

OFFICER REPORT FOR COMMITTEE

DATE: 24/05/2023

**P/19/0870/FP
FOREMAN HOMES LTD**

**WARD: SARISBURY GREEN
AGENT: FOREMAN HOMES LTD**

RESIDENTIAL DEVELOPMENT OF 32 DWELLINGS, PARKING, AND A MEANS OF ACCESS FROM ROOKERY AVENUE FOLLOWING DEMOLITION OF 2 DWELLINGS, GLASSHOUSES AND ASSOCIATED OUTBUILDINGS

LAND OFF ROOKERY AVENUE, WHITELEY

Report By

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1.0 Introduction

- 1.1 This application has been considered by the Planning Committee on two previous occasions. The first time it was reported to the Planning Committee was in March 2022. At that meeting Members resolved to grant planning permission for the development subject to conditions and the prior completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.
- 1.2 Since Members first resolved to grant planning permission, there were some material changes in circumstances which required further consideration by the Planning Committee in December 2022. Those changes in circumstance are set out below.
- 1.3 The advice provided by Natural England in respect of the likely significant effects of residential development on Habitat Sites had changed. As a result, and as set out within the relevant section of the report below, additional nitrate mitigation was required to mitigate the impact of the development on water quality and Habitat Sites within The Solent. It was also necessary to secure an additional financial contribution to mitigate the likely significant effect of the development on The Solent SPAs and the New Forest Habitat Sites by virtue of recreational disturbance.
- 1.4 At the Planning Committee in December 2022, Members resolved again to grant planning permission for the development subject to conditions and the prior completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.
- 1.5 The Section 106 was not completed by the time the Fareham Local Plan 2037 was formally adopted, and therefore the application now needs to be

determined against the policies of the newly adopted Local Plan. There have been no changes to the planning application itself since it was considered by the Planning Committee in December 2022.

2.0 Site Description

- 2.1 The application site is located to the southern side of Rookery Avenue, to the east of Botley Road and comprises an area of 2.2 hectares of land, currently forming the residential curtilages of two dwellings (a dwelling known as 'Wind Ruff' and 114 Botley Road), their gardens and a collection of redundant glasshouses and other former horticultural buildings. The site is within the designated countryside for planning purposes. The site slopes gently down to the south and east and is bounded by the M27 to the south, woodland to the east and north and the curtilage of 112 Botley Road to the west.
- 2.2 This part of Rookery Avenue (known as Rookery Avenue West) is a cul-de-sac road also serving residential estates at Caspian Close, Shetland Rise and Castilian Way, which are all located on the northern site of Rookery Avenue. The woodland to the east of the site is a designated Ancient Woodland known as Gull Coppice. The site would be connected to Rookery Avenue at the northwest corner, across the existing highway verge. The site is classified as Grade 4 agricultural land.
- 2.3 Botley Road (A3051) is located approximately 220 metres to the west of the site and provides direct access to Swanwick Railway Station and Park Gate, which provides a wide range of services and facilities.

3.0 Description of Proposal

- 3.1 Full planning permission is sought for the construction of 32 dwellings together with associated car parking, landscaping and means of vehicular access from Rookery Avenue. The application has been modified significantly since its original submission, resulting in a reduction in the number of residential units from 36 to 32, the removal of a B1 office building and the relocation of the development area southwards, in order to protect the existing woodland area between the site and Shetland Rise/Castilian Way to the north.
- 3.2 The dwellings comprise a mix of residential units, including detached, semi-detached, terraced and flats, set within a landscaped environment.
- 3.3 The application has been supported by a number of technical reports including a Planning Statement, Design and Access Statement, Ecological Surveys and Mitigation Reports, Arboricultural Impact Assessment, Transport Statement and Travel Plan, Contaminated Land Assessment, Economic Viability Assessments, Flood Risk and Drainage Strategy, Air Quality Assessment and Noise Impact Assessment.

4.0 Policies

4.1 The following policies apply to this application:

Adopted Fareham Local Plan 2037

DS1:	Development in the Countryside
DS3:	Landscape
H1:	Housing Provision
HA27:	Housing Allocation Policy – Rookery Avenue
HP1:	New Residential Development
HP4:	Five Year Housing Land Supply
NE1:	Protection of Nature Conservation, Biodiversity and the Local Ecological Network
NE2:	Biodiversity Net Gain
NE3:	Recreational Disturbance on the Solent SPAs
NE4:	Water Quality Effects on the Special Protection Area (SPAs), Special Areas of Conservation (SACs) and Ramsar Sites of The Solent
NE6:	Trees, Woodland and Hedgerows
NE9:	Green Infrastructure
TIN2:	Highway Safety and Road Network
D1:	High Quality Design and Placemaking
D2:	Ensuring Good Environmental Conditions
D4:	Water Quality and Resources
D5:	Internal Space Standards

Other Documents:

National Planning Policy Framework 2021
Fareham Borough Design Guidance: Supplementary Planning Document (excluding Welborne) December 2015
Residential Car Parking Standards 2009

5.0 Relevant Planning History

5.1 There is no recent planning history related to this site. Planning permission was granted on the land immediately to the west of the site for 6 dwellings in October 2018. That planning permission has however lapsed/not been implemented. A new planning application is currently being considered by Officers for the site, under application P/23/0020/FP.

6.0 Representations

6.1 There have been 134 representations received regarding this application, including two from The Fareham Society.

- 6.2 Fifty-nine letters from 55 households were submitted following the publicising of the planning application as first submitted for 36 dwellings along with an office building. A further 75 letters were received from 66 households following the re-publishing of the amended 32 dwelling scheme, although at this stage the proposed office building was retained.
- 6.3 Comments were also received from the Southampton Hospitals NHS Trust, and consideration of those comments are set out in paragraphs 8.66-8.73 of the report below.
- 6.4 The main issues raised within the representations can be summarised as follows:
- Loss of woodland trees;
 - Impact on adjacent ancient woodland;
 - Impact on wildlife and ecology;
 - Nitrates issue;
 - Parking and access issues;
 - Highway safety concerns;
 - Pedestrians in road causing highway issues;
 - Poor streetlighting in Rookery Avenue;
 - Increased congestion on Botley Road;
 - No improvement to cycle network;
 - No consideration of smart motorway works;
 - Health risks for future occupiers due to proximity to M27;
 - Impact on local services;
 - Impact on the character of the area;
 - Loss of privacy;
 - Increase in crime;
 - Noise impact for existing occupiers;
 - Office in residential area is unacceptable.

7.0 Consultations

EXTERNAL

Hampshire County Council (HCC) Highways

- 7.1 No objection, subject to planning condition.

Natural England

- 7.2 No objection, subject to comments from the Council's Ecologist. No objection to the Council's Appropriate Assessment.

Southern Water

- 7.3 No objection, subject to planning condition.

Hampshire County Council (HCC) Lead Local Flood Authority

7.4 No objection, subject to planning condition.

Hampshire County Council (HCC) Archaeology

7.5 No objection.

Hampshire County Council (HCC) Children's Services

7.6 No objection – forecasts suggest pupil yield from development can be accommodated within proposed schools being built in Whiteley.

Hampshire Fire and Rescue Services

7.7 No objection, subject to compliance with Building Regulations.

INTERNAL

Ecology

7.8 No objection, subject to conditions.

Affordable Housing Strategic Lead

7.9 No objection, subject to the affordable housing being secured through a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990.

Recycling Co-ordinator

7.10 Comments regarding provision of bin collection points and confirmation from the Transport Planner on access for refuse vehicles.

Urban Designer

7.11 No objection.

Environmental Health (Noise/Pollution)

7.12 No objection regarding air quality or noise, subject to conditions regarding compliance with the recommendations and conclusions of the submitted Noise Impact Assessment.

Environmental Health (Contaminated Land)

7.13 No objection, subject to conditions.

Recycling Co-ordinator

7.14 No objection.

8.0 *Planning Considerations*

8.1 The following matters represent the key material planning considerations which need to be assessed to determine the suitability of the development proposal. The key issues comprise:

- a) Principle of development
- b) Impact on Residential Amenity
- c) Design and Layout
- d) Protected Species, Ecology and Biodiversity Net Gain
- e) Habitat Sites
- f) Highways and Parking
- g) Other Matters

a) Principle of development

8.2 The application site comprises the adopted Housing Allocation Policy: HA27 – Rookery Avenue within the Fareham Local Plan 2037. The allocation sets out an indicative yield of 32 dwellings, and site-specific requirements include that the development should front the woodland and have a primary vehicular access from Rookery Avenue, be limited to two storeys and have regard to its siting adjacent to Sites of Importance for Nature Conservation, and Ancient Woodland designations (Gull Coppice).

8.3 The development proposal is fully compliant with the adopted Local Plan policy in this respect and is therefore considered to be acceptable in principle, subject to compliance with the other relevant policies of the adopted development plan.

b) Impact on Residential Amenity

8.4 Policy D2: Ensuring Good Environmental Conditions of the adopted Fareham Local Plan 2037 states that development must ensure good environmental conditions for all new and existing users of buildings and external spaces. The Policy continues to state that:

‘Development proposals...will be permitted where they...do not have an unacceptable adverse impact on the environmental conditions of future occupiers and users or on adjacent/nearby occupants and users through ensuring appropriate outlook and ventilation and providing adequate daylight, sunlight and privacy; and, do not individually, or cumulatively, have an unacceptable adverse environmental impact, either on neighbouring occupiers, adjoining land, or the wider environment...’.

8.5 In respect of ensuring the development accords with the provisions of Policy D2, it is important to have regard to the advice in the Council’s adopted Fareham Borough Design Guidance: Supplementary Planning Document

(excluding Welborne) December 2015 (hereafter referred to as the Design SPD).

- 8.6 There are no residential properties within the immediate vicinity of the application site. The closest existing property is located approximately 50 metres to the north of the site, at 21 Shetland Rise. This property, like the other nearby properties along Shetland Rise and Castilian Way are separated from the development site by existing woodland, which would be retained and enhanced as part of the development proposal. Whilst there would be an increase in vehicle movements along Rookery Avenue, in light of the low speed of the road, the background noise of the M27 motorway and the distance from nearby houses, this would not cause any unacceptable adverse harm. The proposed development would not result in an unacceptable adverse impact on the living conditions of existing occupiers of the nearby residential estates.
- 8.7 In terms of the living conditions of future occupiers, the development, submitted in full detail has been carefully designed to have regard to its position adjacent to the M27 motorway, including factoring in the alterations which have led to the 'Smart' motorway.
- 8.8 The application has also been supported by a detailed Noise Impact Assessment, which has influenced the orientation of the properties, and the means of noise attenuation within the buildings. These measures include a 5 metre high acoustic fence along the southern boundary of the site, which would have a significant landscaping belt, measuring between 16 metres and 24 metres in depth, between the acoustic fence and the housing. The nearest houses would be located approximately 26 metres from the fence. Additionally, a number of the boundary fences for the rear gardens would incorporate 2 metre high acoustic fencing to reduce noise levels to acceptable levels within rear garden areas.
- 8.9 The Noise Impact Assessment has been considered by the Council's Environmental Health Officers, who have raised no objection. The comments of the Environmental Health Officer are subject to the development being undertaken in compliance with the recommendations of the Noise Impact Assessment, which would ensure a living environment suitable for future residents.
- 8.10 All the properties would have gardens of at least 11 metres in length, and first floor to first floor direct lines of sight achieve a minimum 22 metres levels of separation for habitable room windows. Policy D5 sets out that new dwellings should meet specific internal space standards. The houses and flats all meet minimum sizes as set out by the Nationally Described Space Standards.

8.11 It is therefore considered that the proposal complies with Policies D2 and D5 of the Fareham Local Plan, and the guidance in the Design SPD.

c) Design and Layout

8.12 Policy D1: High Quality Design and Place Making of the adopted Fareham Local Plan 2037 seeks to ensure that development proposals and spaces will be of a high quality, based on the principles of urban design and sustainability to ensure the creation of well designed, beautiful and safe quality places.

8.13 The Policy continues to highlight 10 key characteristics of high quality design, comprising context, identity, built form, movement, nature, public spaces, uses, homes and buildings, resources and lifespan. Developments should appropriately respond to the positive elements of local character, ecology, history, culture and heritage.

8.14 The site comprises 32 dwellings, of which the majority are detached, with additional semi-detached and terraced properties further into the site, and a single block of four flats. The adjoining residential streets to the north of Rookery Avenue, Shetland Rise and Castillian Way comprise a mixture of detached (principally along Shetland Rise) with semi-detached and terraced houses along Castillian Way, and blocks of flats to the northeast corner of the site.

8.15 The application proposal includes a similar design approach, with the main entrance to the site largely comprising the detached dwellings with the semi-detached and terraced proposed further into the site.

8.16 The site is bounded to the north by urban development, and the M27 motorway to the south. To the east of the site lies Gull Coppice, a Site of Importance for Natural Conservation (SINC) and Ancient Woodland, which as a woodland is a priority habitat, is unlikely to be acceptable as a site for built development.

8.17 Much of the layout of the site has been designed to have regard to the adjacent physical features, namely the Ancient Woodland to the east of the site and the proximity to the M27 to the south of the site. Further, in accordance with the considerations of the Housing Allocations criteria, the proposals layout carefully addresses these matters and provides a good relationship with the Ancient Woodland and buffer to the eastern part of the site. As set out above, the properties to the southern part of the site are orientated with private garden areas away from the motorway, so the buildings provide some shielding from the motorway noise. These properties, at their closest will also be over 26 metres from the proposed acoustic fencing.

8.18 It is considered that the scheme has been carefully designed and laid out having regard to its location, whilst ensuring a high quality living environment for future occupiers. The development is considered to accord with Policy D1 of the adopted Fareham Local Plan 2037.

d) Protected Species, Ecology and Biodiversity Net Gain

8.19 A Preliminary Ecological Assessment, Bat Survey and Mitigation Strategy, Dormouse Mitigation Strategy and a Reptile Survey and Mitigation Strategy have been provided to support the application. The Council's Ecologist and Natural England have reviewed the proposals and are satisfied that subject to the imposition of appropriate planning conditions and appropriate mitigation, the scheme would not have an unacceptable adverse impact on protected species or designated sites.

8.20 Due to the need to translocate a population of reptiles from the site, the applicant has secured an off-site location for the safe translocation of the reptiles. The off-site location will be secured through the Section 106 legal agreement pursuant to the Town and Country Planning Act 1990 (as amended).

Trees / Woodland

8.21 The proximity of the site and the proposed houses to neighbouring woodland and trees have been considered by the Council's Tree Officer, who has reviewed the submitted Arboricultural Method Statement and tree report. Policy NE6: Trees, Woodland and Hedgerows confirms that appropriate measures are in place to ensure the unnecessary loss of non-protected trees and woodland, but where lost, suitable replacements are considered. The adjacent woodland to the east of the site is also designated Ancient Woodland and is therefore subject to additional protection, including the need to provide a suitable 15 metre buffer from the nearest residential properties. This has been achieved, and will be suitably planted, and fenced off to prevent access, to preserve the national importance of this designation. The Tree Officer has raised no objection to the proposal, subject to condition for detailed landscaping and tree planting, and compliance with the recommendations of the submitted supporting documents.

Agricultural Land

8.22 The site is identified as Grade 4 Agricultural Land and is therefore of limited agricultural value. Policy DS1 confirms that development proposals are located on poorer quality agricultural land.

8.23 It is therefore considered that the proposal complies with Policy NE1 and DS1 of the Fareham Local Plan 2037.

Biodiversity Net Gain

- 8.24 Policy NE2 sets out that new developments should incorporate a net gain of 10% in biodiversity on the site following the completion of the development. The application has been supported with an Eco Areas Plan highlighting areas which would remain common land managed and maintained by the Management Company on the site. The Eco Areas Plan demonstrates that new enhanced habitat will be created on the site to ensure a net gain in biodiversity. A condition will be imposed to ensure the delivery of a 10% net gain in compliance with the latest DEFRA metric, details of which will need to be provided prior to the commencement of the development.

e) Habitat Sites

- 8.25 Policy NE1: Protection of Nature Conservation, Biodiversity and the Local Ecological Network confirms that development will only be permitted where international, national and local sites of nature conservation value, priority habitats and the Ecological Network are protected and enhanced.
- 8.26 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.
- 8.27 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 'Habitat Sites' (HS).
- 8.28 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 HS 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 HS. This is done following a process known as an Appropriate Assessment (AA). 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 the Local Planning Authority.
- 8.29 To fulfil the requirements under the Habitat Regulations, Officers have carried out an AA in relation to the likely significant effects on the HS which concludes that there would be no adverse effects on the integrity of protected sites

subject to mitigation measures. The key considerations for the assessment of the likely significant effects are set out below.

- 8.30 In respect of Recreational Disturbance, the development is within 5.6km of The Solent SPAs and is therefore considered to contribute towards an impact on the integrity of The Solent SPAs as a result of increased recreational disturbance in combination with other development in The Solent area. Policy NE3: Recreational Disturbance on the Solent SPAs confirms that development will only be permitted where the financial contribution towards the Solent Recreational Mitigation Partnership Strategy (SRMP) has been made. The applicant has agreed to make the appropriate financial contribution towards the SRMP and therefore, the Appropriate Assessment concludes that the proposals would not have an adverse effect on the integrity of the HS as a result of recreational disturbance in combination with other plans or projects on the Solent SPAs. The mitigation contribution will be secured by a section 106 legal agreement.
- 8.31 In addition, the development lies within 13.8km of the New Forest Special Protection Area (SPA), New Forest Special Area of Conservation (SAC) and the New Forest Ramsar site. Research undertaken by Footprint Ecology has identified that planned increases in housing around the New Forest's designated sites will result in a marked increase in use of the sites and exacerbate recreational impacts. It was found that the majority of visitors to the New Forest designated sites on short visits/day trips from home originated from within a 13.8km radius of the sites referred to as the 'Zone of Influence' (ZOI).
- 8.32 The Council has produced an Interim Mitigation Solution to address this newly identified likely significant effect of development in Fareham within the ZOI. The Interim Mitigation Solution was approved by the Council's Executive on 7th December 2021. The Interim Mitigation Solution was prepared in consultation with Natural England. The mitigation comprises a financial contribution from the developer to mitigate against impacts through improvements to open spaces within Fareham Borough and a small financial contribution to the New Forest National Park Authority. The applicant has made this contribution, which has been secured by an agreement pursuant to Section 111 of the Local Government Act 1972.
- 8.33 In respect of the impact of the development on water quality as a result of surface water and foul water drainage, 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 those increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely

significant effect upon the HS. Policy NE4: Water Quality Effects on the SPAs, SACs and Ramsar Sites of The Solent confirms that permission will only be granted where the integrity of the designated sites maintained.

- 8.34 A nitrogen budget has been calculated in accordance with Natural England's '*National Generic Nutrient Neutrality Methodology*' (February 2022) ('the NE Advice') and the updated calculator (20 April 2022) which confirms that the development will generate 25.53 kg TN/year. This represents an increase in nitrate credits of 4.28kg TN/year as considered at the March 2022 planning committee (2020 NE Advice). In the absence of sufficient evidence to support a bespoke occupancy rate, Officers have accepted the use of an average occupancy of the proposed dwellings of 2.4 persons in line with the NE Advice. The existing use of the land for the purposes of the nitrogen budget is considered to be a mixture of urban land and open space. Due to the uncertainty of the effect of the nitrogen from the development on the HS, adopting a precautionary approach, and having regard to NE advice, the Council will need to be certain that the output will be effectively mitigated to ensure at least nitrogen neutrality before it can grant planning permission.
- 8.35 The applicant has purchased 25.75 kg of nitrate mitigation 'credits' from the Hampshire and Isle of Wight Wildlife Trust (HIWWT) as evidenced by the submission of a notice of purchase. Through the operation of a legal agreement between the HIWWT, Isle of Wight Council and Fareham Borough Council dated 30 September 2020, the purchase of the credits will result in a corresponding parcel of agricultural land at Little Duxmore Farm on the Isle of Wight being removed from intensive agricultural use, and therefore providing a corresponding reduction in nitrogen entering The Solent marine environment.
- 8.36 The Council's Appropriate Assessment concludes that the proposed mitigation and planning conditions will ensure no adverse effect on the integrity of the HS either alone or in combination with other plans or projects.
- 8.37 Natural England was consulted on the Council's updated Appropriate Assessment in October 2022 and raised no objection in respect of recreational disturbance on The Solent SPAs, New Forest SPA, SAC and Ramsar Site or on water or air quality implications. It is therefore considered that the development accords with the Habitat Regulations and complies with Policies NE1, NE3 and NE4 of the Fareham Local Plan 2037.

f) Highways and Parking

- 8.38 Hampshire County Council as Highway Authority has considered the application and has raised no objection to the proposed works to create the access onto Rookery Avenue and that the internal road layout is acceptable.

The scheme would also require the provision of a Traffic Regulation Order, to be secured via a Section 106 Legal Agreement, to include restrictive parking around the site entrance and at the corner with Shetland Rise in the interests of highway safety.

- 8.39 A number of third party comments have commented that the proposed development, and the inclusion of the office will exacerbate the existing situation with access along Rookery Avenue, particularly at the junction with Botley Road. The office element of the proposal has since been removed from the planning application.
- 8.40 The design of the junction was laid out to accommodate a future linking of Rookery Avenue (west) with Rookery Avenue (east) in Whiteley, however this is no longer being considered by the Highway Authority and the safeguarding of this route is not included in the Fareham Local Plan 2037. The route would have cut through a large swathe of woodland, which is priority habitat. With the new links created elsewhere along Botley Road at Yew Tree Drive and through the North Whiteley development in Winchester District, the Rookery Avenue link is no longer considered to be necessary.
- 8.41 Other concerns raised by third parties relates to the number of pedestrians walking in the road along Rookery Avenue, rather than using the pavement. The former access into the application site would be retained for use by pedestrians, enabling them to keep off Rookery Avenue for the majority of its length. There is also a new pedestrian link proposed to enable occupiers of this site to link directly to the pavement on the northern side of Rookery Avenue.
- 8.42 The new residential dwellings will provide allocated car parking provisions for each property in accordance with the Council's adopted Residential Car Parking Standards, and comprise a mix of both side-by-side and tandem spaces. Additionally, eight visitors' spaces are proposed, which exceeds the minimum standard sought (6.4 spaces).
- 8.43 In summary, it is therefore considered given the above assessment that the proposal fully accords with Policy TIN2 of the Fareham Local Plan 2037.

g) Other Matters

- 8.44 **Affordable Housing:** The development proposal requires the provision of 12.8 dwellings to be affordable homes in order to comply with the 40% requirement of Policy HP5 of the Fareham Local Plan 2037. The applicant has provided an Economic Viability Assessment, which has been independently verified by the Council's consultants and has agreed that 12 dwellings will be provided on site under a shared ownership tenure, with the

remaining 0.8 dwellings provided as an off-site financial contribution. This approach has the support of the Council's Affordable Housing Strategic Lead Officer.

- 8.45 The provision of affordable housing would be secured through the completion of a Section 106 legal agreement.
- 8.46 ***Effect on Local Infrastructure:*** The University Hospital Southampton NHS Foundation Trust wrote to the Council to make representations about the application. The Trust is commissioned to provide acute healthcare services to a number of Clinical Commissioning Groups (CCGs) including Fareham and Gosport CCG. The CCGs commission planned and emergency acute healthcare from the Trust.
- 8.47 The Trust commented that they are currently operating at full capacity, and although they have plans to cater for the known population growth, it cannot plan for unanticipated additional growth in the short to medium term. The Trust has requested a financial contribution of £6,779 to provide services needed by occupants of the proposal. They consider that without it the development is not sustainable and should be refused.
- 8.48 The tests for obligations are set out in paragraph 57 of the NPPF and reflect those in Regulation 122 of the Community Infrastructure Levy Regulations 2010. The tests for an obligation are whether they are:
1. *Necessary to make the development acceptable in planning terms;*
 2. *Directly related to the development; and,*
 3. *Fairly and reasonably related in scale and kind to the development.*
- 8.49 There is no specific policy in the adopted Local Plan that relates to hospital infrastructure or contributions towards hospital services. The comments from the Trust refer to Part 8 of the NPPF which seeks to promote healthy and safe communities. The NPPF identifies that decisions should “...enable and support healthy lifestyles, especially where this would address identified local health and well-being needs” and “...take into account and support the delivery of local strategies to improve health...of the community”.
- 8.50 The first point to note in relation to the Trust's comments is that the UK provides its citizens with healthcare on a national basis regardless of district or county boundaries. The funding is collected via central government taxation and distributed locally to provide healthcare. Whilst delivered locally the service is a National Health Service and as such the government has a system to ensure that each area of the country has enough funds to provide

the service on the basis of the population it serves. Regardless of where someone lives, they are entitled to receive healthcare on a national basis.

- 8.51 The Trust's comments explain the way in which the hospitals are currently funded. The Trust indicate that the residents who will be living in the development at Rookery Avenue are likely to use the hospitals and increase pressure on the hospital service as a result. A formula is provided with an estimated number of the proposed population predicted as being likely to need to use the hospital services. From this estimated number of hospital visits, a cost is attributed and multiplied to provide the suggested contribution.
- 8.52 In considering the request it is noted that the construction of houses does not itself lead to population growth. Officers consider that the need for housing is a consequence of population growth. Further, there is no account in the representations, it seems, for the potential for the residents of the new development to be moving locally around the Borough or adjoining boroughs such that their residence locally is already accounted for by the current services and funding commissioned by the hospital. In addition, the cost attributed to the proposed patient trip to the hospital is not considered to be clearly calculated or justified.
- 8.53 For the reasons set out above, Officers do not consider that the contribution sought by the trust is necessary to make the development acceptable in planning terms and thus the tests for planning obligations as set out above are not considered to have been met. Further, given the adopted policy framework it is considered that in the absence of the contribution, the application does not fail as a consequence as this issue alone would not justify a reason for refusal, which it must do in order to make the contribution necessary to make the development acceptable in planning terms and meet the tests for a planning obligation.

Summary

- 8.54 Members have resolved to grant planning permission for this development on two previous occasions. The application is being presented to the Planning Committee for a decision for a third time due to the adoption of the Fareham Local Plan 2037 and the need to determine the proposal against the policies of the most up-to-date Development Plan. There have been no changes with the application proposal itself.
- 8.55 The delays in the determination of the application have been largely as a result of on-going discussions regarding the Section 106 legal agreement, although those matters, pertaining to the off-site reptile translocation provision have now been addressed.

- 8.56 The site lies within the defined urban settlement boundary as it forms a housing allocation within the adopted Fareham Local Plan, Policy HA27, and the proposal is fully compliant with the provisions of this policy.
- 8.57 Having assessed the proposal against the policies of the adopted Fareham Local Plan 2037, and following careful consideration of all material planning considerations, Officers recommend that planning permission be granted subject to the imposition of appropriate planning conditions, and subject to the prior completion of a Section 106 legal agreement.

9.0 Recommendation

- 9.1 Subject to 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 to secure:
- a. Financial contributions to provide for satisfactory mitigation of the 'in combination' effects that the increase in residential units on the site would cause through increased recreational disturbance on the Solent and Southampton Water and Portsmouth Harbour Special Protection Areas;
 - b. Securing off-site translocation of reptiles
 - c. Traffic Regulation Order (TRO) for parking restriction works to junction of site with Rookery Avenue and Shetland Rise
 - d. The delivery of 40% of the permitted dwellings as a mixture of 12 on-site affordable houses and an off-site financial contribution equivalent to 0.8 of a unit.

GRANT PLANNING PERMISSION, subject to the following Conditions:

1. The development hereby permitted shall begin within 18 months 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 shall be carried out in accordance with the following approved documents:
 - a) Location Plan (Drawing: 19.014.01 Rev E)
 - b) Site Plan (Drawing: 19.014.02 Rev Z)
 - c) Plot 14 (A) Plans and Elevations (Drawing: 19.014.03 Rev D)

- d) Plots 1, 3, 8 & 10 (B) – Plans and Elevations (Drawing: 19.014.04 Rev F)
 - e) Plots 12 & 20 (Bh) Plans and Elevations (Drawing: 19.014.05 Rev F)
 - f) Single Garage – Floor Plan and Elevations (Drawing: 19.014.11 Rev A)
 - g) Oversized Double Garage – Floor Plan and Elevations (Drawing: 19.014.12 Rev D)
 - h) Parking Schedule and House Type Key Plan (Drawing: 19.014.13 Rev M)
 - i) Boundary Treatment Plan (Drawing: 19.014.14 Rev N)
 - j) Street Scenes (Drawing: 19.014.17 Rev D)
 - k) Eco Areas Plan (Drawing: 19.014.19 Rev E)
 - l) Site Setup Plan (Drawing: 19.014.24)
 - m) Plots 29-32 (Block C) Floor Plans and Elevations (Drawing: 19.014.26 Rev A)
 - n) Plots 16-17 (D) – Floor Plans & Elevations (Drawing: 19.014.27 Rev A)
 - o) Plots 4-5 (E) – Floor Plans and Elevations (Drawing 19.014.28 Rev B)
 - p) Plots 6-7 & 21-22 (Eh) – Floor Plans and Elevations (Drawing: 19.014.29 Rev B)
 - q) Plots 25-28 (F) – Plans and Elevations (Drawing: 19.014.30 Rev C)
 - r) Plots 2, 9 & 11 (H) – Floor Plans and Elevations (Drawing: 19.014.32 Rev A)
 - s) Plots 23-24 (I) – Floor Plans and Elevations (Drawing: 19.014.34 Rev A)
 - t) Plot 15 (Ah) – Plans and Elevations (Drawing: 19.014.35 Rev A)
 - u) Plots 13, 18 & 19 (Gh) – Plans and Elevations (Drawing: 19.014.36 Rev D)
 - v) Bin & Bike Store – Plan and Elevations (Drawing: 19.014.37)
 - w) Topographical Survey (Drawing: ENC/130818/3U1A – 1 of 2)
 - x) Topographical Survey (Drawing: ENC/130818/3U1A – 2 of 2)
- REASON: To avoid any doubt over what has been permitted.

3. No development above damp proof course (dpc) level shall commence until details of all proposed external facing and hardsurfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON: To secure the satisfactory appearance of the development.

4. The garage buildings hereby permitted, shall not be used for any purpose other than as private and domestic garages, incidental to the enjoyment of the associated house.
REASON: To accord with the terms of the application and to safeguard proper planning of the area.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting or amending that Order) there shall be no alterations or amendments to the permitted car ports, including the provision of doors to the front elevation, without the grant of a separate planning permission from the Local Planning Authority.

REASON: To ensure adequate off-street car parking is retained on the site.

6. Notwithstanding the approved drawings, the following permitted windows proposed to be inserted into the development hereby approved shall be:
 - a. Obscure-glazed; and
 - b. Of a non-opening design and construction to a height of 1.7 metres above internal finished floor level;

and shall thereafter be retained in that condition at all times.

- a. Stairwell windows for Plots 13, 18, 19 and 20;
- b. First floor East Side Elevation of Plot 14;
- c. First floor South Elevation (Bedroom 2) of Plot 28;
- d. First and ground floor windows on the North Elevation (western end) of the 2 one-bedroom flats

REASON: To prevent overlooking and to protect the privacy of the occupiers of the adjacent property(ies).

7. The first floor window proposed to be inserted into the north elevation of Plot 2 of the approved development shall be both obscure-glazed; and of a non-opening design, and shall thereafter be retained in that condition at all times.
REASON: To prevent overlooking and to protect the privacy of the occupiers of the adjacent property at Plot 1.

8. 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.

9. Prior to the occupation of the development hereby approved, the highway improvements works shown of Drawing: ITB14574-GA-008 as shown in the Transport Statement (prepared by i-Transport, dated May 2020) shall have been completed in accordance with these drawings.

REASON: To ensure adequate access provision for new and existing residents.

10. No dwelling, hereby approved, shall be first occupied until the approved parking and turning areas (where appropriate) for that property have been constructed in accordance with the approved details and made available for use. These areas shall thereafter be kept available for the parking and turning of vehicles at all times unless otherwise agreed in writing by the Local Planning Authority following the submission of a planning application for that purpose.

REASON: In the interests of highway safety.

11. None of the development hereby approved shall be occupied until details of the proposed bin storage areas [including bin collection points if necessary] for those plots without garages have been submitted to and approved by the Local Planning Authority and the approved areas fully implemented. The details shall include the siting, design and the materials to be used in construction. The areas shall be subsequently retained for bin storage or collection at all times.

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

12. None of the dwellings hereby permitted shall be first occupied until the bicycle storage relating to them, as shown on the approved plan, has been constructed and made available. This storage shall thereafter be retained and kept available at all times.

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

13. None of the dwellings hereby permitted shall be first occupied unless and until details have been submitted to and approved in writing by the Local Planning Authority confirming that the development has been fully implemented in accordance with the Noise Impact Assessment (prepared by ensafe consultants, dated 12 January 2022 (ref: AC107077-1R5). Once

implemented, the noise attenuation measures shall be subsequently retained in that condition for the lifetime of the development.

REASON: In the interests of the amenities of future occupiers.

14. No development above damp proof course (dpc) level shall be implemented until detailed elevational drawings showing the finished appearance of the 5 metre high acoustic fence to be erected along the southern boundary has been submitted to and approved in writing by the Local Planning Authority. Once implemented, the acoustic fence shall be subsequently retained in that condition for the lifetime of the development.

REASON: In the interests of visual amenity.

15. The surface water drainage system (SuDS) for the development hereby approved shall be constructed in accordance with the Flood Risk Assessment and Drainage Strategy (ref: 18-321). Details of the long-term maintenance arrangements of the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the dwellings hereby approved. Once implemented, the drainage system shall be subsequently retained in that condition for the lifetime of the development.

REASON: In order to ensure satisfactory disposal of surface water.

16. 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. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid adverse impacts of inadequate drainage.

17. The development hereby permitted shall be implemented in accordance with the submitted 'Dormouse Mitigation Strategy' (prepared by EcoSupport, dated February 2022), 'Bat Survey and Mitigation Strategy' (prepared by EcoSupport, dated June 2020), 'Reptile Survey and Mitigation Strategy' (prepared by EcoSupport, dated November 2020), 'Eco Areas Plan' (Drawing: 19.014.19 Rev E) and 'Outline Planting Schedule' (DD324X01 – prepared by Deacon Design). Thereafter, the replacement protected species measures outlined in the above reports shall be permanently retained in accordance with the approved details.

REASON: To ensure the favourable conservation status of bats, and the protection of dormice on the site.

18. A detailed scheme of biodiversity enhancements and a long-term management strategy to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The measures detailed within this strategy shall be in line with the DEFRA Biodiversity Metric 4.0 calculations (or any subsequent Metric in the event Version 4.0 is replaced) and as outlined in the 'Eco Areas Plan' (Drawing: 19.014.19 Rev E). Development shall subsequently proceed in accordance with any such approved details.
REASON: To enhance biodiversity in accordance with the NPPF and the Natural Environment and Rural Communities Act 2006. The details secured by this condition are considered essential to be agreed prior to the commencement of the development on the site so that appropriate measures are in place to secure a biodiversity net gain.
19. No development shall commence until the measures of tree and hedgerow protection as stated in the Arboricultural Method Statement included within the Tree Report (prepared by Sapling Arboriculture (ref: J937.07.4, dated May 2020) submitted and approved as part of the planning permission have been implemented and these 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.
20. No development shall proceed beyond damp proof course level until a landscaping scheme identifying all existing trees, shrubs and hedges to be retained, together with the species, planting sizes, planting distances, density, numbers, surfacing materials and provisions for future maintenance of all new planting, including all areas to be grass seeded and turfed and hardsurfaced, has been submitted to and approved by the Local Planning Authority in writing.
REASON: In order to secure the satisfactory appearance of the development; in the interests of the visual amenities of the locality.
21. The landscaping scheme, submitted under Condition 20, 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.

22. No development shall commence until an intrusive site investigation and an assessment of the risks posed to human health, the building fabric and the wider environment including water resources shall be carried out. Details of the site investigation to be undertaken shall be submitted to and approved in writing by the Local Planning Authority (LPA). Should contamination be found at the site a scheme for remediation and detailed method statement shall be submitted to and approved by the LPA in writing and the scheme as approved shall be fully implemented and completed before any dwelling hereby permitted is first occupied.

REASON: To ensure that any potential contamination of the site is properly taken into account before development takes place. The details secured by this condition are considered essential to be agreed prior to the commencement of the development on the site to ensure adequate mitigation against land contamination on human health.

23. No development shall take place beyond damp proof course (dpc) level until details have been submitted to and approved in writing by the Local Planning Authority of how and where Electric Vehicle (EV) charging points will be provided with at least one Electric Vehicle (EV) charging point per dwelling with allocated parking provision. The development shall be carried out in accordance with the approved details with the charging point(s) provided prior to first occupation of the dwelling to which it serves.

REASON: To promote sustainable modes of transport, to reduce impacts on air quality arising from the use of motorcars and in the interests of addressing climate change.

24. None of the residential units hereby permitted shall be occupied until details of water efficiency measures to be installed in each dwelling 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 a maximum of 110 litres 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.

25. The development hereby permitted shall not commence unless the Council has received the Notice of Purchase in accordance with the legal agreement between FBC, IWC and HIWWT dated 30 September 2020 in respect of the Credits Linked Land identified in the Nitrates Mitigation Proposals Pack.

REASON: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on the protected Habitat Sites around The Solent.

26. Notwithstanding the details provided on the Site Setup Plan (Drawing: 19.014.24), no development shall commence on site until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority (LPA). The Construction Management Plan shall address the following matters:
- a. How provision is to be made on site for the parking and turning of operatives/contractors'/sub-contractors' vehicles and/or construction vehicles;
 - b. the measures the developer will be implementing to ensure that operatives'/contractors/sub-contractors' vehicles and/or construction vehicles are parked within the planning application site;
 - c. the measures for cleaning the wheels and underside of all vehicles leaving the site;
 - d. a scheme for the suppression of any dust arising during construction or clearance works;
 - e. the measures for cleaning Rookery Avenue to ensure that they are kept clear of any mud or other debris falling from construction vehicles, and
 - f. the areas to be used for the storage of building materials, plant, excavated materials and huts associated with the implementation of the approved development.

The development shall be carried out in accordance with the approved CMP and areas identified in the approved 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. No construction vehicles shall leave the site unless the measures for cleaning the wheels and underside of construction vehicles are in place and operational, and the wheels and undersides of vehicles have been cleaned.

REASON: In the interests of highway safety and to ensure that the occupiers of nearby residential properties are not subjected to unacceptable noise and disturbance during the construction period. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid the potential impacts described above.

27. 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 bank and 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.

Then:

DELEGATE authority to the Head of Development Management to

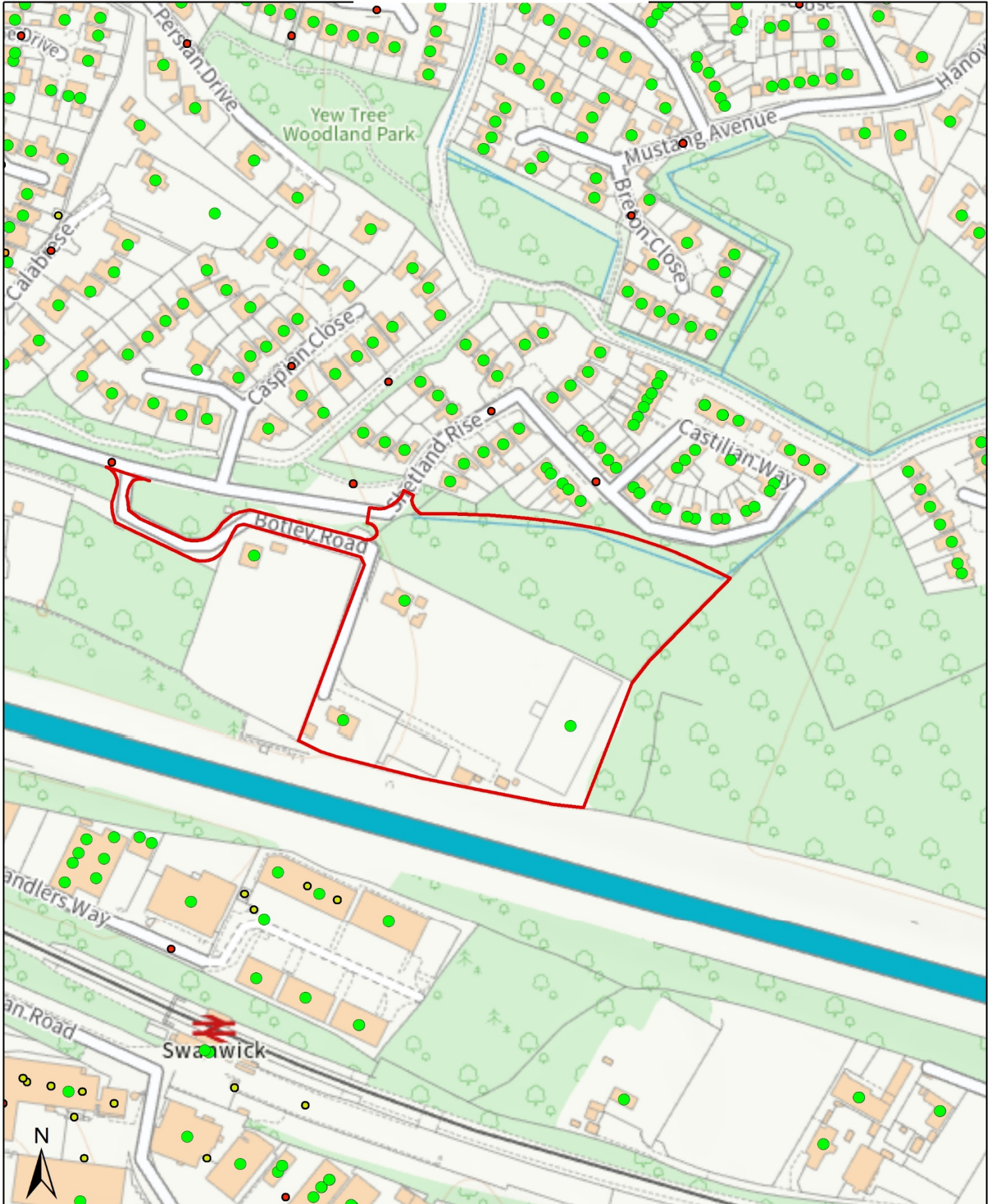
- (a) make any necessary modification, deletion or additions to the proposed conditions or heads of terms for the section 106 legal agreement; and
- (b) make any necessary changes arising out of detailed negotiations with the applicant which may necessitate the variation, addition or deletion of the conditions and heads of terms as drafted to ensure consistency between the two sets of provisions.

10.0 *Background Papers*

Application documents and all consultation responses and representations received as listed on the Council's website under the application reference number, together with all relevant national and local policies, guidance and standards and relevant legislation.

FAREHAM

BOROUGH COUNCIL



Land off Rookery Avenue

Scale 1:2,500

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