dph.

Whilst matters of scale, appearance, layout and landscaping are all reserved matters, Officers consider the quantum proposed and the parameters set out in the submission mean the proposed development would be capable of being sensitively designed to respond positively to the character of the existing housing development nearby. The work carried out by the applicant in setting the parameters for development on the site, particularly the incorporation of key 'green' or 'view' corridors through the land, acts to minimise the adverse impact on the landscape character of the countryside.

Officers consider the proposal meets the third test of Policy DSP40.

#### POLICY DSP40(iv)

The fourth test of Policy DSP40 is that: "It can be demonstrated that the proposal is deliverable in the short term".

The applicant has indicated that should planning permission be granted they envisage the reserved matters being submitted for consideration and approved within two years. They estimate that development would commence within the following twelve months after approval of the reserved matters allowing the first completions in the year 2021.

The applicant has raised no objection to the imposition of a planning condition requiring the submission of reserved matters within 24 months of the date of outline permission being granted and implementation of the development within 12 months of those reserved matters being approved.

Officers consider the development to be deliverable in the short term thereby satisfying this test of Policy DSP40(iv).

#### POLICY DSP40(v)

The fifth and final test of Policy DSP40 is that: "The proposal would not have any unacceptable environmental, amenity or traffic implications".

#### FLOODING AND SURFACE WATER DRAINAGE

The applicant has submitted a Flood Risk Assessment & Drainage Strategy on which Officers have consulted the lead local flood authority Hampshire County Council. Hampshire County Council's Flood and Water Management team have responded to state that the general principles for the surface water drainage proposals for the development are acceptable. However, further information would be required at a later stage and should be secured through the imposition of a suitably worded planning condition in the event outline permission is granted.

A number of local residents have raised concerns over this issue and that flooding and surface water drainage problems already experienced in the area might be exacerbated by the development. Notwithstanding the positive response from the lead local flood authority, the applicant has produced a non-technical summary of the flood risk assessment. This summary explains that the current flooding in Funtley Road is likely to be caused by too much water flowing from the site into the road and the highway drain not being able to cope due to its restricted diameter. The development proposes to create balancing ponds into which surface water from roofs and other impermeable surfaces, as well as existing overland flow, would be routed. The ponds would attenuate the flow of water into the ditch alongside Funtley Road. This arrangement would provide a significantly wider benefit to the area as the ponds would intercept flood water from a large catchment area before it reaches and crosses the highway thereby greatly reducing incidences of flooding. As referred to above, HCC drainage engineers have agreed this scheme in principle subject to further detail at a later stage (e.g. reserved matters or discharge of planning conditions).

## ECOLOGY

Following additional information being provided by the applicant the Council's Ecologist has raised no objection to the proposals subject to appropriate biodiversity mitigation, enhancement and management measures being secured by condition. Natural England have also raised no objection. The submitted parameters plan shows the developable areas of the site to be set a minimum of 15 metres from the adjacent areas of ancient woodland SINC.

To fulfil the requirement under the Habitat Regulations Officers have carried out an Appropriate Assessment in relation to the likely significant effects on the coastal Special Protection Areas (SPAs) and have concluded that the application's compliance with the Solent Recreation Mitigation Strategy means that there will be no adverse effect on the integrity of the designated sites.

## AMENITY

The light to, outlook from or privacy enjoyed by neighbouring properties would not be materially harmed as a result of the proposed development.

The layout and scale of the development are some of the matters reserved for consideration at a later stage. In the event that outline planning permission is granted the reserved matters application would need to ensure that the dwellings

would be built in a manner which meets this Council's requirements in respect of light, outlook and privacy as set out in the recently adopted Fareham Borough Council Design Guidance (excluding Welborne) SPD.

Concerns have been raised regarding noise and disturbance during the construction process. In the event that planning permission is granted the timing of construction works could be controlled via condition.

## TRAFFIC

A number of the objections received raise concerns regarding the potential impact that the proposed development would have on local roads in terms of highway safety.

Policy CS5 (Transport Strategy and Infrastructure) states that the Council will permit development which does not adversely affect the safety and operation of the strategic local road network, public transport operations or pedestrian and cycle routes.

The Council's Transport Planner believes that the location and form of the site access with visibility splays would be acceptable and would not have an adverse impact on the safety of the highway.

The existing 30mph speed limit zone would need reviewing with a view to including within it more of Funtley Road to the west including the proposed pedestrian crossing point near the junction with Roebuck Avenue.

The anticipated additional traffic generated by the development would be in the region of 33 additional vehicles per peak hour. Officers consider this would have no material impact on the surrounding road network.

In summary of the above points, Officers consider there to be no unacceptable environmental, amenity or traffic implications likely to arise as a result of the proposed development. The proposal therefore accords with the fifth and final test of Policy DSP40.

## PROPOSED BENEFITS

In order to assess this application it is important to consider the benefits of the proposed development in order to afford them appropriate weight in the planning balance. The benefits of the scheme are set out in the applicant's submitted Planning Statement.

### a) Provision of market and affordable housing

Firstly the proposal would deliver 33 market houses. The provision of these homes would make a notable contribution towards addressing the Council's acknowledged shortfall in housing supply. Three of those houses would be provided as plots made available for custom built houses. The Council has a requirement under the Self-

build and Custom Housebuilding Act 2015 to provide a continuous provision of self and custom built houses, and to maintain a register of those within the Borough who wish to undertake such a project. To accord with the requirements of the Self-build and Custom Housebuilding Act 2015 each plot must be provided with appropriate services to enable the individuals to build out their plots without having to undertake expensive infrastructure development. Currently there are 97 people on the register and over a three year rolling period, the Council has a requirement to provide 35 dwellings by October 2019. Currently there is permission in place for four plots plus resolutions to grant a further twelve. The proposed custom build houses would contribute further to meeting this requirement.

The proposal would also deliver 22 affordable homes which equates to 40% of the total number of homes and therefore accords with the expectations of Policy CS18 of the adopted Fareham Borough Core Strategy.

#### b) Sustainable transport links

The application further proposes significant benefits in the form of improvements to sustainable transport links which would be enjoyed not only by occupants of the new houses but also by existing residents of Funtley. The main improvement proposed is the public right of way for pedestrians and cyclists to be formed through the site and the adjacent land to the south where the community park is proposed and over the M27 bridge to the urban area of Fareham beyond. This is considered by HCC Highways and Officers of this Council to be an essential element of the proposal, delivering sustainable transport links to the site in order to make the development acceptable in planning terms.

The provision of these improvements can be secured through appropriately worded planning obligations in a Section 106 legal agreement.

#### c) Open space and community park

The development will deliver on site open space including a Local Equipped Area of Play (LEAP) at a level consistent with the Council's adopted Planning Obligations SPD for the Borough of Fareham (excluding Welborne). This provision could be secured through a Section 106 agreement.

In addition the applicant proposes a significant amount of extra open space provision on the adjacent site to the south which is currently subject of a separate planning application for its change of use to a community park. The proposed public right of way through to the bridge across the M27 to the south would pass through the community park. The park would therefore be in close proximity to and fully accessible from the housing site hereby proposed and would represent a substantial benefit for both future and existing residents to which significant weight should be attached.

The applicant has agreed to transfer the land in question to the Council and to the payment of a financial contribution of £802,000 towards the associated ongoing maintenance of the community park. This figure provides sufficient funding for a



period of approximately 30 years and is based on costings provided by the Council's Head of Streetscene within whose service the responsibility for countryside park management lies. The land transfer and maintenance contributions would be secured through an obligation in the Section 106 agreement.

It is considered that the provision of the on- and off- site open space would compensate for the loss of the open space which currently forms part of the western end of the application site. Notwithstanding that this piece of land no longer appears to fulfil the function of publicly accessible open space, Policy CS21 of the adopted Fareham Borough Core Strategy is supportive of development leading to the loss of existing open space where such space is "poor quality, under-used or has low potential for open space and a better quality replacement site is provided which is equivalent in terms of accessibility and size".

#### d) Community building

The proposal includes a new building for community uses and a local shop. The applicant's proposal is that the community/shop building on the site would have a maximum size of 250 sq m. The building could be used for a range of uses as set out in the application (Use Classes A1, A3, D1 & D2). This could for example allow the building to be used entirely as a community use or as a combination of a community use and shop. The precise location, size, specification and type of community use facility required would be determined by the applicant and the Council. Those details would be a subject of the reserved matters application which would follow the grant of outline consent.

It is proposed to transfer 0.1 hectares of land within the site to the Council for the building and associated car parking and landscaping. Funding for the building would be provided on a pro-rata basis of £2,000 per sq m. for the community use element only. In the event the Council determines that improvements or provision of additional community facilities elsewhere in Funtley would be more beneficial the applicant agrees to provide the same sum on a pro-rata basis minus the floorspace of any remaining shop use on the application site.

The applicants have proposed that the shop be marketed to find a potential buyer and this will include the potential for the shop owner to also run the community building.

#### e) Other economic benefits

The applicant has submitted an Economic Benefits Assessment to further expand on the benefits of granting planning permission for the development. The assessment concludes that the development "represents an opportunity to support private sector investment into the local economy of Fareham Borough". The benefits of such include creating employment in the construction industry and other related trades during the building phase and the additional resident expenditure in local shops and services.

## DRAFT LOCAL PLAN

Members will be aware that the Draft Local Plan which addresses the Borough's development requirements up until 2036, was subject to consultation between 25th October 2017 and 8th December 2017.

The site of this planning application is proposed to be allocated for housing within the draft local plan. A number of background documents and assessments support the proposed allocation of the site in terms of its deliverability and sustainability which are of relevance. The Strategic Housing Land Availability Assessment (SHLAA) published in October 2017 with the draft local plan identifies the land as a "Developable Housing Site" with an indicative dwelling yield of 55 units. However, at this stage in the plan preparation process, the draft plan itself carries limited weight in the assessment and determination of this planning application.

## THE PLANNING BALANCE

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the starting point for the determination of planning applications

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The site is outside of the defined urban settlement boundary and the proposal does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan.

Officers have carefully assessed the proposals against Policy DSP40: Housing Allocations which is engaged as this Council cannot demonstrate a 5YHLS against objectively assessed housing need. In weighing up the material considerations and conflicts between policies; the development of a greenfield site weighted against Policy DSP40, Officers have concluded that the proposal is relative in scale to the demonstrated 5YHLS shortfall and the applicant has demonstrated that if the development was granted planning permission it could be delivered in the short term.

The site is not located adjacent to the existing urban area as identified in the adopted local plan and its location has been found by Officers to be relatively poor in terms of its accessibility. However, the proposed improvements to sustainable transport links to service the site and surrounding area are a substantial improvement which Officers consider satisfactorily address the issue of accessibility.

Taking into account the parameters indicated by the applicant and the site's constraints, the quantum of development proposed would be capable of being delivered at a scale and density which responds well to the adjacent existing built up area. Measures have been proposed to mitigate the visual impact of the

development, notwithstanding, the proposal would harm the landscape character, appearance and function of the countryside.

Officers are satisfied that there are no outstanding amenity and ecology issues which cannot otherwise be addressed through appropriate use of planning conditions and obligations. There would be no materially harmful impact on highway safety.

In balancing the objectives of adopted policy which seeks to restrict development within the countryside alongside the shortage in housing supply, officers acknowledge that the proposal could deliver 55 dwellings, including affordable housing and custom build properties, in the short term. The contribution the proposed scheme would make towards boosting the Borough's housing supply weighs in favour of granting planning permission. The proposed development would also deliver onsite open space, a community building and a community park on adjacent land to the south. These would be long term community assets and their provision weighs in favour of granting planning permission.

There is a clear conflict with development plan policy CS14 as this is development in the countryside. Ordinarily, Officers would have found this to be the principal policy such that a scheme in the countryside should be refused. However, in light of the Council's lack of a five year housing supply, development plan policy DSP40 is engaged and Officers have considered the scheme against the criteria therein. The scheme is considered to satisfy four of the five criteria and in the circumstances, officers consider that more weight should be given to this policy than CS14 such that, on balance, when considered against the development plan as a whole, the scheme should be approved.

As set out in the report titled 'How proposals for residential development should be considered in the context of this Council's 5 year housing land supply position', Officers consider that the implications of the CJEU judgment (*People Over Wind, Peter Sweetman v Coillte Teoranta*) and paragraph 177 of the NPPF mean that the application of the presumption in favour of sustainable development set out in paragraph 11 of the same Framework is not a relevant consideration.

In the event that this approach is subsequently found to be incorrect as a consequence of a Court decision or a clarification in government policy, Officers have considered the application in the alternative and assessed the proposals having regard to the 'tilted balance' test set out at paragraph 11 of the NPPF.

In undertaking a detailed assessment of the proposals throughout this report and now applying the 'tilted balance' to those assessments, Officers consider that:

(i) there are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed, particularly when taking into account that any significant effect upon Special Protection Areas can be mitigated through a financial contribution towards the Solent Recreation Mitigation Strategy; and

(ii) any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

Therefore, even if paragraph 11 of the NPPF were a relevant consideration, Officers find that having applied the 'tilted balance', they would have similarly concluded that planning permission should be granted for the proposals.

Having carefully considered all material planning matters, including all new planning considerations arising since the proposal was considered by the Planning Committee on the 18<sup>th</sup> July, Officers continue to recommend that planning permission be granted subject to the following matters.

### ***Recommendation***

1) Subject to the applicant entering into a planning obligation under Section 106 of the Town and Country Planning Act 1990 on terms drafted by the Solicitor to the Council in respect of the following:

- a) To secure the delivery of 40% of the permitted dwellings as affordable housing;
- b) To secure three of the permitted dwellings as custom-built properties;
- c) To secure provision of a pedestrian and cycle public right of way through the site from Funtley Road (north) to Thames Drive (south); associated works to upgrade bridge over M27 motorway (including structural survey) and commuted sum for future maintenance;
- d) To secure provision of, laying out (including provision of capital equipment required to establish the park) and transfer of community park land to Fareham Borough Council and a financial contribution of £802,000 towards the associated ongoing maintenance costs of operating the community park;
- e) To secure the on-site provision of public open space including local equipped area of play (LEAP) in accordance with the Council's adopted Planning Obligations SPD, a financial contribution towards associated maintenance costs and transfer of the public open space to Fareham Borough Council;
- f) To secure a financial contribution towards the Solent Recreation Mitigation Partnership (SRMP) in order to mitigate the 'in combination' effects that an increase in residential units on the site would cause through increased recreational disturbance on the Solent Coastal Special Protection Areas;
- g) To secure a financial contribution towards the production of school travel plans in the area (£15,000);
- h) To secure a financial contribution towards the revision of the existing traffic regulation order (TRO) to allow the speed limit restrictions on Funtley Road to be amended (£5,000);
- i) To secure submission and implementation of travel plan;
- j) To secure details of the delivery of the community building, the transfer of land 0.1 hectares in size on application site and funding on a pro-rata basis of £2,000 per sq. m of community use floorspace (to a maximum of £500,000) for provision

of community/shop building and associated management arrangements for community use element along with pedestrian and vehicular access rights between the site of the community building and Funtley Road, or at the request of the local planning authority the same sum for the provision or improvement of community facilities within Funtley calculated on a pro-rata basis minus the floorspace of any remaining shop use on the application site.

2) Delegate to the Head of Development Management in consultation with the Solicitor to the Council to make any minor modifications to the proposed conditions or heads of terms or any subsequent minor changes arising out of detailed negotiations with the applicant which may necessitate the modification which may include the variation, addition or deletion of the conditions and heads as drafted to ensure consistency between the two sets of provisions;

#### GRANT OUTLINE PERMISSION:

Subject to the following conditions:

1) Application for approval of details of the appearance, landscaping, layout and scale of the development (referred to as the 'reserved matters') shall be made to the local planning authority before the expiration of twenty-four months from the date of this permission. Work shall be commenced in pursuance of this permission no later than twelve months from the approval of the final reserved matter.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

2) The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

- a) D2546\_509 - Revised Application Site Boundary Received 21 May 2018
- b) Drawing no. D2546\_032\_REVI - Parameters Plan - received 6th June 2018
- c) Technical Note - Potential Mitigation Measures for Bridge Over M27 - received 20th April 2018
- d) Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018
- e) 1712047 SK03B - Pedestrian\_Cycle Improvements Received 21 May 2018
- f) Drawing no. 1712047 SK05A - Pedestrian and Cycle Improvements - south section -received 31st May 2018
- g) Ecological Assessment - Ecology Solutions - May 2018

REASON: To avoid any doubt over what has been permitted.

3) No development hereby permitted shall commence until a surface water drainage strategy has been submitted to and approved by the local planning authority in writing. The strategy shall include the following elements:

- a) Full details of the means of surface water drainage from the site;

- b) The detailed design of Sustainable Urban Development Systems (SUDS) to be used on the site as well as details on the delivery, maintenance and adoption of SUDS features.
- c) Assessment of surface water drainage discharge from the site in combination with the development site to the north of Funtley Road (planning application reference P/17/1135/OA) to demonstrate that:
  - i. the greenfield runoff rate will not exceed 13.1 l/s during the 1 in 100 year storm +(40%CC);
  - ii. the surface water discharged to the Funtley Road ditch will comply with CIRIA C753 2015 Table 26.2 & Table 26.3.

The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of surface water.

- 4) No development hereby permitted shall commence until details of the means of foul water drainage from the site have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of foul water.

- 5) No development hereby permitted shall take place until a Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved by the local planning authority in writing. The submitted plan shall be devised fully in accordance with the outline ecological mitigation and enhancements measures contained within the approved "Ecological Assessment - May 2018 - Ecology Solutions". The submitted plan shall include the following:

- a) A Reptile and Dormouse Mitigation Strategy;
- b) A Japanese Knotweed Eradication Scheme;
- c) A Badger Protection Strategy;
- d) Details of the timing of clearance works;
- e) A detailed scheme of biodiversity enhancements;
- f) Details of a soft landscaping scheme including provisions for buffer planting associated with the adjacent areas of ancient woodland;
- g) Details of darkened corridors for foraging/commuting bats;
- h) A Landscape/Ecology Management Plan including details of the maintenance of mitigation and enhancement measures.

The development shall be carried out fully in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan unless otherwise agreed in writing by the local planning authority.

REASON: To provide ecological compensation, management and enhancements.

6) No development shall commence until an Arboricultural Impact Assessment and Method Statement for tree/hedgerow protection has been submitted to and approved by the Local Planning Authority in writing and the approved scheme has been implemented. The tree/hedgerow protection shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site.

REASON: To ensure that the trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability during the construction period.

7) No development hereby permitted shall commence until an intrusive site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority (LPA). The intrusive site investigation and risk assessment shall include assessment of the risks posed to human health, the building fabric and the wider environment such as water resources, and where the site investigation and risk assessment reveal a risk to receptors, it shall include a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the LPA. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, an independent competent person shall confirm in writing that the works have been completed in full and in accordance with the approved scheme. Such confirmation shall include photographic evidence and, if considered necessary by the local planning authority, as built drawings of the development.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place.

8) No development hereby permitted shall commence on site until a Construction Management Plan (CMP) setting out how provision is to be made on site for the parking and turning of operatives' vehicles, wheel cleaning, the areas to be used for the storage of building materials, plant, excavated materials and huts associated with the implementation of the approved development, has been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be carried out in accordance with the CMP and areas identified in the CMP for specified purposes shall thereafter be kept available for those uses at all times during the construction period, unless otherwise agreed in writing with the LPA.



REASON: In the interests of highway safety and/or in order to secure the health and wellbeing of the trees and vegetation which are to be retained at the site and/or to ensure that the occupiers of nearby residential properties are not subjected to unacceptable noise and disturbance during the construction period.

9) No development hereby permitted shall commence until details of the width, alignment, gradient and type of construction proposed for any roads, footways and access, including all relevant horizontal and longitudinal cross sections showing the existing and proposed ground levels, together with details of street lighting (where appropriate), the method of disposing of surface water, and details of a programme for the making up of roads and footways, have been submitted to and approved by the Local Planning Authority in writing. The development shall be subsequently carried out in accordance with the approved details.

REASON: To ensure that the roads are constructed to a satisfactory standard.

10) No development hereby permitted shall commence until details of the internal finished floor levels of all of the proposed buildings in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

REASON: To safeguard the character and appearance of the area and to assess the impact on nearby residential properties.

11) No development hereby permitted shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include proposed mitigation measures in relation to any archaeological remains found as necessary. The development shall be carried out in accordance with the approved scheme.

REASON: In order to ensure that the site, which is located in an area where there is potential for archaeological discovery, is adequately investigated prior to development.

12) No development shall proceed beyond damp proof course level until a scheme for sound attenuation against traffic and railway noise has been submitted to and approved in writing by the local planning authority in writing. The scheme shall assess the impact of noise from vehicles and trains and identify the measures necessary to attenuate against noise nuisance to future occupants. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent avoidable disturbance to residents from noise.

13) No development shall proceed beyond damp proof course level until details of secure cycle storage have been submitted to and approved by the Local Planning Authority in writing. The approved secure cycle stores shall be provided before any

dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To encourage cycling as an alternative mode of transport.

14) No development shall proceed beyond damp proof course level until details of the proposed bin storage areas (including bin collection points) have been submitted to and approved by the Local Planning Authority. The details shall include the siting, design and the materials to be used in construction. The approved bin storage and collection areas shall be provided before any dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To ensure that the character and appearance of the development and the locality are not harmed.

15) No development shall proceed beyond damp proof course level until details (including samples where requested by the Local Planning Authority) of all proposed external facing and hardsurfacing materials have been submitted to and approved by the LPA in writing.

The development shall be carried out in accordance with the approved details.

REASON: To secure the satisfactory appearance of the development.

16) No work on site relating to the construction of any of the development hereby permitted (Including works of demolition or preparation prior to operations) shall take place before the hours of 0800 or after 1800 Monday to Friday, before the hours of 0800 or after 1300 Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To protect the occupiers of nearby residential properties against noise and disturbance during the construction period.

17) None of the development hereby approved shall be occupied until the pedestrian crossing points and means of vehicular access shown on the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018" has been provided. The access shall be subsequently retained.

REASON: In the interests of highway safety.

18) No dwelling hereby permitted shall be first occupied until the visibility splays at the junction of the estate road/access with existing highway have been provided in accordance with the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018". The visibility splays shall thereafter be kept clear of obstruction (nothing over 0.6m in height) at all times.

REASON: In the interests of highway safety

19) None of the development hereby approved shall be occupied until a plan of the position, design, materials and type of boundary treatment to be erected to all boundaries has been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatment has been fully implemented. It shall thereafter be retained at all times unless otherwise agreed in writing with the Local Planning Authority.

If boundary hedge planting is proposed details shall be provided of planting sizes, planting distances, density, and numbers and provisions for future maintenance. Any plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To protect the privacy of the occupiers of the neighbouring property, to prevent overlooking, and to ensure that the development harmonises well with its surroundings.

20) The landscaping scheme, submitted under Condition 1 shall be implemented and completed within the first planting season following the commencement of the development or as otherwise agreed in writing with the Local Planning Authority and shall be maintained in accordance with the agreed schedule. Any trees or plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To ensure the provision, establishment and maintenance of a standard of landscaping.

21) No development shall proceed beyond damp proof course level until a scheme detailing the relocation of the existing bus stop on the south side of Funtley Road adjacent to the vehicular entrance to the site has been submitted to and approved by the local planning authority in writing. No dwelling hereby permitted shall be first occupied until the bus stop has been relocated in accordance with the approved scheme.

REASON: In the interests of highway safety.

### ***Notes for Information***

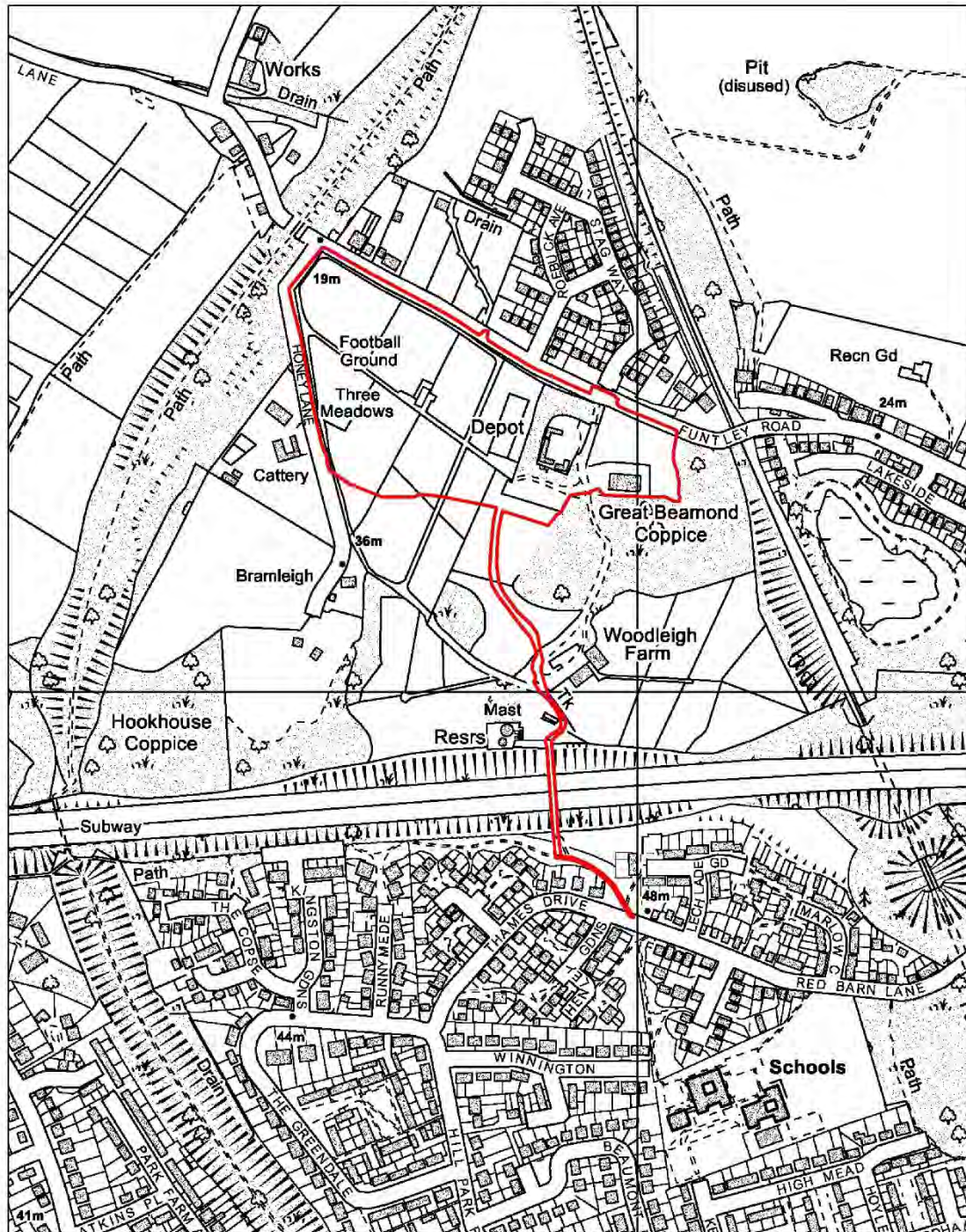
a) The applicant is advised to contact Southern Water to discuss the need for a formal application for connection to the public sewerage system. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 330 303 0119) or visit [www.southernwater.co.uk](http://www.southernwater.co.uk).

### ***Background Papers***

P/18/0067/OA; P/18/0066/CU; P/17/1135/OA; P/17/0045/OA

# FAREHAM

BOROUGH COUNCIL



Land to the South of Funtley Road  
Scale 1:5,000



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## **UPDATES**

**for Committee Meeting to be held on 10 October 2018**

### **UPDATE TO ITEM 6 – Consideration of Planning Applications on this Agenda**

A letter has been received from Harrison Grant Solicitors dated the 9<sup>th</sup> October, on behalf of 'Save Warsash and the Western Wards'. The letter requests that Item 6 along with all the planning applications are removed from the Agenda, until the following four main points have been addressed and rectified.

1. Planning Officers should set out the details and conclusions of each appropriate assessment, so that the Planning Committee can adequately consider the acceptability of the appropriate assessment (AA) and the planning application.
2. It is unclear whether adequate levels of consultation was undertaken with Natural England on the AA and the report does not mention relevant documents in the background papers. The Council has failed to consider whether to take the opinion of the general public for the purposes of the AA.
3. It is not clear that each planning application has been reconsidered in full in light of all the changes in policy and law.
4. The second report contains inaccurate references to development plan policies. For example, policy DSP40 is referred to as Housing Allocations, when in fact it is the Fareham Local Biodiversity Action Plan Review.

Following consultation with the Council's planning Solicitors, Officers are satisfied that the reports are legally and procedurally robust. In specific response to the four main points raised:

1. As explained in paragraph 8 of the report of 12 September 2018 (page 22 of this agenda), under regulation 63 of the Conservation of Habitats and Species Regulations 2017 the council (and therefore members) "may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site". A summary of the conclusions of the relevant appropriate assessment has been set out in each report. Members have before them a copy of the appropriate assessment for each application site. The appropriate assessments have been on the council website for each application.
2. Natural England's position is summarised in each individual report. Their letter states "In cases where the necessary avoidance and mitigation measures are limited to collecting a funding contribution that is fully in line with an agreed strategic approach for the mitigation of impacts on European Sites then, provided no other adverse impacts are identified by your authority's Appropriate Assessment, your authority may be assured that Natural England agrees that the Appropriate Assessment can conclude that there will be no adverse effect on the integrity of the European Sites. In such cases Natural England will not require a Regulation 63 appropriate assessment consultation." There is no legal requirement to consult

members of the public on the appropriate assessment. Members of the public have had the opportunity to make representations on each application and these have been taken into account. Further, it is noted that the Solent Recreation Mitigation Strategy was the subject of public consultation at the time. In view of the SRMS, the conclusions in each appropriate assessment, the likely effects of development and the proposed mitigation, which is secured through planning obligations, it is not considered appropriate to consult members of the public further on the appropriate assessment.

3. Officers are satisfied that all relevant considerations (having regard to changes in policy and law) are set out the reports in front of members.
4. The report correctly refers to policy DSP40 as Housing Allocations.

## **ZONE 1 – WESTERN WARDS**

### **(1) P/17/1317/OA – SARISBURY WARD**

#### **Land East of Bye Road, Lower Swanwick**

One further letter of objection has been received regarding the application, highlighting that due to the nature of the proposal (self/custom build), the build-out period would be likely to be protracted, resulted in an extended period of disruption for neighbours.

The Local Planning Authority is not able to restrict the timeframe for the completion of developments, but conditions have been imposed to ensure any disruption to neighbours during the construction period is minimised.

### **(3) P/17/0746/OA – WARSASH**

#### **Land to the East of Brook Lane and South of Brookside Drive, Warsash**

One further letter of objection has been received commenting that FBC and the Planning Committee has a duty to the residents of Warsash to wait until the NPPF and outcome of the new housing supply figures are published as it may have implications regarding the application.

As no reports from Natural England have been obtained in any of the Warsash cluster applications, the applications need to be refused or rescinded as necessary until one has been obtained.

Officer response: An update on the Five Year Housing Land Supply Position including reference to the publication by the Government of the Housing Delivery Test result in November has been reported elsewhere on this agenda.

Natural England's approach since the CJEU judgement is reflected in the officer report.

Other matters raised which include traffic and education impacts and lack of mitigation have been already discussed within the officer report.



(4) **P/17/0845/OA - WARSASH**

**Brook Lane – land to the East of – Warsash**

Two further letters of objection have been received. FBC and the Planning Committee has a duty to the residents of Warsash to wait until the NPPF and outcome of the new housing supply figures are published as it may have implications regarding the application.

As no reports from Natural England have been obtained in any of the Warsash cluster applications, the applications need to be refused or rescinded as necessary until one has been obtained.

Officer response: An update on the Five Year Housing Land Supply Position including reference to the publication by the Government of the Housing Delivery Test result in November has been reported elsewhere on this agenda.

Natural England's approach since the CJEU judgement is reflected in the committee report. In this case Natural England's specific comment is set out in the officer report.

Other matters raised which include traffic and education impacts, highway safety and lack of mitigation have been already discussed within the officer report.

(5) **P/17/0752/OA – WARSASH**

**Land East of Brook Lane, North of Warsash Road, Brook Lane, Warsash**

One further letter of objection has been received commenting that FBC and the Planning Committee has a duty to the residents of Warsash to wait until the NPPF and outcome of the new housing supply figures are published as it may have implications regarding the application.

As no reports from Natural England have been obtained in any of the Warsash cluster applications, the applications need to be refused or rescinded as necessary until one has been obtained.

Officer response: An update on the Five Year Housing Land Supply Position including reference to the publication by the Government of the Housing Delivery Test result in November has been reported elsewhere on this agenda.

Natural England's approach since the CJEU judgement is reflected in the committee report. In this case Natural England's specific comment is set out in the officer report.

Other matters raised which include traffic and education impacts and lack of mitigation have been already discussed within the officer report.



(6) **P/17/0998/OA – WARSASH**

**Land to the East of Brook Lane and West of Lockswood Road, Warsash**

One further letter of objection has been received commenting that FBC and the Planning Committee has a duty to the residents of Warsash to wait until the NPPF and outcome of the new housing supply figures are published as it may have implications regarding the application.

As no reports from Natural England have been obtained in any of the Warsash cluster applications, the applications need to be refused or rescinded as necessary until one has been obtained.

Officer response: An update on the Five Year Housing Land Supply Position including reference to the publication by the Government of the Housing Delivery Test result in November has been reported elsewhere on this agenda.

Natural England's approach since the CJEU judgement is reflected in the committee report.

Other matters raised which include traffic and education impacts and lack of mitigation have been already discussed within the officer report.

(7) **P/18/0107/OA – WARSASH**

**Land to the East and West of 79 Greenaway Lane, Warsash**

One further letter of objection has been received commenting that FBC and the Planning Committee has a duty to the residents of Warsash to wait until the NPPF and outcome of the new housing supply figures are published as it may have implications regarding the application.

As no reports from Natural England have been obtained in any of the Warsash cluster applications, the applications need to be refused or rescinded as necessary until one has been obtained.

Officer response: An update on the Five Year Housing Land Supply Position including reference to the publication by the Government of the Housing Delivery Test result in November has been reported elsewhere on this agenda.

Officers have undertaken an Appropriate Assessment as already reported.

Other matters raised which include traffic and education impacts and lack of mitigation have been already discussed within the officer report.

## **ZONE 2 – FAREHAM**

### **(9) P/18/0067/OA FAREHAM NORTH**

#### **Land to the South of Funtley Road, Funtley**

Two further letters from the same person have been received in objection to this application raising concerns over access for railway contractors and the potential for mudslides.

**Planning Application Reference: P/18/0067/OA**

**LAND SOUTH OF FUNTLEY ROAD, FAREHAM**

**Following demolition of existing buildings, residential development of up to 55 dwellings (including 3 custom-build homes) (Use Class C3), community building incorporating a local shop 250 sqm (Use Classes A1, A3, D1 & D2), accesses and associated landscaping, infrastructure and development works**

**OFFICER REPORT**

**1.0 Introduction**

**1.1** A report assessing the merits of this application and making an Officer recommendation was placed before the Council's Planning Committee at their meeting held on 10<sup>th</sup> October 2018. Members of the Committee resolved to grant outline planning permission subject to a list of conditions and the applicant entering into a Section 106 legal agreement to secure various specified matters.

**1.2** A further report was considered at a full Council meeting held on Thursday 5<sup>th</sup> December 2019 concerning the annual review of the Council's constitution. Members resolved, amongst other things, to agree to an amendment to the Scheme of Delegation to Officers. The inserted wording at paragraph 2.17 of the scheme of delegation grants the following authority to the Head of Development Management:

*Authority to determine planning applications, following due consideration of any further material planning considerations, and amendments to and/ or additional planning conditions and amendments to and/ or additional heads of terms in related planning obligations where necessary, to address any likely significant effects identified through appropriate assessments where:*

- i. The application has already been considered by the Planning Committee;*
- ii. The Planning Committee has resolved to grant planning permission; and*
- iii. An appropriate assessment under the Conservation of Habitats and Species Regulations 2017 has been carried out and concluded that the proposed development will not have an adverse effect on European designated sites subject to mitigation where identified.*

**1.3** A total of fifteen further objections have been received to the application since the committee meeting in 2018. The material planning considerations raised in those comments have been taken into account either at the time of the

previous recommendation to the Planning Committee in October 2018 or in the following report.

## **2.0 Application Proposal**

- 2.1** The proposed development remains the same as considered by Members in October 2018 when it was resolved that planning permission be granted. The necessary Section 106 legal agreement covering the obligations agreed by members has been drafted.
- 2.2** There are several material changes to the planning considerations set out in the previous report to the Planning Committee.
- 2.3** The first of these changes is that the applicant has provided update ecological survey information. Secondly, there have been changes to the bus service to the village. A new access point to the site has been created from Funtley Road.
- 2.4** The Council's housing land supply position is marginally different to that at the time of Members considering the application in October 2018. Another material change is that, since the resolution to grant planning permission was passed by the Committee, Natural England have raised the issue of the adverse effects arising from new residential development on the water quality of the protected waters of the Solent. Finally, revised national guidance has been issued through the NPPF as published in February 2019 which in turn has a bearing on the correct approach to decision making.
- 2.5** Each of these changes is discussed in turn below.

### ***Ecology***

- 2.6** The applicant has submitted an updated Ecological Assessment (prepared by Ecology Solutions in August 2020). The updated assessment has been considered by the Council's Ecologist who acknowledges that the site conditions remain broadly similar to that previously surveyed on the site, and as such the recommended condition remains relevant. That condition requires the submission of additional survey work and appropriate mitigation measures to be provided at the Reserved Matters stage. It is therefore considered that the proposed development will not have a harmful impact on protected species, subject to the submission of a Biodiversity Mitigation, Enhancement and Management Plan being provided with the Reserved Matters Applications.

### ***Public transport links***

- 2.7** The bus operator First Group recently announced that the No. 20 service between Fareham and Knowle has been permanently rerouted so that it does not pass through Funtley village. As a result there is no bus service to Funtley at present.
- 2.8** The report to the Planning Committee acknowledged that, whilst bus stops are located close to the site on Funtley Road, the service did not start particularly early or finish late and did not run at all on Sundays. Notwithstanding the already noted shortcomings in the bus service which was previously in place, it was considered that the overall package of measures proposed by the applicant, in particular the proposed improvements to pedestrian and cycle connectivity, would materially improve the sustainability of the location. The cessation of the bus service is therefore not considered to amount to a material change which would alter the conclusions reached on this matter.

#### ***New vehicular access from Funtley Road***

- 2.9** A new vehicular access to the land from Funtley Road was created during May 2020. Notwithstanding, a planning condition relating to the approved vehicular access (which reuses the existing access) has been revised to ensure that will be the only vehicular access to the site. This means that, should the development be carried out, the only vehicular access to the site will be as approved and as previously considered by Members of the Planning Committee in 2018.

#### ***Housing land supply***

- 2.10** The 2018 Planning Committee report set out the Council's five year housing land supply (5YHLS) position to be at 4.95 years.
- 2.11** The most recent assessment of the Council's 5YHLS was reported to Members of the Planning Committee on 24<sup>th</sup> June 2020. That report sets out that the Council can currently demonstrate a housing supply of 4.03 years (a shortfall of 522 dwellings). The housing land supply position in terms of years is substantially the same as were previously reported to Members of the Planning Committee in October 2018.

#### ***The impact upon European Protected Sites***

- 2.12** Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive European sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation

value, protected and priority species populations and associated habitats are protected and where appropriate enhanced.

- 2.13** The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 per cent of the global population of Brent geese. These birds come from as far as Siberia to feed and roost before returning to their summer habitats to breed. There are also plants, habitats and other animals within the Solent which are of both national and international importance.
- 2.14** In light of their importance, areas within the Solent have been specially designated under UK/ European law. Amongst the most significant designations are Special Protection Areas (SPA) and Special Areas of Conservation (SAC). These are often referred to as 'European Protected Sites' (EPS).
- 2.15** Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'competent authority' if it can be shown that the proposed development will either not have a likely significant effect on designated EPS or, if it will have a likely significant effect, that effect can be mitigated so that it will not result in an adverse effect on the integrity of the designated EPS. This is done following a process known as an Appropriate Assessment. The competent authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The competent authority is either the local planning authority or the Planning Inspectorate, depending on who is determining the application.
- 2.16** Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering the Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the EPS through a deterioration in the water environment.
- 2.17** Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England have provided a methodology for calculating nutrient budgets and options for mitigation should this be necessary. The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research, however for each input there is a degree of uncertainty. Natural England advise local planning authorities to take a precautionary approach when addressing uncertainty and calculating nutrient budgets.

- 2.18** An Appropriate Assessment (AA) has been carried out by Officers and concludes that there would be no adverse effects on the integrity of European protected sites subject to mitigation measures. To inform the assessment the applicant has provided a nutrient budget of the development site and an updated parameter plan (secured by condition) to ensure that the assumptions made in the budget are accurate.
- 2.19** The applicant has proposed taking agricultural land, currently used as lowland grazing land adjacent to the site out of agricultural use, and converting the land into open space, which would be secured through the S106 legal agreement. By converting grazing land to open space by creating the Community Park would ensure there will be no additional nutrients reaching the European protected sites as a result of the development, and so would mitigate the adverse effects of the development. Details of this are set out in the AA and are shown on the Nitrogen Mitigation Plan (Drawing: D2546-037, prepared by Fabrik). The statutory consultee on nature conservation matters Natural England have commented on the AA advising that they consider the scheme acceptable, subject to it being secured by a S106 agreement.

***Changes to the NPPF and the proper approach to decision making***

- 2.20** The starting point for the determination of this planning application is section 38(6) of the Planning and Compulsory Purchase Act 2004:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".*

- 2.21** In determining planning applications there is a presumption in favour of the policies of the extant Development Plan, unless material considerations indicate otherwise. Material considerations include the planning policies set out in the NPPF.
- 2.22** Paragraph 59 of the NPPF seeks to significantly boost the supply of housing.
- 2.23** Paragraph 73 of the NPPF states that local planning authorities should identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement including a buffer. Where a local planning authority cannot do so, and when faced with applications involving the provision of housing, the policies of the local plan which are most important for determining the application are considered out-of-date.

**2.24** Paragraph 11 of the NPPF then clarifies what is meant by the presumption in favour of sustainable development for decision-taking, including where relevant policies are "out-of-date". It states:

**2.25** *"For decision-taking this means:*

- *Approving development proposals that accord with an up-to-date development plan without delay; or*
- *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:*
  - i. *The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or*
  - ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

**2.26** Footnote 6 to Paragraph 11 reads:

**2.27** *"The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change."*

**2.28** The key judgement is therefore whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies taken as a whole.

**2.29** At the time of the Planning Committee considering the application in October 2018, the wording of paragraph 177 in the previous version of the NPPF read as follows:

**2.30** *"The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined"*.



**2.31** This led to Officers advising that the presumption of favour of sustainable development in paragraph 11 of the NPPF should not be applied.

**2.32** The publication of the revised National Planning Policy Framework (NPPF) in February 2019 included amended wording to paragraph 177. The revised wording of NPPF paragraph 177 in February 2019 reads:

*“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”*

**2.33** In this instance an appropriate assessment has been carried out and has concluded no adverse effects on the integrity of European protected sites. With that in mind the presumption in favour of sustainable development set out in paragraph 11 of the NPPF should apply.

**2.34** The Officer Report to the Planning Committee in October 2018 sets out the advice to Members in the event that government policy is subsequently clarified as then happened. Officers considered that:

- (i) there are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed, particularly when taking into account that any significant effect upon Special Protection Areas can be mitigated through a financial contribution towards the Solent Recreation Mitigation Strategy; and
- (ii) any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

**2.35** The advice to Members was that even if paragraph 11 of the NPPF were a relevant consideration, Officers found that having applied the so-called 'tilted balance' of paragraph 11, they would have similarly concluded that planning permission should be granted for the proposals.

### **3.0 Summary**

**3.1** In summary, this application has previously received a resolution to grant planning permission by the Council's Planning Committee. An Appropriate

Assessment has been carried out concluding that the proposed development would not have any adverse effects on European protected sites subject to mitigation. There are no material changes to the relevant planning considerations since the time of the Committee resolution which alter the Officer recommendation which remains that planning permission should be granted.

## **1. Recommendation**

Subject to:

- (i) the applicant/owner first entering into a planning obligation under Section 106 of the Town and Country Planning Act 1990 on terms drafted by the Solicitor to the Council in respect of the following:
  - a. To secure the delivery of 40% of the permitted dwellings as affordable housing;
  - b. To secure three of the permitted dwellings as custom-built properties;
  - c. To secure provision of a pedestrian and cycle public right of way through the site from Funtley Road (north) to Thames Drive (south); associated works to upgrade the bridge over the M27 motorway (including structural survey) and commuted sum for future maintenance;
  - d. To secure provision of, layout out (including provision of capital equipment required to establish the park) and transfer of community park land to Fareham Borough Council and a financial contribution of £802,000 towards the associated ongoing maintenance costs of operating the community park;
  - e. To secure the on-site provision of public open space including local equipped area of play (LEAP) in accordance with the Council's adopted Planning Obligations SPD, a financial contribution towards associated maintenance costs and transfer of the public open space to Fareham Borough Council;
  - f. To secure a financial contribution towards the Solent Recreation Mitigation Partnership (SRMP) in order to mitigate the 'in combination' effects that an increase in residential units on the site would cause through increased recreational disturbance on the Solent Coastal Special Protection Areas;
  - g. To secure a financial contribution towards the production of school travel plans in the area (£15,000);
  - h. To secure a financial contribution toward the revision of the existing traffic regulation order (TRO) to allow the speed limit restrictions on Funtley Road to be amended (£5,000);
  - i. To secure submission and implementation of a travel plan;
  - j. To secure details of the delivery of the community building, the transfer of land 0.1 hectares in size on the application site and funding on a pro-rata

basis of £2,000 per sqm of community use floorspace (to a maximum of £500,000) for provision of community/shop building and associated management arrangements for community use element along with pedestrian and vehicular access rights between the site of the community building and Funtley Road, or at the request of the Local Planning Authority the same sum for the provision or improvement of community facilities within Funtley calculated on a pro-rata basis minus the floor space of any remaining shop use on the application site.

(ii) and the conditions below.

## **GRANT OUTLINE PLANNING PERMISSION**

Conditions:

- 1) Application for approval of details of the appearance, landscaping, layout and scale of the development (referred to as the 'reserved matters') shall be made to the local planning authority before the expiration of twenty-four months from the date of this permission. Work shall be commenced in pursuance of this permission no later than twelve months from the approval of the final reserved matter.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

- 2) The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:
  - a) D2546\_509 - Revised Application Site Boundary Received 21 May 2018;
  - b) Drawing no. D2546\_032\_REVI - Parameters Plan - received 6th June 2018;
  - c) Technical Note - Potential Mitigation Measures for Bridge Over M27 - received 20th April 2018;
  - d) Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018;
  - e) 1712047 SK03B - Pedestrian\_Cycle Improvements Received 21 May 2018;
  - f) Drawing no. 1712047 SK05A - Pedestrian and Cycle Improvements - south section -received 31st May 2018;
  - g) Ecological Assessment - Ecology Solutions - May 2018 and Ecological Baseline Note – Ecology Solutions – August 2020.

REASON: To avoid any doubt over what has been permitted.

- 3) No development hereby permitted shall commence until a surface water drainage strategy has been submitted to and approved by the local planning authority in writing. The strategy shall include the following elements:
- a) Full details of the means of surface water drainage from the site;
  - b) The detailed design of Sustainable Urban Development Systems (SUDS) to be used on the site as well as details on the delivery, maintenance and adoption of SUDS features.
  - c) Assessment of surface water drainage discharge from the site in combination with the development site to the north of Funtley Road (planning application reference P/17/1135/OA) to demonstrate that:
    - i. the greenfield runoff rate will not exceed 13.1 l/s during the 1 in 100 year storm +(40%CC);
    - ii. the surface water discharged to the Funtley Road ditch will comply with CIRIA C753 2015 Table 26.2 & Table 26.3.

The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of surface water.

- 4) No development hereby permitted shall commence until details of the means of foul water drainage from the site have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of foul water.

- 5) No development hereby permitted shall take place until a Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved by the local planning authority in writing. The submitted plan shall be devised fully in accordance with the outline ecological mitigation and enhancements measures contained within the approved "Ecological Assessment - May 2018 - Ecology Solutions". The submitted plan shall include the following:

- a) A Reptile and Dormouse Mitigation Strategy;
- b) A Japanese Knotweed Eradication Scheme;
- c) A Badger Protection Strategy;
- d) Details of the timing of clearance works;
- e) A detailed scheme of biodiversity enhancements;
- f) Details of a soft landscaping scheme including provisions for buffer planting associated with the adjacent areas of Ancient Woodland;
- g) Details of darkened corridors for foraging/commuting bats;
- h) A Landscape/Ecology Management Plan including details of the maintenance of mitigation and enhancement measures.

The development shall be carried out fully in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: To provide ecological compensation, management and enhancements.

- 6) No development shall commence until an Arboricultural Impact Assessment and Method Statement for tree/hedgerow protection has been submitted to and approved by the Local Planning Authority in writing and the approved scheme has been implemented. The tree/hedgerow protection shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site.

REASON: To ensure that the trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability during the construction period.

- 7) No development hereby permitted shall commence until an intrusive site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority (LPA). The intrusive site investigation and risk assessment shall include assessment of the risks posed to human health, the building fabric and the wider environment such as water resources, and where the site investigation and risk assessment reveal a risk to receptors, it shall include a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the LPA. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, an independent competent person shall confirm in writing that the works have been completed in full and in accordance with the approved scheme. Such confirmation shall include photographic evidence and, if considered necessary by the local planning authority, as built drawings of the development.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place.

- 8) No development hereby permitted shall commence on site until a Construction Management Plan (CMP) setting out how provision is to be

made on site for the parking and turning of operatives' vehicles, wheel cleaning, the areas to be used for the storage of building materials, plant, excavated materials and huts associated with the implementation of the approved development, has been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be carried out in accordance with the CMP and areas identified in the CMP for specified purposes shall thereafter be kept available for those uses at all times during the construction period, unless otherwise agreed in writing with the LPA.

REASON: In the interests of highway safety and/or in order to secure the health and wellbeing of the trees and vegetation which are to be retained at the site and/or to ensure that the occupiers of nearby residential properties are not subjected to unacceptable noise and disturbance during the construction period.

- 9) No development hereby permitted shall commence until details of the width, alignment, gradient and type of construction proposed for any roads, footways and access, including all relevant horizontal and longitudinal cross sections showing the existing and proposed ground levels, together with details of street lighting (where appropriate), the method of disposing of surface water, and details of a programme for the making up of roads and footways, have been submitted to and approved by the Local Planning Authority in writing. The development shall be subsequently carried out in accordance with the approved details.

REASON: To ensure that the roads are constructed to a satisfactory standard.

- 10) No development hereby permitted shall commence until details of the internal finished floor levels of all of the proposed buildings in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

REASON: To safeguard the character and appearance of the area and to assess the impact on nearby residential properties.

- 11) No development hereby permitted shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposed mitigation measures in relation to any archaeological remains found as necessary. The development shall be carried out in accordance with the approved scheme.

REASON: In order to ensure that the site, which is located in an area where there is potential for archaeological discovery, is adequately investigated prior to development.

- 12) No development shall proceed beyond damp proof course level until a scheme for sound attenuation against traffic and railway noise has been

submitted to and approved in writing by the local planning authority in writing. The scheme shall assess the impact of noise from vehicles and trains and identify the measures necessary to attenuate against noise nuisance to future occupants. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent avoidable disturbance to residents from noise.

- 13) No development shall proceed beyond damp proof course level until details of secure cycle storage have been submitted to and approved by the Local Planning Authority in writing. The approved secure cycle stores shall be provided before any dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To encourage cycling as an alternative mode of transport.

- 14) No development shall proceed beyond damp proof course level until details of the proposed bin storage areas (including bin collection points) have been submitted to and approved by the Local Planning Authority. The details shall include the siting, design and the materials to be used in construction. The approved bin storage and collection areas shall be provided before any dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To ensure that the character and appearance of the development and the locality are not harmed.

- 15) No development shall proceed beyond damp proof course level until details (including samples where requested by the Local Planning Authority) of all proposed external facing and hardsurfacing materials have been submitted to and approved by the LPA in writing. The development shall be carried out in accordance with the approved details.

REASON: To secure the satisfactory appearance of the development.

- 16) No work on site relating to the construction of any of the development hereby permitted (Including works of demolition or preparation prior to operations) shall take place before the hours of 0800 or after 1800 Monday to Friday, before the hours of 0800 or after 1300 Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To protect the occupiers of nearby residential properties against noise and disturbance during the construction period.

- 17) None of the development hereby approved shall be occupied until the pedestrian crossing points and means of vehicular access shown on the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018" has been provided. The access shall be

subsequently retained and no other means of vehicular access to the site shall be provided at any time.

REASON: In the interests of highway safety.

- 18) No dwelling hereby permitted shall be first occupied until the visibility splays at the junction of the estate road/access with existing highway have been provided in accordance with the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018". The visibility splays shall thereafter be kept clear of obstruction (nothing over 0.6m in height) at all times.

REASON: In the interests of highway safety

- 19) None of the development hereby approved shall be occupied until a plan of the position, design, materials and type of boundary treatment to be erected to all boundaries has been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatment has been fully implemented. It shall thereafter be retained at all times unless otherwise agreed in writing with the Local Planning Authority.

If boundary hedge planting is proposed details shall be provided of planting sizes, planting distances, density, and numbers and provisions for future maintenance. Any plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To protect the privacy of the occupiers of the neighbouring property, to prevent overlooking, and to ensure that the development harmonises well with its surroundings.

- 20) The landscaping scheme, submitted under Condition 1 shall be implemented and completed within the first planting season following the commencement of the development or as otherwise agreed in writing with the Local Planning Authority and shall be maintained in accordance with the agreed schedule. Any trees or plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To ensure the provision, establishment and maintenance of a standard of landscaping.

- 21) No development shall proceed beyond damp proof course level until a scheme detailing the relocation of the existing bus stop on the south side of



Funtley Road adjacent to the vehicular entrance to the site has been submitted to and approved by the local planning authority in writing. No dwelling hereby permitted shall be first occupied until the bus stop has been relocated in accordance with the approved scheme.

REASON: In the interests of highway safety.

- 22) No dwelling hereby permitted shall be occupied until details of water efficiency measures have been submitted to and approved in writing by the Local Planning Authority. These water efficiency measures should be designed to ensure potable water consumption does not exceed an average of 110l per person per day. The development shall be carried out in accordance with the approved details.

REASON: In the interests of preserving water quality and resources

***Notes for Information***

- a) The applicant is advised to contact Southern Water to discuss the need for a formal application for connection to the public sewerage system. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 330 303 0119) or visit [www.southernwater.co.uk](http://www.southernwater.co.uk).

# FAREHAM

## BOROUGH COUNCIL

### TOWN AND COUNTRY PLANNING ACT 1990 TOWN AND COUNTRY (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2015

## Planning Decision Notice

Planning Application Reference: P/18/0067/OA

Decision Date: 2<sup>nd</sup> September 2020

Fareham Borough Council, as the Local Planning Authority, hereby **PERMIT** the **Following demolition of existing buildings, residential development of up to 55 dwellings (including 3 custom-build homes) (Use Class C3), community building incorporating a local shop 250 sqm (Use Classes A1, A3, D1 & D2), accesses and associated landscaping, infrastructure and development works. at LAND TO THE SOUTH OF FUNTLEY ROAD, FUNTLEY, FAREHAM as proposed by application P/18/0067/OA** subject to the following conditions:

- 1) Application for approval of details of the appearance, landscaping, layout and scale of the development (referred to as the 'reserved matters') shall be made to the local planning authority before the expiration of twenty-four months from the date of this permission. Work shall be commenced in pursuance of this permission no later than twelve months from the approval of the final reserved matter.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

- 2) The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:
  - a) D2546\_509 - Revised Application Site Boundary Received 21 May 2018;
  - b) Drawing no. D2546\_032\_REVI - Parameters Plan - received 6th June 2018;
  - c) Technical Note - Potential Mitigation Measures for Bridge Over M27 - received 20th April 2018;

- d) Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018;
- e) 1712047 SK03B - Pedestrian\_Cycle Improvements Received 21 May 2018;
- f) Drawing no. 1712047 SK05A - Pedestrian and Cycle Improvements - south section -received 31st May 2018;
- g) Ecological Assessment - Ecology Solutions - May 2018 and Ecological Baseline Note – Ecology Solutions – August 2020.

REASON: To avoid any doubt over what has been permitted.

- 3) No development hereby permitted shall commence until a surface water drainage strategy has been submitted to and approved by the local planning authority in writing. The strategy shall include the following elements:

- a) Full details of the means of surface water drainage from the site;
- b) The detailed design of Sustainable Urban Development Systems (SUDS) to be used on the site as well as details on the delivery, maintenance and adoption of SUDS features.
- c) Assessment of surface water drainage discharge from the site in combination with the development site to the north of Funtley Road (planning application reference P/17/1135/OA) to demonstrate that:
  - i. the greenfield runoff rate will not exceed 13.1 l/s during the 1 in 100 year storm +(40%CC);
  - ii. the surface water discharged to the Funtley Road ditch will comply with CIRIA C753 2015 Table 26.2 & Table 26.3.

The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of surface water.

- 4) No development hereby permitted shall commence until details of the means of foul water drainage from the site have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details unless otherwise agreed with the local planning authority in writing.

REASON: To ensure satisfactory disposal of foul water.

- 5) No development hereby permitted shall take place until a Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved by the local planning authority in writing. The

submitted plan shall be devised fully in accordance with the outline ecological mitigation and enhancements measures contained within the approved "Ecological Assessment - May 2018 - Ecology Solutions". The submitted plan shall include the following:

- a) A Reptile and Dormouse Mitigation Strategy;
- b) A Japanese Knotweed Eradication Scheme;
- c) A Badger Protection Strategy;
- d) Details of the timing of clearance works;
- e) A detailed scheme of biodiversity enhancements;
- f) Details of a soft landscaping scheme including provisions for buffer planting associated with the adjacent areas of Ancient Woodland;
- g) Details of darkened corridors for foraging/commuting bats;
- h) A Landscape/Ecology Management Plan including details of the maintenance of mitigation and enhancement measures.

The development shall be carried out fully in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: To provide ecological compensation, management and enhancements.

- 6) No development shall commence until an Arboricultural Impact Assessment and Method Statement for tree/hedgerow protection has been submitted to and approved by the Local Planning Authority in writing and the approved scheme has been implemented. The tree/hedgerow protection shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site.

REASON: To ensure that the trees, shrubs and other natural features to be retained are adequately protected from damage to health and stability during the construction period.

- 7) No development hereby permitted shall commence until an intrusive site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority (LPA). The intrusive site investigation and risk assessment shall include assessment of the risks posed to human health, the building fabric and the wider environment such as water resources, and where the site investigation and risk assessment reveal a risk to receptors, it shall include a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the LPA. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, an independent competent person shall confirm in writing that the works have been completed in full and in accordance with the approved scheme. Such confirmation shall include photographic evidence and, if considered necessary by the local planning authority, as built drawings of the development.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place.

- 8) No development hereby permitted shall commence on site until a Construction Management Plan (CMP) setting out how provision is to be made on site for the parking and turning of operatives' vehicles, wheel cleaning, the areas to be used for the storage of building materials, plant, excavated materials and huts associated with the implementation of the approved development, has been submitted to and approved in writing by the Local Planning Authority (LPA). The development shall be carried out in accordance with the CMP and areas identified in the CMP for specified purposes shall thereafter be kept available for those uses at all times during the construction period, unless otherwise agreed in writing with the LPA.

REASON: In the interests of highway safety and/or in order to secure the health and wellbeing of the trees and vegetation which are to be retained at the site and/or to ensure that the occupiers of nearby residential properties are not subjected to unacceptable noise and disturbance during the construction period.

- 9) No development hereby permitted shall commence until details of the width, alignment, gradient and type of construction proposed for any roads, footways and access, including all relevant horizontal and longitudinal cross sections showing the existing and proposed ground levels, together with details of street lighting (where appropriate), the method of disposing of surface water, and details of a programme for the making up of roads and footways, have been submitted to and approved by the Local Planning Authority in writing.

The development shall be subsequently carried out in accordance with the approved details.

REASON: To ensure that the roads are constructed to a satisfactory standard.

- 10) No development hereby permitted shall commence until details of the internal finished floor levels of all of the proposed buildings in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

REASON: To safeguard the character and appearance of the area and to assess the impact on nearby residential properties.

- 11) No development hereby permitted shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposed mitigation measures in relation to any archaeological remains found as necessary. The development shall be carried out in accordance with the approved scheme.

REASON: In order to ensure that the site, which is located in an area where there is potential for archaeological discovery, is adequately investigated prior to development.

- 12) No development shall proceed beyond damp proof course level until a scheme for sound attenuation against traffic and railway noise has been submitted to and approved in writing by the local planning authority in writing. The scheme shall assess the impact of noise from vehicles and trains and identify the measures necessary to attenuate against noise nuisance to future occupants. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent avoidable disturbance to residents from noise.

- 13) No development shall proceed beyond damp proof course level until details of secure cycle storage have been submitted to and approved by the Local Planning Authority in writing. The approved secure cycle stores shall be provided before any dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To encourage cycling as an alternative mode of transport.

- 14) No development shall proceed beyond damp proof course level until details of the proposed bin storage areas (including bin collection points) have been submitted to and approved by the Local Planning Authority. The details shall include the siting, design and the materials to be used in construction. The approved bin storage and collection areas shall be provided before any dwelling is first occupied and shall thereafter be retained and kept available for use at all times.

REASON: To ensure that the character and appearance of the development and the locality are not harmed.

- 15) No development shall proceed beyond damp proof course level until details (including samples where requested by the Local Planning Authority) of all proposed external facing and hardsurfacing materials have been submitted to and approved by the LPA in writing. The development shall be carried out in accordance with the approved details.

REASON: To secure the satisfactory appearance of the development.

- 16) No work on site relating to the construction of any of the development hereby permitted (Including works of demolition or preparation prior to operations) shall take place before the hours of 0800 or after 1800 Monday to Friday, before the hours of 0800 or after 1300 Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To protect the occupiers of nearby residential properties against noise and disturbance during the construction period.

- 17) None of the development hereby approved shall be occupied until the pedestrian crossing points and means of vehicular access shown on the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018" has been provided. The access shall be subsequently retained and no other means of vehicular access to the site shall be provided at any time.

REASON: In the interests of highway safety.

- 18) No dwelling hereby permitted shall be first occupied until the visibility splays at the junction of the estate road/access with existing highway have been provided in accordance with the approved drawing "Drawing no. 1712047 SK01D - Access Arrangements - received 20th April 2018". The visibility

splays shall thereafter be kept clear of obstruction (nothing over 0.6m in height) at all times.

REASON: In the interests of highway safety

- 19) None of the development hereby approved shall be occupied until a plan of the position, design, materials and type of boundary treatment to be erected to all boundaries has been submitted to and approved in writing by the Local Planning Authority and the approved boundary treatment has been fully implemented. It shall thereafter be retained at all times unless otherwise agreed in writing with the Local Planning Authority.

If boundary hedge planting is proposed details shall be provided of planting sizes, planting distances, density, and numbers and provisions for future maintenance. Any plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To protect the privacy of the occupiers of the neighbouring property, to prevent overlooking, and to ensure that the development harmonises well with its surroundings.

- 20) The landscaping scheme, submitted under Condition 1 shall be implemented and completed within the first planting season following the commencement of the development or as otherwise agreed in writing with the Local Planning Authority and shall be maintained in accordance with the agreed schedule. Any trees or plants which, within a period of five years from first planting, are removed, die or, in the opinion of the Local Planning Authority, become seriously damaged or defective, shall be replaced, within the next available planting season, with others of the same species, size and number as originally approved.

REASON: To ensure the provision, establishment and maintenance of a standard of landscaping.

- 21) No development shall proceed beyond damp proof course level until a scheme detailing the relocation of the existing bus stop on the south side of Funtley Road adjacent to the vehicular entrance to the site has been submitted to and approved by the local planning authority in writing. No dwelling hereby permitted shall be first occupied until the bus stop has been relocated in accordance with the approved scheme.



REASON: In the interests of highway safety.

- 22) No dwelling hereby permitted shall be occupied until details of water efficiency measures have been submitted to and approved in writing by the Local Planning Authority. These water efficiency measures should be designed to ensure potable water consumption does not exceed an average of 110l per person per day. The development shall be carried out in accordance with the approved details.

REASON: In the interests of preserving water quality and resources

# **Notes to Accompany Planning Decision Notice**

**Planning Application Ref: P/18/0067/OA**

**Decision Date: 2<sup>nd</sup> September 2020**

## **General Notes for Your Information:**

- The approved documents can be obtained by viewing the submitted application online at [www.fareham.gov.uk/planning](http://www.fareham.gov.uk/planning)
- The Council worked positively and proactively with the applicant and their agent to address any issues which came up during the course of the application being considered. A report has been published on the Council's website to explain how a decision was made on this proposal.
- The applicant is advised to contact Southern Water to discuss the need for a formal application for connection to the public sewerage system. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or visit [www.southernwater.co.uk](http://www.southernwater.co.uk).
- Please contact the officer who handled this application Richard Wright on 01329 824758 or at [rwright@fareham.gov.uk](mailto:rwright@fareham.gov.uk) if:
  - You would like clarification about this notice
  - You would like to make changes to your permission
  - You are unhappy with this decision or the way it has been reached

## **Right of appeal:**

- The person who made this application has the right to appeal to the Secretary of State against the imposition of any of the conditions this permission is subject to.
- The Secretary of State may decide he will not consider an appeal if it seems to him that, due to statutory requirements, the local planning authority could not have granted permission without the conditions being imposed.
- Appeals must be made within 6 months of the date of this decision notice.
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- Appeals are handled by the Planning Inspectorate on behalf of the Secretary

of State. Appeals must be made using a form which you can get from:

- Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN;
  - Or submit online at The Planning Inspectorate website at
  - [www.gov.uk/planning-inspectorate](http://www.gov.uk/planning-inspectorate)
- There is no third party right of appeal for neighbours or objectors.
  - If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

### **Purchase Notices:**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase the owner's interest in the land.

### **What to do next:**

- Please take note of the conditions this permission is subject to. If these conditions are not met, for example if works are not carried out in accordance with the approved documents, the Council has the ability to take enforcement action where necessary.
- This permission relates to town planning. It does not grant other forms of consent which you may need, for example:

#### Building Regulations consent

- Building Regulations legislation sets out technical standards required for the design and construction of buildings.
- For advice please contact The Building Control Partnership:
  - Telephone 01329 824 823
  - Email [bcpartnership@fareham.gov.uk](mailto:bcpartnership@fareham.gov.uk)
  - Website [www.buildingcontrolpartnershiphants.gov.uk](http://www.buildingcontrolpartnershiphants.gov.uk)

#### Consent for works in the vicinity of a public sewer

- A minimum distance of three metres (for apparatus up to three metres deep) must be maintained between any building and the public sewer. In some cases however, Southern Water will allow buildings to encroach on the public system.
- For further information please contact Southern Water:
  - Telephone 0845 278 0845
  - Website [www.southernwater.co.uk](http://www.southernwater.co.uk)

#### Works affecting neighbours

- Where proposals involve work on party walls or excavations near neighbouring properties, there may be measures required under the Party Wall Act 1996. Fareham Borough Council is not responsible for enforcing the Party Wall Act.
- For further information please see the following guidance:
  - Website [www.gov.uk/party-wall-etc-act-1996-guidance](http://www.gov.uk/party-wall-etc-act-1996-guidance).

**P/18/0066/CU**

**FAREHAM NORTH**

RESIDE DEVELOPMENTS  
LIMITED AND

AGENT: TURLEY

CHANGE OF USE OF LAND FROM EQUESTRIAN/PADDOCK TO COMMUNITY PARK  
FOLLOWING DEMOLITION OF EXISTING BUILDINGS.

LAND TO THE SOUTH OF FUNTLEY ROAD FUNTLEY FAREHAM

***Report By***

Richard Wright - 01329 824758

***Site Description***

This application relates to an area of land to the north of the M27 and on the south-western edge of Funtley village. The site's topography falls from south to north. It is bound on its western edge by Honey Lane and on its eastern edge by land adjacent to the main railway line.

The site measures approximately 7.8 hectares in size. The open land on the site comprises mainly paddocks and fields used for the keeping and grazing of horses. The woodland on the site forms part of a Site of Importance for Nature Conservation (SINC) and designated Ancient Woodland.

The site lies entirely outside of the defined urban settlement boundaries as identified in the adopted local plan. The site is therefore within the countryside as defined for planning purposes.

***Description of Proposal***

Permission is sought to change the use of the land to a community park.

The application has been submitted by the same applicant and at the same time as a proposal for residential development of up to 55 dwellings on land between the site and Funtley Road to the north (planning reference P/18/0067/OA). As part of that development the applicant has proposed the community park be set out and provided to Fareham Borough Council as a community benefit to be secured through a Section 106 legal agreement. Notwithstanding, since the proposed change of use has been submitted as a separate planning application the proposal must be assessed on its individual merits.

***Policies***

The following policies apply to this application:

**Approved Fareham Borough Core Strategy**

CS14 - Development Outside Settlements

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS17 - High Quality Design

**Development Sites and Policies**

DSP13 - Nature Conservation

***Representations***

Thirteen objections have been received with the following comments:

- No need for a further park in Funtley
- Only merit is to make housing proposals look more acceptable
- Despite ecological 'improvements' this will be hand in hand with 'concreting over' more land
- Park means it will be used by the public and therefore ecology disturbed, probably destroyed
- More domestic predators
- Impact of development on traffic and road safety
- Flooding - increased risk
- Loss of Countryside
- Associated Development not needed
- Does not form an allocation in the current Local Plan
- Together with associated residential development would harm the character of the area

### ***Consultations***

#### **EXTERNAL**

Natural England - No objection.

#### **INTERNAL**

Highways - No objection. As a substantial public facility it is considered that car parking should be provided. As open space only it is considered that some five car parking spaces should be provided.

Contaminated Land Officer - No objection subject to condition.

Ecology - No concerns raised following consideration of amended ecological assessment documents. Recommended condition relating to biodiversity mitigation, enhancement and management plan.

### ***Planning Considerations - Key Issues***

The proposed use of the site as a community park, to allow members of the public to use the land for recreational leisure purposes, is considered acceptable in principle having regard to the policies of the adopted local plan relating to proposed development in the countryside.

The Council's ecologist and Natural England have raised no objection to the proposal subject to further details of how biodiversity mitigation and enhancement measures will be carried out and what management arrangements would be put in place.

Whilst proposed as a separate stand alone proposal the park is intended to serve as an associated benefit for the adjacent housing site where the applicant proposes 55 dwellings. Residents from that development as well as existing housing estates on the north side of Funtley Road and elsewhere in the village would be able to travel to the site on foot. Officers do not consider there would be significant demand for car parking space created by the development, notwithstanding a condition relating to car parking provision is recommended in order that further assessment of this issue could be carried out and appropriate provision made. In the event that the adjacent proposal for 55 dwellings was permitted and the community park required as part of that development it may be that opportunities for providing car parking space within the adjacent site be explored.

Officers consider the proposed change of use to be an acceptable form of development in the countryside. There are no materially harmful impacts arising in relation to matters such as highway safety, parking provision or ecology and biodiversity interests.

## ***Recommendation***

### **GRANT PLANNING PERMISSION:**

1) The development hereby permitted shall be begun before the expiration of a period of three years from the date of this decision.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

2) The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

a) Location plan - drawing no. D2546 L.510 Revision D - received 21st May 2018

REASON: To avoid any doubt over what has been permitted.

3) No development hereby permitted shall take place until a Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved by the local planning authority in writing. The submitted plan shall be devised fully in accordance with the outline ecological mitigation and enhancements measures contained within the approved "Ecological Assessment - May 2018 - Ecology Solutions". The submitted plan shall include the following:

a) A Reptile and Dormouse Mitigation Strategy;

b) A Japanese Knotweed Eradication Scheme;

c) A Badger Protection Strategy;

d) Details of the timing of clearance works;

e) A detailed scheme of biodiversity enhancements;

f) Details of a soft landscaping scheme including provisions for buffer planting associated with the adjacent areas of ancient woodland;

g) Details of darkened corridors for foraging/commuting bats;

h) A Landscape/Ecology Management Plan including details of the maintenance of mitigation and enhancement measures.

The development shall be carried out fully in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan unless otherwise agreed in writing by the local planning authority.

REASON: To provide ecological compensation, management and enhancements.

4) No development hereby permitted shall commence until a parking provision and vehicular access plan has been submitted to and approved by the local planning authority in writing. The plan shall include details of how parking space shall be provided either on or off the application site to meet the anticipated demands of visiting members of the public. The plan shall also include details of the means of vehicular access from the existing highway access on to Funtley Road and the application site. Before the park is first brought into use for the purpose hereby authorised, the approved vehicular access shall be provided and the

approved parking provision shall be made available for the purposes of providing parking space to members of the public visiting the park and that parking provision shall thereafter be retained at all times.

REASON: To ensure the provision of adequate parking space for visiting members of the public.

5) No development hereby permitted shall commence until an intrusive site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority (LPA). The intrusive site investigation and risk assessment shall include assessment of the risks posed to human health, the building fabric and the wider environment such as water resources, and where the site investigation and risk assessment reveal a risk to receptors, it shall include a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the LPA. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, an independent competent person shall confirm in writing that the works have been completed in full and in accordance with the approved scheme. Such confirmation shall include photographic evidence and, if considered necessary by the local planning authority, as built drawings of the development.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place.

***Background Papers***

P/18/0066/CU; P/18/0067/OA



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# FAREHAM

## BOROUGH COUNCIL

### TOWN AND COUNTRY PLANNING ACT 1990

### TOWN AND COUNTRY (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2015

## **Planning Decision Notice**

Planning Application Reference: P/18/0066/CU

Decision Date: 12<sup>th</sup> October 2018

Fareham Borough Council, as the local planning authority, hereby **PERMIT** the **Change of use of land from equestrian/paddock to community park following demolition of existing buildings at LAND TO THE SOUTH OF FUNTLEY ROAD, FUNTLEY, FAREHAM as proposed by application P/18/0066/CU** subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of a period of three years from the date of this decision.

REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.

- 2) The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:

a) Location plan - drawing no. D2546 L.510 Revision D - received 21st May 2018

REASON: To avoid any doubt over what has been permitted.

- 3) No development hereby permitted shall take place until a Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved by the local planning authority in writing. The submitted plan shall be devised fully in accordance with the outline ecological mitigation and enhancements measures contained within the approved "Ecological Assessment - May 2018 - Ecology Solutions". The submitted plan shall include the following:

- a) A Reptile and Dormouse Mitigation Strategy;
- b) A Japanese Knotweed Eradication Scheme;
- c) A Badger Protection Strategy;
- d) Details of the timing of clearance works;
- e) A detailed scheme of biodiversity enhancements;
- f) Details of a soft landscaping scheme including provisions for buffer planting associated with the adjacent areas of ancient woodland;
- g) Details of darkened corridors for foraging/commuting bats;
- h) A Landscape/Ecology Management Plan including details of the maintenance of mitigation and enhancement measures.

The development shall be carried out fully in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan unless otherwise agreed in writing by the local planning authority.

REASON: To provide ecological compensation, management and enhancements.

- 4) No development hereby permitted shall commence until a parking provision and vehicular access plan has been submitted to and approved by the local planning authority in writing. The plan shall include details of how parking space shall be provided either on or off the application site to meet the anticipated demands of visiting members of the public. The plan shall also include details of the means of vehicular access from the existing highway access on to Funtley Road and the application site. Before the park is first brought into use for the purpose hereby authorised, the approved vehicular access shall be provided and the approved parking provision shall be made available for the purposes of providing parking space to members of the public visiting the park and that parking provision shall thereafter be retained at all times.

REASON: To ensure the provision of adequate parking space for visiting members of the public.

- 5) No development hereby permitted shall commence until an intrusive site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority (LPA). The intrusive site investigation and risk assessment shall include assessment of the risks posed to human health, the building fabric and the wider environment such as water resources, and where the site investigation and risk assessment reveal a risk to receptors, it shall include a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the LPA. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, an independent competent person shall confirm in writing that the works have been completed in full and in accordance with the approved scheme. Such confirmation shall include photographic evidence and, if considered necessary by the local planning authority, as built drawings of the development.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place.

# **Notes to Accompany Planning Decision Notice**

**Planning Application Ref: P/18/0066/CU**

**Decision Date: 12<sup>th</sup> October 2018**

## **General Notes for Your Information:**

- The approved documents can be obtained by viewing the submitted application online at [www.fareham.gov.uk/planning](http://www.fareham.gov.uk/planning)
- The Council worked positively and proactively with the applicant and their agent to address any issues which came up during the course of the application being considered. A report has been published on the Council's website to explain how a decision was made on this proposal.
- Please contact the officer who handled this application Richard Wright on 01329 824758 or at [rwright@fareham.gov.uk](mailto:rwright@fareham.gov.uk) if:
  - You would like clarification about this notice
  - You would like to make changes to your permission
  - You are unhappy with this decision or the way it has been reached

## **Right of appeal:**

- The person who made this application has the right to appeal to the Secretary of State against the imposition of any of the conditions this permission is subject to.
- The Secretary of State may decide he will not consider an appeal if it seems to him that, due to statutory requirements, the local planning authority could not have granted permission without the conditions being imposed.
- Appeals must be made within 6 months of the date of this decision notice (so by 12<sup>th</sup> April 2019).
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- Appeals are handled by the Planning Inspectorate on behalf of the Secretary of State. Appeals must be made using a form which you can get from:
  - Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN;
  - Or submit online at The Planning Inspectorate website at
  - [www.gov.uk/planning-inspectorate](http://www.gov.uk/planning-inspectorate)

- There is no third party right of appeal for neighbours or objectors.

**Purchase Notices:**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase the owner's interest in the land.

**What to do next:**

- Please take note of the conditions this permission is subject to. If these conditions are not met, for example if works are not carried out in accordance with the approved documents, the Council has the ability to take enforcement action where necessary.
- This permission relates to town planning. It does not grant other forms of consent which you may need.

Dated:

2 SEPTEMBER

2020

**FAREHAM BOROUGH COUNCIL**  
**and**  
**HAMPSHIRE COUNTY COUNCIL**  
**and**  
**ATHERFOLD INVESTMENTS LIMITED**  
**and**  
**RESIDE DEVELOPMENTS LIMITED**

---

**AGREEMENT**

pursuant to Section 106 of the Town and Country  
Planning Act 1990 and other powers relating to  
land to the south of Funtley Road, Funtley,  
Fareham

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**Southampton & Fareham Legal Services Partnership**  
**Southampton City Council**  
**Civic Offices**  
**Southampton**  
**SO14 7LY**

**Ref: EP06-01-024348**



2 SEPTEMBER

2020

**BETWEEN:**

- (1) **FAREHAM BOROUGH COUNCIL** of Civic Offices, Civic Way, Fareham PO16 7AZ ("the Borough Council");
- (2) **HAMPSHIRE COUNTY COUNCIL** of The Castle, Winchester, Hampshire SO23 8UJ ("the County Council");
- (3) **ATHERFOLD INVESTMENTS LIMITED** (Company Registration Number 67295), a company registered in Jersey whose registered address is at Fifth Floor 37 Esplanade St Helier Jersey JE1 2TR ("the Owner");
- (4) **RESIDE DEVELOPMENTS LIMITED** (Company Registration Number 03425192) whose registered office is at 10 Victoria Road South, Southsea, PO5 2DA ("the Developer").

**RECITALS**

- A The Borough Council and the County Council are the local planning authorities for the purposes of the Act for the area in which the Land is situated.
- B The County Council is the local highway authority (save in respect of trunk roads and special roads) for the purposes of the 1980 Act and the education authority for the area in which the Land is situated.
- C The Owner is the freehold owner of part of the Land registered with title absolute at HM Land Registry under Title Number HP193458.
- D Highways England Company Limited is the freehold owner of the Highways England Land.
- E The Owner and the Developer have submitted the Outline Application to the Borough Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- F The Borough Council has resolved to grant the Outline Permission subject to the prior completion of this Deed.
- G The Borough Council has granted the Change of Use Permission.
- H The Owner and the Developer have agreed that the Development shall be carried out only in accordance with the rights and obligations set out in this Deed.
- I The Owner and the Developer have agreed to be parties to this Deed and consent to this Deed being entered into and to the obligations becoming binding on the Land.
- J The Borough Council has confirmed that all of the obligations and covenants included in this Deed are compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
- K The Land is subject to a Promotion Agreement dated 10 November 2016 between the Owner and Developer.

**IT IS AGREED AS FOLLOWS:**

**1 DEFINITIONS**

- 1.1 In addition to the definitions set out below, a series of specific definitions are included in each of the



Schedules to this Deed giving further defined terms and expressions to facilitate interpretation and unless stated to the contrary the specific definitions in the Schedules shall apply throughout this Deed where the relevant terms and expressions are used.

1.2 In this Deed the following expressions shall have the meanings indicated:

"1980 Act"	The Highways Act 1980
"Act"	The Town and Country Planning Act 1990 (as amended)
"Borough Council's Legal Costs"	The Borough Council's reasonably incurred legal costs in connection with the preparation, execution and completion of this Deed
"Change of Use Permission"	The planning permission subject to conditions granted by the Borough Council on 12 October 2018 with reference number P/18/0066/CU for the change of use of land from equestrian/paddock to community park following demolition of existing buildings
"Commence"	The carrying out of a "material operation" (as defined in section 56(4) of the Act) in connection with the Development save that for the purposes of this Deed and for no other purpose; operations pursuant to the Change of Use Permission and the "Permissive Path" (as defined in the Funtley North Agreement), earthworks and site forming, ecology works, tree works, site clearance, demolition work, archaeological investigations and digs, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services and utilities, construction of temporary access(es), the placement of buildings/ structures required as part of the process of constructing the Development, erection of any temporary means of enclosure, the temporary display of site notices or advertisements shall not be included (and "Commencement" and "Commenced" shall be construed accordingly)
"Contributions"	Any one or number of the financial contributions required to be made pursuant to this Deed, each of which shall be Index Linked
"County Council's Legal Costs"	The County Council's reasonably incurred legal costs in connection with the preparation, execution and completion of this Deed
"Deed"	This agreement made by deed
"Development"	The development of the Land in accordance with the Outline Permission
"Development Control Fee"	The sum of £900.00 incurred by the County Council's transport planning officers in connection with the preparation, execution and completion of this Deed.
"Enabling Powers"	Section 111 of the Local Government Act 1972 (as amended) Section 1 of the Localism Act 2011 and all other enabling powers which may be relevant for the purpose of giving validity to or

	facilitating the enforcement of the obligations created by this Deed
"Funtley North Agreement"	the section 106 agreement made between the parties to this Agreement relating to the Funtley North Permission and dated 22 November 2018
"Funtley North Permission"	Outline planning permission granted for residential development of up to 27 dwellings (Use Class C3) with associated infrastructure, means of access and demolition of agricultural building on land north of Funtley Road with reference P/17/1135/OA
"Highways England Land"	The land known as Land at M27 Fareham which is shown edged blue on the Plan and registered at HM Land Registry with Title Numbers HP704492, HP255327 and HP709709
"Index Linked"	Except where specifically stated otherwise, for the purposes of any payment or financial contribution due under this Deed adjusted in accordance with the Retail Prices Index ("RPI") (or in the case that the RPI no longer exists during any period such index which replaces the same or is the nearest equivalent thereto as the Borough Council or County Council (as the case may be) shall reasonably nominate taking into account any official reconciliation of changes in its basis of calculation) by multiplying in each case the payment due by a fraction whose denominator shall be the last RPI monthly figure published before the date of the Outline Permission and whose numerator shall be the last published RPI monthly figure available before the date on which payment is due but which for the avoidance of doubt shall not fall below the original payment figure;
"Interest"	Means interest at 4 per cent above the base lending rate of the Barclays Bank Plc (calculated on a daily basis from the date on which it fell due until the actual date of payment)
"the Land"	The land known as land to the south of Funtley Road, Funtley, Fareham shown for identification purposes only edged with a red line on the Plan
"Occupation"	Occupation for the purposes permitted by the Outline Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly
"Outline Application"	The application for outline planning permission following demolition of existing buildings for residential development of up to 55 dwellings (including three custom-build homes) (Use Class C3), community building incorporating a local shop 250 sqm (Use Classes A1, A3, D1 and D2), accesses and associated landscaping, infrastructure and development works, registered on 24 January 2018 and allocated reference number P/18/0067/OA.

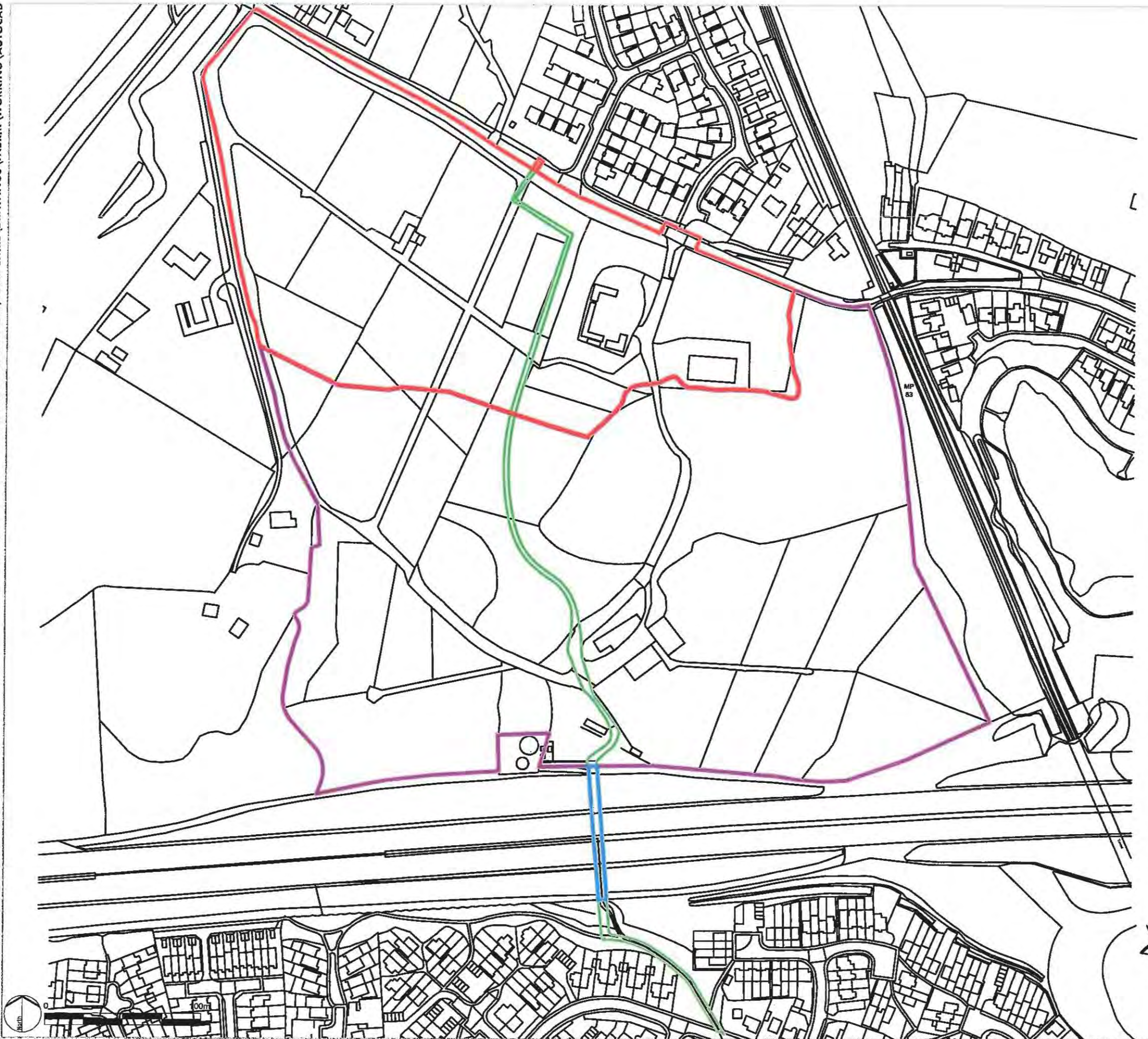
"Outline Permission"	The planning permission subject to conditions to be granted by the Borough Council pursuant to the Outline Application
"Plan"	The plan annexed hereto showing the Land edged red the Community Park Land edged purple and the indicative location of the Public Right of Way edged blue and green with reference D2546-512
"Reserved Matters Application"	An application under the Act for approval of matters reserved under the Outline Permission for subsequent approval
"Residential Units"	Individual C3 units within the Development to be used for residential purposes (and for the avoidance of doubt this definition shall include Affordable Housing Units (as defined in Schedule Two) and Custom-build Units (as defined in Schedule Five) and houses and flats as appropriate)
"Statutory Undertakers"	Organisations licensed by the government which include all utilities electricity, gas, water, telephone, cable telephone and television and other telecommunication companies
"Working Day(s)"	Days on which banks in the City of London are open to the public

## 2 INTERPRETATION

- 2.1 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.2 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all words shall be construed interchangeable in that manner.
- 2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.4 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.5 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Borough Council or County Council the successors to their respective statutory functions.
- 2.6 References to "the parties" shall mean the parties to this Deed and reference to a "party" shall mean any one of the parties.
- 2.7 The headings and contents list are for reference only and shall not affect construction.
- 2.8 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.9 Any number of Residential Units which are set in this Deed by reference to a percentage shall be rounded up or down to the nearest whole number of units (on the basis that if the part number produced is 0.5 or higher it is rounded up and in any other case it is rounded down).



J:\JOB FILES\D2546 LAND AT FUNTLEY MASTERPLANNING, HAMPSHIRE\DRAWINGS\FABRIK\WORKING\AUTOCAD



#### LEGEND

- SITE BOUNDARY
- COMMUNITY PARK
- M27 BRIDGE
- NEW PUBLIC RIGHT OF WAY

FOR & ON BEHALF OF  
ATHEGOLD INVESTMENTS LIMITED

*[Redacted Signature]*

DIRECTOR

F	Removal of A-B-C annotation	BS	23.06.2020
E	Extension of footpath further south	BS	19.06.2020
D	Extension of footpath to existing east-west footpath	BS	10.03.2020
C	Update to footpath	BS	30.01.2020
B	Minor presentation updates	BS	13.01.2020
A	Alternation of new PRow	BS	27.06.2019
REV.	DESCRIPTION	APP. DATE	

fabrik

#### PROJECT TITLE

LAND SOUTH OF FUNTLEY

#### DRAWING TITLE

PLAN 1

ISSUED BY London T: 020 7620 1453

DATE JUNE 2019 DRAWN IK  
SCALE@A3 1:2500 CHECKED BS  
STATUS DRAFT APPROVED BS

DWG. NO. D2546\_512

#### Notes:

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2. Only figured dimensions are to be taken from this drawing. All contractors must visit site and be responsible for taking and checking all dimensions related to the works shown on this drawing.

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### **3 STATUTORY AUTHORITY**

- 3.1 This Deed is made pursuant to Section 106 of the Act and the Enabling Powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Borough Council and County Council as local planning authorities against the Owner and any person deriving title in the Land or any part of it from the Owner.

### **4 EFFECT OF THE AGREEMENT**

- 4.1 Except as provided for in clause 4.2 below, this Deed is conditional upon the grant of the Outline Permission save for clauses 1, 2, 3.1, 4, 6, 8.1, 9, 10, 12, 13, 20, 21, 23, 24 and 25 which shall come into effect on the date hereof.
- 4.2 Clause 6 comes into effect on the date hereof only to the extent that it relates to the covenant contained in paragraph 1.1 of Schedule Nine.

### **5 THE OWNER'S AND THE DEVELOPER'S COVENANTS**

- 5.1 The Owner and the Developer hereby covenant with the Borough Council and the County Council that they will observe and perform the covenants on their part contained in Schedules One to Eight (inclusive).

### **6 THE BOROUGH COUNCIL AND COUNTY COUNCIL'S COVENANTS**

- 6.1 Subject to the performance by the Owner of its obligations under this Deed the Borough Council and County Council hereby separately covenant with the Owner that it will observe and perform the covenants on its part set out in Paragraph 3 of Schedule 4 and Schedule Nine.

### **7 RELEASE AND LAPSE**

- 7.1 It is hereby agreed that the Owner shall not be liable for a breach of any of its obligations under this Deed (save for antecedent breaches) after they shall have parted with all of their interests in the Land or such parts thereof in respect of which the breach occurs.
- 7.2 It is further agreed that this Deed shall lapse and be of no further effect if:
  - 7.2.1 the Outline Permission shall lapse without having been Commenced; or
  - 7.2.2 the Outline Permission shall be varied or revoked other than with the consent of the Owner; or
  - 7.2.3 the Outline Permission is quashed following a successful legal challenge.
- 7.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Outline Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.4 This Deed shall not be enforceable against the purchaser or occupier of an individual Residential Unit erected on the Land pursuant to the Outline Permission (save for those obligations relating to Affordable Housing contained in the Schedule Two which are intended to bind occupiers of the Affordable Housing as defined therein) or against any Statutory Undertakers who have an interest in or arising purely in connection with their apparatus or operational land situated within the Development.

### **8 LOCAL LAND CHARGE**

- 8.1 This Deed is a local land charge and shall be registered as such by the Borough Council.

- 8.2 Upon the full satisfaction of all the terms of this Deed the Owner may request that the Borough Council procure that all entries in the register of local land charges relating to it other than those obligations which are of continuing effect be removed as soon as reasonably practicable.

**9 DUTY TO ACT REASONABLY**

- 9.1 All parties to this Deed acknowledge that they are under a duty to act reasonably and (without prejudice to generality) if any deed consent approval or expression of satisfaction is due from one party to another under the terms of this Deed the same shall not be unreasonably withheld or delayed.

**10 NO FETTER ON DISCRETION OR WAIVER**

- 10.1 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Borough Council or County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 10.2 Nothing in this Deed shall impose any contractual or other obligations on the Borough Council to grant the Outline Permission.
- 10.3 No waiver (whether expressed or implied) by the Borough Council or County Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Borough Council or County Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

**11 SEVERABILITY**

- 11.1 It is agreed that if any part of this Deed shall be declared unlawful or invalid by a court of competent jurisdiction then (to the extent possible) the remainder of this Deed shall continue in full force and effect.

**12 THE BOROUGH COUNCIL AND COUNTY COUNCIL'S COSTS**

- 12.1 The Developer hereby covenants with the Borough Council that it will on or before the date of this Deed pay the Borough Council's Legal Costs of £10,500.00.
- 12.2 The Developer hereby covenants with the County Council that it will on or before the date of this Deed pay the County Council's Legal Costs of £10,260.00 and the Development Control Fee.

**13 CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999**

- 13.1 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Deed shall be enforceable by a third party who is not a party to the Deed and for the avoidance of doubt the terms of this Deed may be varied by Deed between the parties and their successors in title and the Borough Council and the County Council without the consent of any such third party.

**14 NOTIFICATION OF COMMENCEMENT/OCCUPATION**

- 14.1 The Owner and the Developer each covenant with the Borough Council and County Council that they will:
- 14.1.1 notify the Borough Council and County Council in writing of the date of Commencement of the Development within five Working Days of it occurring;

- 14.1.2 notify the Borough Council and County Council in writing of the date of Occupation for the first time of any Residential Unit within five Working Days of it occurring;
- 14.1.3 notify the Borough Council in writing of the anticipated date of Occupation for the first time of the 18<sup>th</sup> Open Market Unit not less than 5 working days before the anticipated Occupation date;
- 14.1.4 notify the Borough Council and County Council in writing of the anticipated date of Occupation for the first time of more than 25% of the Residential Units not less than 5 working days before the anticipated Occupation date;
- 14.1.5 notify the Borough Council and County Council in writing of the anticipated date of Occupation for the first time of more than 50% of the Residential Units not less than 5 working days before the anticipated Occupation date;
- 14.1.6 notify the Borough Council in writing of the anticipated date of Occupation for the first time of more than 75% of the Residential Units not less than 5 working days before the anticipated Occupation date
- 14.1.7 notify the Borough Council in writing of the anticipated date of Occupation for the first time of more than 85% of the Residential Units not less than 5 working days before the anticipated Occupation date; and
- 14.1.8 pay to the Borough Council upon written demand its reasonable fees of £500 for additional monitoring caused by their respective non-compliance with clauses 14.1.1 - 14.1.7 above.

## **15 NOTICES**

- 15.1 Any notices required to be served by one party on another under this Deed shall be served by First Class prepaid post or by email in the following manner:
  - 15.1.1 on the Borough Council at the address shown above or by email to [devcontrol@fareham.gov.uk](mailto:devcontrol@fareham.gov.uk) marked "for the attention of the Head of Development Management" and bearing the reference "P/18/0067/OA".
  - 15.1.2 on the County Council at the address shown above and marked for the attention of Highways Development Planning, The Castle, Winchester, SO23 8UJ.
  - 15.1.3 on the Owner at the addresses as detailed above or as notified by the Owner in writing to the Borough Council or County Council; and
  - 15.1.4 on the Developer at the address as detailed above or as notified by the Developer in writing to the Borough Council or County Council.

## **16 INDEX LINKING**

- 16.1 Each and every one of the Contributions which are to be paid under the terms of this Deed shall be Index Linked.

## **17 PAYMENT OF THE CONTRIBUTIONS**

- 17.1 The Owner must pay the Contributions to the Borough Council or the County Council (as the case may be) by either:
  - 17.1.1 cheque made payable to the Borough Council or the County Council (as the case may be);
  - 17.1.2 by BACS or telegraphic transfer or as otherwise agreed.
- 17.2 All payments must state the Outline Permission reference number and the address to which this Deed relates.

- 17.3 Payment by cheque shall be sent to the Borough Council or the County Council (as the case may be) in accordance with the details set out in clause 17.1 identifying the obligation to which the payment relates.

**18 SPEND IN ADVANCE**

- 18.1 If prior to the receipt of the School Travel Plan Contribution payable pursuant to the terms of this Agreement the County Council incurs any expenditure for which it was intended to apply the School Travel Plan Contribution (or in consequence of arranging for the provision thereof) by the letting of a contract or otherwise including any design costs whether in anticipation of or as a result of the Development then the County Council may immediately following receipt of the School Travel Plan Contribution deduct there from a sum equivalent to such expenditure incurred and for the avoidance of doubt it is hereby further agreed that such proportion of any such contribution shall not be the subject of any requirement to repay pursuant to the terms of this Agreement and that such monies shall be and remain the property of the County Council and shall not be bound by the terms of this Agreement

**19 INTEREST ON LATE PAYMENTS**

- 19.1 Any amount due from the Owner or the Developer under this Deed which is not paid on the due date shall be payable with Interest.

**20 CONSENT OF THE DEVELOPER**

- 20.1 The Developer hereby consents to this Deed being entered into and to the obligations becoming binding on the Land notwithstanding any registration by or on behalf of the Developer to protect its interest in the Land pursuant to the Promotion Agreement referred to in Recital K provided that the Developer shall not have any liability unless and until it takes possession of the Land other than the liability to pay the Borough Council's and the County Council's legal costs pursuant to clause 12 of this Deed.

**21 NOTIFICATION OF SUCCESSORS IN TITLE**

- 21.1 The Owner covenants with the Borough Council and the County Council that they will give written notice within five days to the Borough Council and County Council of any change of ownership of the Land (other than in respect of the sale of an individual Residential Unit) if at such time the obligations contained within this Deed have not fully been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

**22 VAT**

- 22.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

**23 DISPUTE RESOLUTION**

- 23.1 Where it is provided in this Deed that a matter is to be approved (or another cognate expression is used) by the Borough Council or County Council and such approval has been refused or given conditionally in accordance with the provisions of this Deed and the Owner wishes to dispute such refusal or conditions, then the Owner may notify the Borough Council or County Council that the matter is in dispute and:

- 23.1.1 the parties to the dispute shall first attempt to resolve that dispute or difference amicably including holding a meeting attended by at least one senior



representative from each party within 10 Working Days of receipt of notice that a matter is in dispute;

23.1.2 if after a further 5 Working Days the parties are unable to resolve the dispute amicably pursuant to clause 23.1.1, one party may serve notice on the other party or parties (as the case may be) to the dispute of their intention to refer the dispute in accordance with clause 23.2 specifying in such notice:

23.1.2.1 the nature, basis and brief description of the dispute; and

23.1.2.2 the clause or paragraph of this Deed pursuant to which the dispute has arisen; and

23.1.2.3 a written request to concur as to the appropriateness of the professional qualifications of the person (or body) they propose to be appointed pursuant to clause 23.2.

23.2 Any such dispute or difference notified pursuant to clause 23.1.2 shall be referred to an independent and suitable person holding appropriate professional qualifications, in light of the subject matter in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

23.3 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 23.2 or as to the appropriateness of the professional body within 10 Working Days after any party has given the other parties to the dispute or difference a written request to concur as to the appropriateness of the professional qualifications of the person (or body) to be appointed pursuant to clause 23.2 then such question may be referred by any party to the president for the time being of the Law Society for him to appoint a solicitor to determine the appropriate professional body or person to resolve the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

23.4 Any expert howsoever appointed shall be subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practical timescale allowing for the nature and complexity of the dispute and in any event not more than twenty Working Days after the conclusion of any hearing that takes place or twenty Working Days after he has received any final written representation pursuant to clause 23.5.

23.5 The expert shall be required to give notice to any of the said parties requiring them to submit to him within 10 Working Days of notification of his appointment written submissions and supporting material and the other parties will be entitled to make a counter written submission within a further 10 Working Days.

23.6 Nothing in this clause 23 shall be taken to fetter the ability of the Borough Council or County Council to carry out its statutory functions as local planning authority with power to enforce any breach of the obligations entered into by the Owner in this Deed or any other planning breach in respect of the Development.

## **24 JURISDICTION**

24.1 This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

**25 DELIVERY**

- 25.1 This Deed is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt the Deed shall be deemed not delivered despite being executed by the parties until such time as it is dated.

**SCHEDULE ONE**  
**HIGHWAY WORKS, HIGHWAY CONTRIBUTION AND TRAVEL PLAN**

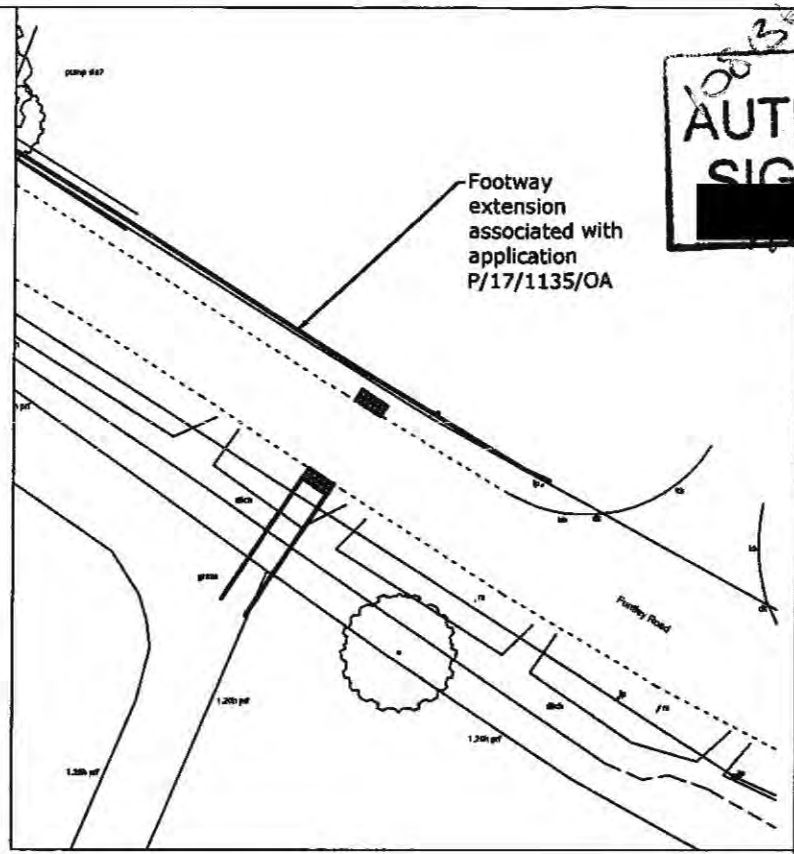
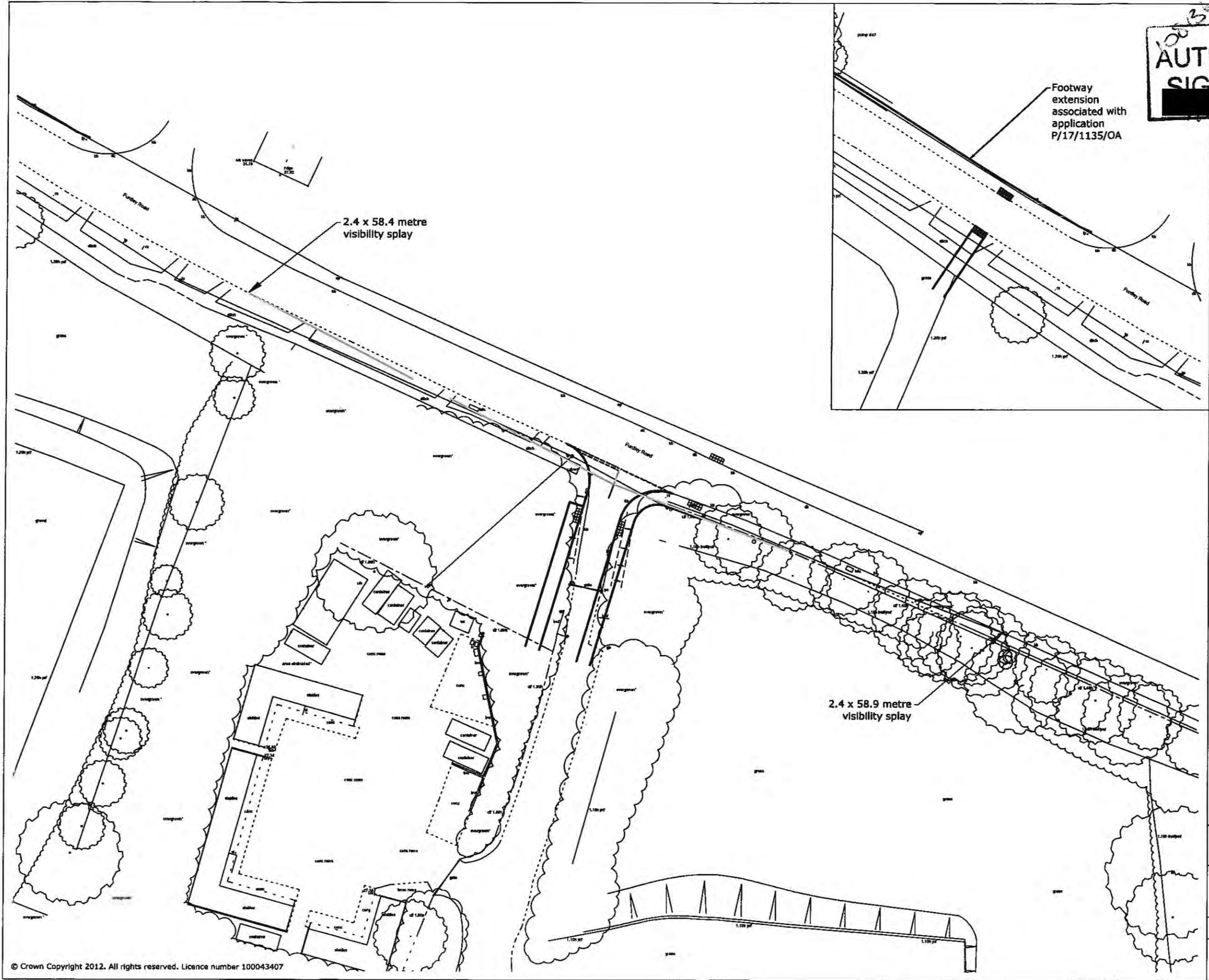
**DEFINITIONS**

In this Schedule the following terms have the following meanings:

"Bus Voucher"	A voucher or vouchers or similar equivalent with a total value of £50 (fifty pounds) capable of being used on local bus services.
"Cycle Voucher"	A voucher or similar equivalent for £150 (one hundred and fifty pounds) towards the cost of purchasing a bicycle(s) from a local outlet.
"Highway Works"	Construction of a bellmouth access onto Funtley Road and uncontrolled crossing point on Funtley Road as detailed in drawing number 1712047-SK01 Rev D and works to Thames Drive as detailed in drawing number 1712047-SK05 Rev C
"Highway Works Agreement"	An agreement pursuant to section 278 of the Highways Act 1980 governing the performance of the Highway Works
"Highway Works Completion Standard"	The completion of the Highway Works in accordance with the Highway Works Agreement as evidenced by the issue of a certificate of completion pursuant to the Highway Works Agreement
"Residents' Welcome Pack"	<p>A pack prepared for the first Occupiers of the Residential Units that shall include:</p> <ul style="list-style-type: none"> <li>• A map/maps of local footpaths, walking routes and cycle paths in the area including links to facilities in the area;</li> <li>• Promotional literature to encourage walking and cycling, emphasising the health benefits;</li> <li>• Promotional literature promoting cycling as an alternative mode of transport, for example details of adult, family and children cycle training courses, cycle safety and security, cycle maintenance courses, discount vouchers/schemes and special offers in association with local cycle stores;</li> <li>• Site specific promotional literature to inform residents of public transport links, discount schemes and initiatives;</li> <li>• Printed bus and train timetables;</li> <li>• Promotional literature on the benefits of car sharing and information on suitable schemes available locally; and</li> <li>• Details of relevant e-groups/forums created for the Development.</li> </ul>



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AUTHORISED SIGNATORY

For & on BEHALF OF

ARMEGOLD INVESTMENTS LIMITED

DIRECTOR / DIRECTOR

5113082

**motion**

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London  
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www.motion.co.uk

Project:

Land at Funtley Road, Funtley

Title:

Proposed Site Access Junction with Visibility Splays

Scale: 1:500 (@ A3)

Drawing:

1712047-SK01

Revision:

D

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Project:  
Land South of Funtley Road, Funtley

Title:  
Scope of Highway Works

Scale: 1:500 (@ A3)

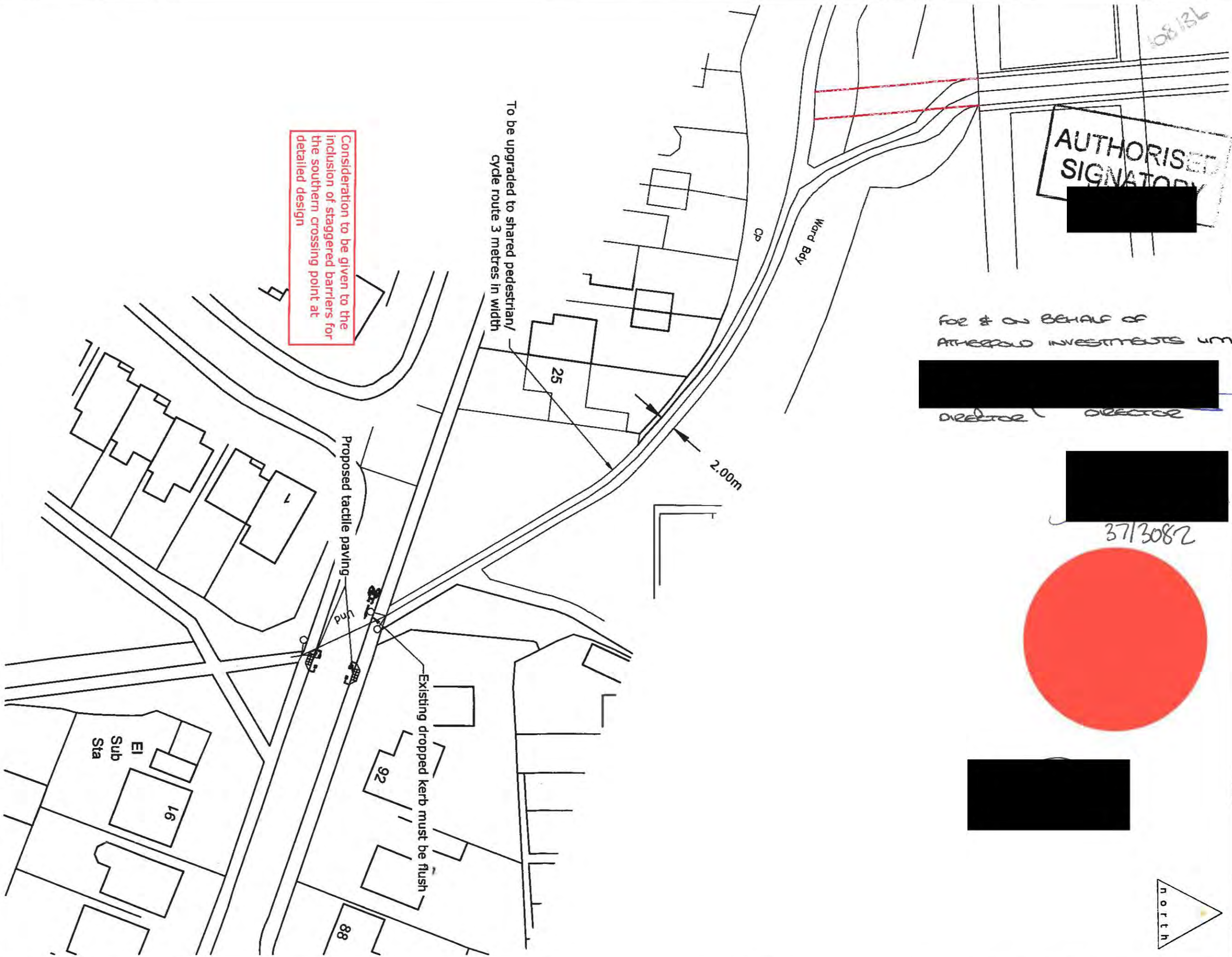
Notes:

Drawing:

1712047-SK05

Revision:

C



"School Travel Plan Contribution"	The sum of £15,000.00 (fifteen thousand pounds) towards the production of travel plans for Orchard Lea Infant and Junior schools in order to promote sustainable travel and the provision of improvements to cycle and scooter storage at the school sites to be index linked in accordance with the BCIS all in TPI from the date of the Outline Application
"TRO Contribution"	The sum of £5,000 (five thousand pounds) towards the revision of an existing traffic regulation order to expand the 30mph speed limit zone on Funtley Road

The Owner covenants with the Borough Council and County Council as follows:

**1 TRO Contribution**

- 1.1 Not to Commence the Development unless the TRO Contribution has been paid in full to the County Council (or, if agreed by the County Council, to the Borough Council).
- 1.2 Nothing in this paragraph 1 shall require the Owner to pay the TRO Contribution in the event that the County Council first confirms in writing that the TRO Contribution is no longer payable or if the "TRO Contribution" under the Funtley North Agreement has already been paid.

**2. Highway Works**

- 2.1 Not to Commence or permit Commencement of Development until the Owner has entered into the Highway Works Agreement with the County Council.
- 2.2 To enter into the Highway Works Agreement with the County Council prior to the Commencement of Development.
- 2.3 Not to Occupy or permit Occupation any Residential Unit until the Highway Works have been completed to the Highway Works Completion Standard
- 2.4 To complete the Highway Works to the Highway Works Completion Standard prior to the Occupation of any Residential Unit

**3. Travel Plan**

- 3.1 Not to Occupy or permit the Occupation of any Residential Unit until the details of the Residents' Welcome Pack has been submitted to and approved in writing by the Borough Council.
- 3.2 Not to Occupy or permit the Occupation of any Residential Unit for the first time unless the Occupier has been provided with an approved Residents' Welcome Pack. For the avoidance of doubt, this obligation requires the provision of no more than one Residents' Welcome Pack per Residential Unit.
- 3.3 Not to Occupy or permit the Occupation of any Residential Unit for the first time unless the Occupier has been provided with one Bus Voucher. For the avoidance of doubt, this obligation requires the provision of no more than one Bus Voucher per Residential Unit.

- 3.4 Not to Occupy or permit the Occupation of any Residential Unit for the first time unless the Occupier has been provided with one Cycle Voucher. For the avoidance of doubt, this obligation requires the provision of no more than one Cycle Voucher per Residential Unit.

**4. School Travel Plan Contribution**

- 4.1 Not to Commence Development unless the School Travel Plan Contribution has been paid in full to the County Council.
- 4.2 To pay the School Travel Plan Contribution in full to the County Council prior to the Commencement of Development.



**SCHEDULE TWO**  
**AFFORDABLE HOUSING**

**DEFINITIONS**

In this Schedule the following terms have the following meanings:

"Affordable Housing"	Affordable housing as defined in the NPPF (Annex 2) or any subsequent amendment or modification or replacement of the NPPF or in any regulation statute or guidance issued and relating to affordable housing
"Affordable Housing Land"	Those parts of the Land upon which the Owner is to construct or procure the construction of the Affordable Housing Units and including all curtilage thereto
"Affordable Housing Plan"	The plan(s) to be submitted to the Borough Council for the Borough Council's approval showing the quantity location and tenure of the Affordable Housing Units which shall accord with the table in paragraph 1.2 of this Schedule Two
"Affordable Housing Unit"	A Residential Unit to be constructed in accordance with the Outline Permission (together with associated car parking spaces to comply with the Borough Council's minimum parking standards for residential dwellings) and used for the purposes of Affordable Housing either as an Affordable Rent Unit or a Shared Ownership Unit
"Affordable Rent"	The sum of the rent element and the Service Charge payable from the date of first occupation in respect of the relevant Affordable Rent Unit which shall not exceed the lower of 80% of the Market Rent or Local Housing Allowance Levels
"Affordable Rent Unit"	Those Affordable Housing Units let to applicants for Affordable Housing Units at Affordable Rent
"Chargee"	Any mortgagee or chargee of the HARP or other party who has provided loan facilities to the HARP or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or otherwise or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (however appointed) including any housing administrator
"HARP"	A body whose function or aim is to provide and manage Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) including a housing association or associations or housing company or companies or a trust or trusts registered as a registered social landlord (pursuant to the Housing Act 1996) with HE and/or a non-profit registered provider of social housing pursuant to section 80 of the Housing and Regeneration Act 2008 and which has been approved in writing by the Borough Council
"HARP Transfer"	The transfer deed of the Affordable Housing Units to a HARP incorporating the Transfer Requirements
"HE"	Homes England (or its successor in function from time to time)



"Local Connection"	Local connection as set out in the Nominations Policy
"Local Housing Allowance Levels"	The rental allowance rate for a property of the size and in the location of the relevant Affordable Rent Unit calculated by reference to the tables maintained by the Valuation Office Agency (or such equivalent means of calculation that may vary or replace it) as updated from time to time
"Market Rent"	<p>An assessment of the best rent reasonably obtainable for a letting of an interest in property on the date of valuation assuming:</p> <p>(a) a willing landlord and a willing tenant;</p> <p>(b) an arm's length transaction;</p> <p>(c) that, prior to the date of valuation, there had been a reasonable period for the proper marketing of the interest, for the agreement of the rent and other letting terms, and for the completion of the letting;</p> <p>(d) that the lease terms are appropriate for a letting of the type and class of the subject property;</p> <p>(e) that both parties to the transaction had acted knowledgeably prudently and without compulsion and</p> <p>(f) that the terms of this Deed are disregarded,</p> <p>and the Market Rent shall be approved by the Borough Council</p>
"NPPF"	The National Planning Policy Framework document published in February 2019 and any subsequent revision or replacement of it together with any technical guidance and policy documents or circulars issued thereunder
"Nominations Agreement"	A nominations agreement between the HARP and the Borough Council affording the Borough Council nomination rights in respect of the relevant Affordable Housing Unit
"Nominations Policy"	The Borough Council's allocations policy (or such other relevant policy as the Borough Council shall from time to time reasonably adopt)
"Open Market Units"	The Residential Units which are general market housing for sale on the open market and which are not Affordable Housing Units
"Open Market Value"	The open market value of the Affordable Housing Units with the benefit of the Outline Permission but disregarding the fact that the Affordable Housing Units are constructed or are to be constructed for Affordable Housing purposes and assuming that there are no Affordable Housing restrictions thereon and further assuming that all the said units are private and available for sale on the open market and having regard to all other relevant circumstances and the Open Market Value shall be approved by the Borough Council
"Protected Tenant"	<p>Any tenant who:</p> <p>(a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit or</p>

	<p>(b) has exercised any statutory right to buy (or equivalent contractual right) in respect of a particular Affordable Housing Unit or</p> <p>(c) has been granted a shared ownership lease by a HARP (or similar arrangement where a share of the Affordable Housing Unit is owned by the HARP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the HARP all the remaining shares so that the tenant owns the entire Affordable Housing Unit that is subject to the shared ownership lease</p>
"Register"	The Borough Council's LetSelect Register or such other register of applicants for housing as the Borough Council shall from time to time reasonably adopt
"Service Charge"	The amount payable by the occupant of any Affordable Housing Unit for all communal services repairs maintenance improvements insurance of the building and curtilage plus estate management costs and ground rent to the extent that the costs have been reasonably incurred and remain at a reasonable level that will remain affordable for occupants
"Shared Ownership Units"	An Affordable Housing Unit to be made available by a HARP where a shared ownership lease is sold for a term of not less than 125 years at an initial premium pursuant to the terms of this Schedule Two subject to rent being charged by the HARP on the unacquired percentage and on terms that entitle the purchaser to Staircase
"Staircasing"	In connection with the Affordable Housing Units the acquisition after the date of the initial purchase by the occupier of additional tranches of equity within the said unit and references to "Staircase" or "Staircased" shall be construed accordingly
"Transfer Requirements"	The requirements of paragraph 2.2 of this Schedule Two

## OBLIGATIONS

The Owner covenants with the Borough Council as follows:-

### 1. Amount, tenure type and Location of Affordable Housing

- 1.1. To provide 40% of the Residential Units constructed pursuant to the Outline Permission as Affordable Housing Units.
- 1.2 The Owner shall at its own cost construct or procure construction of the Affordable Housing Units on the Land in accordance with the Affordable Housing Plan and the unit type, size and tenure mix set out in the table below (unless otherwise agreed in writing by the Borough Council):

Tenure	Type of Accommodation	% of Units
<b>Affordable Rent Units (65% of total number of the Affordable Housing Units) of which:</b>		
Affordable Rent	1 bed Residential Unit	40%