

# FAREHAM

BOROUGH COUNCIL

## AGENDA PLANNING COMMITTEE

**Date:** Friday, 10 September 2021

**Time:** 2.30 pm

**Venue:** Council Chamber - Civic Offices

**Members:**

Councillor N J Walker (Chairman)

Councillor I Bastable (Vice-Chairman)

Councillors F Birkett  
Miss J Bull  
T M Cartwright, MBE  
P J Davies  
M J Ford, JP  
Mrs C L A Hockley  
R H Price, JP

**Deputies:** S Dugan  
J S Forrest  
Mrs K Mandry  
Mrs K K Trott



**1. Apologies for Absence**

**2. Minutes of Previous Meeting (Pages 1 - 18)**

To confirm as a correct record the minutes of the Planning Committee meetings held on 14 July 2021 and 23 July 2021.

**3. Chairman's Announcements**

**4. Declarations of Interest**

To receive any declarations of interest from members in accordance with Standing Orders and the Council's Code of Conduct.

**5. Deputations**

To receive any deputations of which notice has been lodged.

**6. LAND EAST OF DOWNEND ROAD - PLANNING APPEAL REFERENCE**

**APP/A1720/W/21/3272188** (Pages 19 - 28)

To consider a report by the Director of Planning and Regeneration on Land East of Downend Road – Planning Appeal Reference APP/A1720/W/21/3272188.



P GRIMWOOD  
Chief Executive Officer  
Civic Offices  
[www.fareham.gov.uk](http://www.fareham.gov.uk)  
02 September 2021

**For further information please contact:  
Democratic Services, Civic Offices, Fareham, PO16 7AZ  
Tel:01329 236100  
[democraticservices@fareham.gov.uk](mailto:democraticservices@fareham.gov.uk)**

# FAREHAM

BOROUGH COUNCIL

## Minutes of the Planning Committee

(to be confirmed at the next meeting)

**Date:** Wednesday, 14 July 2021

**Venue:** Council Chamber - Civic Offices

**PRESENT:**

**Councillor** N J Walker (Chairman)

**Councillor** I Bastable (Vice-Chairman)

**Councillors:** Miss J Bull, T M Cartwright, MBE, P J Davies, M J Ford, JP,  
Mrs C L A Hockley, R H Price, JP and S Dugan (deputising for F  
Birkett)

**Also  
Present:**



**1. APOLOGIES FOR ABSENCE**

An apology of absence was received from Councillor F Birkett.

**2. MINUTES OF PREVIOUS MEETING**

RESOLVED that the minutes of the Planning Committee meetings held on 26 May 2021 and 16 June 2021 be confirmed and signed as a correct record.

**3. CHAIRMAN'S ANNOUNCEMENTS**

There were no Chairman's announcements made at this meeting.

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest made at this meeting.

**5. DEPUTATIONS**

The Committee received a deputation from the following in respect of the applications indicated and were thanked accordingly.

Name	Spokesperson representing the persons listed	Subject	Supporting or Opposing the Application	Item No/ Application No/Page No	Dep Type
<b>ZONE 1 – 2.30pm</b>					
Ms K Richards		LAND AT BEACON BOTTOM WEST PARK GATE – RESIDENTIAL DEVELOPMENT OF 29 DWELLINGS, ASSOCIATED PARKING, LANDSCAPING AND MEANS OF ACCESS FROM BEACON BOTTOM FOLLOWING REMOVAL/REDUCTION OF FRONTAGE HEDGEROW	<b>Supporting</b>	6 (1) P/18/1258/FP Pg 17	<b>In Person</b>
<b>ZONE 2 – 2.30pm</b>					

Ms K Wainwright		THE OLD MILL LOWER QUAY FAREHAM PO16 0RA – CHANGE OF USE OF PART OF GROUND FLOOR UNIT FROM SUI GENERIS USE TO COFFEE BAR (CLASS E)	Supporting	6 (5) P/21/0736/CU Pg 110	In Person
<b>ZONE 3 – 2.30pm</b>					

**6. PLANNING APPLICATIONS AND MISCELLANEOUS MATTERS INCLUDING AN UPDATE ON PLANNING APPEALS**

The Committee noted a report by the Director of Planning and Regeneration on the development control matters, including information regarding new appeals and decisions.

**(1) P/18/1258/FP - LAND AT BEACON BOTTOM WEST PARK GATE**

The Committee received the deputation referred to in Minute 5 above.

The Committee Clerk read out a statement on behalf of Councillor S Martin, Ward Councillor.

The Committee’s attention was drawn to the Update Report which contained the following information: -

Recommendation

*The recommendation at paragraph 9.1 of the Officer report incorrectly advises Members to “Grant Outline Planning Permission”. Since the application is presented in full and not outline form, the recommendation is hereby amended to recommend that Members “Grant Planning Permission” subject to the matters detailed in the remainder of that paragraph and the amended conditions set out below in this update.*

Car Ports and garages

*The applicant has confirmed that plots 14, 15, 16 and 17 will have a single plus garage whilst plots 11 and 18 will have a single garage. A carport will be provided for plots 22 and 23. Officers are satisfied that this proposal would still ensure the proposal provides adequate parking provision to serve the development and the scheme complies with the Council’s adopted Residential Car & Cycle Parking Standards SPD.*

*Condition 2 of the recommendation at paragraph 9.1 of the Officer report is amended as follows to include additional approves plans relating to the car ports and garages and to remove a plan previously included in error (18.105.24C\_HT Jh\_Floor Plans and Elevations):*

*2. The development shall be carried out in accordance with the following drawings and documents:*

- a) 18.105.01A\_Location Plan
- b) 18.105.02\_Site Plan (1) – Revised June 2020
- c) DD230L001D\_Landscape Proposals Plan – Revised June 2020
- d) 18.105.08\_BlK J\_Floor Plans and Elevations
- e) 18.105.04D\_HT Ah\_Floor Plans and Elevations
- f) 18.105.06D\_Blks A-C&E\_Floor Plans and Elevations
- g) 18.105.07F\_BlK F\_Floor Plans and Elevations
- h) 18.105.10E\_HT K\_Floor Plans and Elevations
- i) 18.105.11D\_HT L\_Floor Plans and Elevations
- j) 18.105.12C\_BlK GV Floor\_Plans and Elevations
- k) 18.105.21E\_BlK L Floor\_Plans and Elevations
- l) 18.105.22D\_HT ZB\_Floor Plans and Elevations
- m) 18.105.25B\_HT JV\_Floor Plans and Elevations
- n) 18.105.27B\_HT M\_Floor Plans and Elevations
- o) 18.105.28A\_HT ZBV\_Floor Plans and Elevations
- p) Preliminary Ecological Appraisal (April 2019)
- q) Bat Survey (April 19)
- r) Beacon Bottom Reptile Surveys and Outline Mitigation (Dec 2020)
- s) DD230D01\_Dormice Mitigation Plan
- t) Beacon Bottom Dormouse Mitigation Strategy (DMS) (Jan 21)
- u) J1128 01 05 Arboricultural Impact Assessment (AIA) – Revised June 2020
- v) Beacon Bottom – Phase II Geo environmental assessment
- w) AC105923-1r4 – Noise Impact Assessment Revised June 2020
- x) ITB14211-004 Carriageway Width Note
- y) Transport Statement (June 2020)
- z) Transport Statement Appendices (June 2020)
- aa) Flood Risk Assessment and Drainage Strategy (Odyssey date June 2020)
- bb) Preliminary Drainage Strategy Plan dwg no. 18-188/001 (Odyssey dated Feb 2020)
- cc) Hydraulic calculations (Odyssey dated Feb 2020)
- dd) Site Investigation data (REC dated Oct 2018)
- ee) 18.105.17\_Carport (rev B)
- ff) 18.105.18\_Single Garage (rev A)
- gg) 18.105.23\_Single Plus Garage (rev A)

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

*Condition 24 of the recommendation is amended as follows:*

*24. The development shall be carried out in accordance with the following schedule of carport and garage provision:*

- a) A “single plus” garage shall be constructed at plots 14, 15, 16 & 17 in accordance with approved drawing no. 18.105.23\_Single Plus Garage (rev A);
- b) A single garage shall be constructed at plots 11 & 18 in accordance with approved drawing no. 18.105.18\_Single Garage (rev A);
- c) A carport shall be constructed for plots 22 & 23 in accordance with approved drawing no. 18.105.17\_Carport (rev B). Thereafter the car

*port shall be retained, without doors, at all times so it is available for its designated purpose for the parking of vehicles.*

*REASON: To ensure adequate car parking provision; in accordance with Policy CS17 of the Fareham Borough Core Strategy.*

Comments from HCC Children's Services

*This quantum of development does not require a contribution towards education infrastructure to be paid.*

Upon being proposed and seconded, the officer recommendation to grant planning permission, subject to: -

- (i) The conditions in the report;
- (ii) The amended Conditions 2 and 24 in the Update Report;
- (iii) 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 a financial contribution towards The Solent Recreation Mitigation Strategy (SRMS);
  - b) To secure the provision of affordable housing on-site in the form of 7no. houses for social rent (2 x 1 bed, 4 x 3 bed & 1 x 4 bed) and 4no. houses as intermediate housing (2 x 2 bed & 2 x 3 bed) and a financial contribution for the remaining requirement equivalent to 0.6 dwellings;
  - c) To secure the provision of the following highway improvements to be delivered by the developer through a Section 278 agreement with the highway authority:
    - i. Delivery of the site access as detailed in drawing no. ITB14211-GA-002 rev H in submitted Transport Statement 19<sup>th</sup> June 2020;
    - ii. Provision of a footpath on the northern side of Beacon Bottom as detailed in drawing no. ITB14211-GA-002 rev H in submitted Transport Statement 19<sup>th</sup> June 2020;
    - iii. Removal/reduction of overgrown vegetation along Beacon Bottom as detailed in the Carriageway Width Note produced by i-Transport dated 2<sup>nd</sup> May 2019.
  - d) To secure a financial contribution towards funding of amendments to the existing traffic regulation order (TRO);
  - e) To secure details of the maintenance and management arrangements for areas of the site not within the defined curtilage of any of the residential units hereby permitted; and

- (iv) 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.

Was voted on and CARRIED.

(Voting: 8 in favour; 1 against)

RESOLVED that, subject to: -

- (i) The conditions in the report;
- (ii) The amended Conditions 2 and 24 in the Update Report;
- (iii) 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 a financial contribution towards The Solent Recreation Mitigation Strategy (SRMS);
  - b) To secure the provision of affordable housing on-site in the form of 7no. houses for social rent (2 x 1 bed, 4 x 3 bed & 1 x 4 bed) and 4no. houses as intermediate housing (2 x 2 bed & 2 x 3 bed) and a financial contribution for the remaining requirement equivalent to 0.6 dwellings;
  - c) To secure the provision of the following highway improvements to be delivered by the developer through a Section 278 agreement with the highway authority:
    - i. Delivery of the site access as detailed in drawing no. ITB14211-GA-002 rev H in submitted Transport Statement 19<sup>th</sup> June 2020;
    - ii. Provision of a footpath on the northern side of Beacon Bottom as detailed in drawing no. ITB14211-GA-002 rev H in submitted Transport Statement 19<sup>th</sup> June 2020;
    - iii. Removal/reduction of overgrown vegetation along Beacon Bottom as detailed in the Carriageway Width Note produced by i-Transport dated 2<sup>nd</sup> May 2019.
  - d) To secure a financial contribution towards funding of amendments to the existing traffic regulation order (TRO);
  - e) To secure details of the maintenance and management arrangements for areas of the site not within the defined curtilage of any of the residential units hereby permitted; and
- (iv) 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.

**(2) P/19/1322/OA - 139 SOUTHAMPTON ROAD TITCHFIELD PO14 4PR**

The Committee's attention was drawn to the Update Report which contained the following information: -

*Amended Officer Recommendation to include reference to the application being for 'Outline' Planning Permission.*

**9.0 Recommendation**

**9.1 GRANT OUTLINE PLANNING PERMISSION**

Upon being proposed and seconded the officer recommendation to grant outline planning permission, subject to: -

- i) Completion of a legal agreement pursuant to 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 provision and transfer of the areas of open space and buffer zones to Fareham Borough Council, including associated financial contributions for future maintenance;
  - b) To secure a proportionate financial contribution (50% of total costs) towards the delivery of a play area or play equipment and associated maintenance within the HA3 housing allocation;
  - c) To secure a financial contribution towards the Solent Recreation Mitigation Partnership (SRMP);
  - d) To secure 40% of the proposed units as on-site affordable housing; the type, size, mix and tenure to be agreed to the satisfaction of officers;
  - e) To secure a financial contribution towards education provision towards education infrastructure, for provision of school travel plans and monitoring fees and to provide additional childcare places;
  - f) To secure vehicular and pedestrian access and cycle connectivity to adjoining land to the north right up to the party boundary in perpetuity;
  - g) To secure provision of footpath/cyclepath to link site to footway to the north and the existing Toucan crossing on A27 to the south; and

- ii) The conditions in the report.

Was voted on and CARRIED.

(Voting: 9 in favour; 0 against)

RESOLVED that, subject to: -

- i) Completion of a legal agreement pursuant to 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 provision and transfer of the areas of open space and buffer zones to Fareham Borough Council, including associated financial contributions for future maintenance;
  - b) To secure a proportionate financial contribution (50% of total costs) towards the delivery of a play area or play equipment and associated maintenance within the HA3 housing allocation;
  - c) To secure a financial contribution towards the Solent Recreation Mitigation Partnership (SRMP);
  - d) To secure 40% of the proposed units as on-site affordable housing; the type, size, mix and tenure to be agreed to the satisfaction of officers;
  - e) To secure a financial contribution towards education provision towards education infrastructure, for provision of school travel plans and monitoring fees and to provide additional childcare places;
  - f) To secure vehicular and pedestrian access and cycle connectivity to adjoining land to the north right up to the party boundary in perpetuity;
  - g) To secure provision of footpath/cyclepath to link site to footway to the north and the existing Toucan crossing on A27 to the south; and
  
- ii) The conditions in the report.  
 OUTLINE PLANNING PERMISSION be granted.

**(3) P/20/1190/OA - LAND TO REAR OF 195-205 SEGENSWORTH ROAD PO15 5EL**

The Chairman announced that this application had been withdrawn by the applicant.

**(4) ENF/52/20 31 Rossan Avenue, Warsash, SO31 9JQ - Engineering Works Resulting in a Change of Garden Levels**

The Committee considered a report by the Director of Planning and Regeneration on engineering works resulting in a change of garden levels at 31 Rossan Avenue.

A motion was proposed and seconded that a planning enforcement notice should be served on the owner of 31 Rossan Avenue in connection with the unauthorised development comprising engineering works resulting in a change in the garden level. The harm that has been caused is an unacceptable adverse impact upon the neighbouring properties as a result of a loss of privacy and over-looking, contrary to Policy DSP3 of the Local Plan Part 2: Development Sites and Policies. In order to remedy the breach, the landowner is required to reinstate the levels in the rear garden back to those which existed before the engineering works were carried out. The period for

complying with the planning enforcement notice is three months. The Committee voted on the proposals which were CARRIED.  
(Voting: 9 in favour; 0 against)

RESOLVED that a planning enforcement notice should be served on the owner of 31 Rossan Avenue in connection with the unauthorised development comprising engineering works resulting in a change in the garden level. The harm that has been caused is an unacceptable adverse impact upon the neighbouring properties as a result of a loss of privacy and over-looking, contrary to Policy DSP3 of the Local Plan Part 2: Development Sites and Policies. In order to remedy the breach, the landowner is required to reinstate the levels in the rear garden back to those which existed before the engineering works were carried out. The period for complying with the planning enforcement notice is three months

**(5) P/21/0736/CU - THE OLD MILL LOWER QUAY PO16 0RA**

The Committee received the deputation referred to in Minute 5 above.

Upon being proposed and seconded the officer recommendation to grant planning permission, subject to the conditions in the report, was voted on and CARRIED.  
(Voting: 9 in favour; 0 against)

RESOLVED that, subject to the conditions in the report, PLANNING PERMISSION be granted.

**(6) Planning Appeals**

The Committee noted the information in the report.

**(7) UPDATE REPORT**

The Update Report was circulated at the meeting and was considered along with the relevant agenda item.

(The meeting started at 2.30 pm  
and ended at 5.40 pm).

# FAREHAM

## BOROUGH COUNCIL

### Minutes of the Planning Committee

(to be confirmed at the next meeting)

**Date:** Friday, 23 July 2021

**Venue:** Council Chamber - Civic Offices

**PRESENT:**

**Councillor** N J Walker (Chairman)

**Councillor** I Bastable (Vice-Chairman)

**Councillors:** Miss J Bull, T M Cartwright, MBE, P J Davies,  
Mrs C L A Hockley, R H Price, JP and S Dugan (deputising for  
M J Ford, JP)

**Also Present:** Councillor Mrs P M Bryant (Item 5)



**1. APOLOGIES FOR ABSENCE**

An apology of absence was received from Councillor's F Birkett and M J Ford.

**2. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman used the Chairman's announcements to outline how he intended to run the meeting.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest made at this meeting.

**4. DEPUTATIONS**

The Committee received a deputation from the following in respect of the applications indicated and were thanked accordingly.

Name	Spokesperson representing the persons listed	Supporting or Opposing Application	Dep Type
<b>WELBORNE – LAND NORTH OF FAREHAM P/17/0266/OA</b>			
Mr M Rogers	CCG	Supporting	In Person
Mr J Beresford	Buckland Development	Supporting	In Person

**5. DEVELOPMENT MANAGEMENT**

The Committee received the deputations referred to in Minute 5 above.

At the invitation of the Chairman, Councillor Mrs P M Bryant addressed the Committee on this item.

The Committee's attention was drawn to the Update Report which contained the following information: -

Fareham East, Fareham North

P/17/0266/OA

Welborne, Land North of Fareham

**Introduction:**

*To help Members identify the appendices in the hard copy agenda papers, the following page numbers are identified to help:*

- Appendix A from page 208;
- Appendix B from page 272;
- Appendix C from page 320;
- Appendix D from page 310; and

- Appendix E from page 331

**Guidance and Policies:**

*On 20<sup>th</sup> July the Government updated the National Planning Policy Framework (NPPF). Officers have reviewed the new NPPF and consider that both the policies of the Welborne Plan and the content of the planning application are in line with the Framework as revised.*

**Representations:**

*The applicant, Buckland Development Limited, has responded to the CCG consultation comments as follows:*

- Buckland reiterates it is wholly committed to delivering health facilities at Welborne;*
- Buckland are committed to delivering these facilities significantly earlier than their expected requirements, to ensure that positive and sustainable health opportunities are embedded in Welborne as early as possible;*
- It is also important to point out that Welborne's health facilities (and indeed the aims for the Health and Wellbeing Hub) hope to contain more than just facilities operated by the NHS, ensuring that the new community can also access other elements key to maintaining a healthy lifestyle;*
- Buckland are grateful to have received these comments from the CCG, which are extremely positive and provide a good basis for ongoing discussions;*
- Over the years, the position of the CCG in their role for securing facilities at Welborne has varied, primarily due to the constantly changing nature of NHS provision and the difficulty in forecasting how health will be provided for a community which will be developed over a twenty-year period;*
- The need to future proof the delivery of the health facility has significantly influenced our desire to create flexibility, to enable the health facilities to be provided in a manner which suits the needs of the new community, and suits the ever evolving working practices at the NHS;*
- Buckland wholly support the approach advocated by FBC in their committee report at 8.15.24, with the Health Steering Group guiding the approach to the delivery of Health Facilities as both Welborne and the NHS evolves;*
- Buckland are also happy to agree that the details of any transfer or lease would reasonably enable the CCG to provide primary and community services for Welborne;*

- *This would be incorporated into the S106, alongside the trigger points for the delivery of health facilities at Welborne, currently anticipated as prior to the occupation of 690<sup>th</sup> dwelling for a temporary facility, and prior to the occupation of the 3600<sup>th</sup> dwelling for the Health and Wellbeing hub.*

### **Planning Considerations:**

#### Health:

*The applicant is keen to see health facilities at Welborne and the application proposes that these facilities would be retained by the applicant and leased to the service providers at terms to be agreed in the future. The CCG has stated that their preference is for the land and buildings to be transferred into the NHS Estates to be able to efficiently deliver healthcare services.*

*Notwithstanding the terms of occupation of the buildings there is broad agreement between the two parties over the timing of the Health and Wellbeing Hub, namely at 3,600 occupations. The parties differ again regarding the timings for delivery of the Temporary Health Outreach Facility, to be located in the Local Centre. The applicant proposes that it be delivered by the time 690 dwellings are occupied and the CCG believes that a figure nearer the occupation of 2,000 dwellings would be more appropriate.*

*The Applicant's response to the consultation comments from the CCG are encouraging. The support indicated for the framework proposed in the main agenda (at paragraph 8.15.24) to secure the health facilities at Welborne through the Section 106 legal agreement is also welcomed despite the differences between the two parties.*

*Officers are of the view that FBC can enable and facilitate the delivery of the health facilities at Welborne through the Section 106 legal agreement as a result of the applicant's comments and those of the CCG.*

*To that end, Officers recommend that this Local Planning Authority's position in the delivery of health facilities at Welborne is as per paragraph 8.15.24 of the main agenda.*

*The imposition of a pre-commencement trigger within the Section 106 legal agreement for the establishment of a Health Steering Group will ensure that healthcare delivery is being considered from the start of work on the site.*

*This Steering Group will then endeavour to agree a detailed scheme of works for the two healthcare facilities (the Temporary Healthcare Outreach Facility and the Health and Wellbeing Hub) as well as the terms of any lease or transfer. Ultimately this Council in its capacity as the Local Planning Authority will decide whether the works should be approved or not.*

*The Section 106 legal agreement will be explicit that by a certain level of occupation details of the healthcare services to be provided, the scheme(s) of work for the delivery of healthcare, timings for delivery and details of any lease or transfer must be submitted to and approved by the Local Planning Authority. Officers recommend that the developer is prevented from occupying more than*

1,250 dwellings unless the Council has given its approval for these details in connection with the Temporary Healthcare Outreach Facility and 2,750 dwellings for the Health and Wellbeing Hub.

A second trigger for each of the healthcare facilities will be detailed within the Section 106 legal agreement that prevents the occupation of dwellings until the facilities are provided on site and open for use. Officers believe that these thresholds should be 2,000 occupations for the Temporary Healthcare Outreach Facility, and 3,500 occupations for the Health and Wellbeing Hub.

The triggers are drafted to align with the later levels of occupation proposed by the CCG. If a party opts to deliver a facility earlier than that trigger that would still accord with the planning obligations.

**Recommendation:**

In light of the recent changes to the Use Classes Order, condition 07 of the recommendation is amended to remove references to specific Use Classes as follows:

**07 The development for the following uses will not exceed:**

- 3,200m<sup>2</sup> of food store retail;
- 3,500m<sup>2</sup> of non-food retail;
- 3,300m<sup>2</sup> of other non-convenience/comparison retail use, financial and professional services restaurant and cafes, drinking establishments, and hot-food takeaway;
- 30,000m<sup>2</sup> of commercial and employment namely as offices, research and development or other industrial process;
- 35,000m<sup>2</sup> of general industrial use;
- 40,000m<sup>2</sup> of warehousing space for storage or distribution.

**REASON:** The distribution of land uses on the parameter plans is the subject of an Environmental Impact Assessment and any material alteration to the layout may have an impact that has not been assessed by that process. To ensure a comprehensive and appropriate form of the interest of protecting the vitality of Fareham Town Centre and other surrounding centres in Fareham and surrounding Districts.

Upon being proposed and seconded the officer recommendation at 10.1 of the report, to confirm the inclusion of the Applicant's document titled "Welborne Shadow Appropriate Assessment UPDATE", dated November 2020 comprises the Council's Habitat Regulation Assessment, was voted on and CARRIED. (Voting: 8 in favour; 0 against)

RESOLVED that the Committee CONFIRM the inclusion of the report at Appendix A, of the report titled "Welborne Shadow Appropriate Assessment UPDATE", dated November 2020 comprising the Council's Habitats Regulation Assessment.

Upon being proposed and seconded the officer recommendation at 10.2 of the report, to delegate to the Head of Development Management to take receipt of the final written comments of any further outstanding consultation responses



with the inclusion of any further condition or informatives that may be recommended;

And

The officer recommendation at 10.3 of the report, to delegate to the Head of Development Management in consultation with the Solicitor to the Council for the prior completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure:

- The creation of an Estate Management Company;
  - Inclusion of FBC on the board of the Company;
  - Service charge arrangements;
  - Step in provisions;
- The appointment of a New Community Development Worker for a period of not less than 10 years;
- Provision for an Education Steering Group;
- Contribution and land for the delivery of three primary schools;
- Contribution and land for the delivery of one secondary school;
- A Community Use Agreement(s) for the school(s) facilities for public use outside of the times needed for educational use;
- Nursery and pre school marketing strategy;
- Provision of the Local Centre;
- Local Centre Community Building;
- Provision of the District Centre;
- District Centre Community building;
- Provision of healthcare facilities;
- Provision of the Community Hub;
- Delivery of Green Infrastructure (GI) – to include:
  - All Weather Pitch;
  - Tennis Courts;
  - Neighbourhood Play Space;
  - Youth Play Space;
  - Playground Play Equipment;
  - Parks and Amenity Open Spaces;
  - Playing Pitches and Outdoor Sports Facilities;
  - Allotments; and
  - Semi Natural Greenspace;
- GI Delivery and management arrangements;
- Delivery of the Temporary SANGS Strategy;
- Provision of Sites of Alternative Natural Green Space (SANGS);
- In perpetuity management of SANGS including step-in rights by the Estate Management Company;
- SRMP Contribution;
- Public Transport – BRT provisions on site and contributions;
- Safeguarding of the Rail Halt Land;
- A32 access works;
- Off site Highway Works Contributions for locations identified by HCC;
- Applicant's £40 million contribution towards the cost of junction 10;
- Proportionate reduction of affordable housing in the event that the applicant makes a financial contribution towards Junction 10 costs overruns up to a total of £10m;
- Off site Local Highway Network mitigation and safety schemes;
- Framework residential travel plan;

- Neighbourhood travel plans;
- Framework employment travel plan;
- Safeguarding the land for the Household Waste Recycling Centre;
- Contribution towards the Household Waste Recycling Centre to include a proportionate cost of the legal fees;
- Affordable housing;
  - Amount;
  - Tenure;
  - Upward review mechanisms;
  - Wheelchair accessible homes;
- Self Build Housing;
- Passivhaus where viability allows;
- Lifetime homes where viability allows;
- Extra Care accommodation where viability allows;
- Mechanism to recover and recycle HIG Funding in accordance with Homes England's requirements (subject to approval by this Council's Executive);
- Business incubation centre;
- Employment and training plan for construction;
- Equalisation arrangements for the Sawmills site;
- Public access to the site;
- Improvements to existing rights of way;
- Closure, stopping up and diversion of existing rights of way;

And the officer recommendation at 10.4 of the report, to delegate to the Head of Development Management:

- To make any necessary modification, deletion or addition to the proposed conditions or heads of terms; and
- To 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 as drafted to ensure consistency between the two sets of provisions

And was voted on and CARRIED.

(Voting: 8 in favour; 0 against)

RESOLVED that the Committee AGREE to delegate to the Head of Development Management: -

- (i) to take receipt of the final written comments of any further outstanding consultation responses with the inclusion of any further condition or informatives that may be recommended;
- (ii) in consultation with the Solicitor to the Council for the prior completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure:
  - The creation of an Estate Management Company;
    - Inclusion of FBC on the board of the Company;
    - Service charge arrangements;
    - Step in provisions;

- The appointment of a New Community Development Worker for a period of not less than 10 years;
- Provision for an Education Steering Group;
- Contribution and land for the delivery of three primary schools;
- Contribution and land for the delivery of one secondary school;
- A Community Use Agreement(s) for the school(s) facilities for public use outside of the times needed for educational use;
- Nursery and pre school marketing strategy;
- Provision of the Local Centre;
- Local Centre Community Building;
- Provision of the District Centre;
- District Centre Community building;
- Provision of healthcare facilities;
- Provision of the Community Hub;
- Delivery of Green Infrastructure (GI) – to include:
  - All Weather Pitch;
  - Tennis Courts;
  - Neighbourhood Play Space;
  - Youth Play Space;
  - Playground Play Equipment;
  - Parks and Amenity Open Spaces;
  - Playing Pitches and Outdoor Sports Facilities;
  - Allotments; and
  - Semi Natural Greenspace;
- GI Delivery and management arrangements;
- Delivery of the Temporary SANGS Strategy;
- Provision of Sites of Alternative Natural Green Space (SANGS);
- In perpetuity management of SANGS including step-in rights by the Estate Management Company;
- SRMP Contribution;
- Public Transport – BRT provisions on site and contributions;
- Safeguarding of the Rail Halt Land;
- A32 access works;
- Off site Highway Works Contributions for locations identified by HCC;
- Applicant's £40 million contribution towards the cost of junction 10;
- Proportionate reduction of affordable housing in the event that the applicant makes a financial contribution towards Junction 10 costs overruns up to a total of £10m;
- Off site Local Highway Network mitigation and safety schemes;
- Framework residential travel plan;
- Neighbourhood travel plans;
- Framework employment travel plan;
- Safeguarding the land for the Household Waste Recycling Centre;
- Contribution towards the Household Waste Recycling Centre to include a proportionate cost of the legal fees;
- Affordable housing;
  - Amount;
  - Tenure;
  - Upward review mechanisms;
  - Wheelchair accessible homes;
- Self Build Housing;
- Passivhaus where viability allows;

- Lifetime homes where viability allows;
- Extra Care accommodation where viability allows;
- Mechanism to recover and recycle HIG Funding in accordance with Homes England's requirements (subject to approval by this Council's Executive);
- Business incubation centre;
- Employment and training plan for construction;
- Equalisation arrangements for the Sawmills site;
- Public access to the site;
- Improvements to existing rights of way;
- Closure, stopping up and diversion of existing rights of way;

And

(iii) The recommendation at 10.4 of the report;

- To make any necessary modification, deletion or addition to the proposed conditions or heads of terms; and
- To 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 as drafted to ensure consistency between the two sets of provisions.

Upon being proposed and seconded the officer recommendation at 10.5 of the report, to grant outline planning permission, subject to the conditions in the report and Update Report was voted on and CARRIED.

(Voting: 8 in favour; 0 against)

RESOLVED that subject to the conditions in the report at 10.5 and the Update Report, OUTLINE PLANNING PERMISSION be granted.

## **6. UPDATE REPORT**

The Update Report was circulated at the meeting and was considered with the relevant agenda item.

(The meeting started at 9.30 am  
and ended at 11.40 am).

# FAREHAM

## BOROUGH COUNCIL

### Report to Planning Committee

**Date** 10<sup>th</sup> September 2021

**Report of:** Director of Planning and Regeneration

**Subject:** LAND EAST OF DOWNEND ROAD – PLANNING APPEAL REFERENCE  
APP/A1720/W/21/3272188

## INTRODUCTION

### THE APPLICATION

1. An outline planning application (reference P/20/0912/OA) was made in August 2020 by Miller Homes Ltd for the following development at land east of Downend Road, Portchester:

*“Outline planning application with all matters reserved (except the means of access) for residential development, demolition of existing agricultural buildings and the construction of new buildings providing up to 350 dwellings, the creation of new vehicular access with footways and cycleways, provision of landscaped communal amenity space, including children's play space, creation of public open space, together with associated highways, landscaping, drainage and utilities.”*

2. The application proposed improvements to the Downend Road railway bridge in the form of a traffic signal shuttle working arrangement. This included a 2 metre wide footway on the northern/western side of the bridge and a single carriageway 3.5 metres wide on the railway bridge controlled by traffic signals. This arrangement was shown on the submitted drawing no. ITB12212-GA-051D which is included with this report as Appendix A.
3. A report was prepared by Officers for the meeting of the Planning Committee on 18<sup>th</sup> November 2020. The Officer report recommended that outline planning permission be granted subject to:
  - i) the receipt of comments from Natural England in response to consultation on the Council's Appropriate Assessment and 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 after having had regard to those comments;
  - ii) the applicant first providing further details regarding the proposed surface water drainage strategy and, the Lead Local Flood Authority (Hampshire County Council) raising no objections to those further details;
  - iii) 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 various matters;
  - iv) 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; and

- v) A schedule of planning conditions.
4. Since the committee meeting and as part of the subsequent appeal proceedings, responses from Natural England and Hampshire County Council have been received to satisfy points i) & ii).
  5. Notwithstanding the recommendation from Officers, Members resolved to refuse planning permission for the following reasons which were given on the Decision Notice dated 25<sup>th</sup> November 2020:

*“The development would be contrary to Policies CS5 of the adopted Fareham Borough Core Strategy 2011 and Policy DSP40 of the adopted Local Plan Part 2: Development Sites and Policies Plan, and Paragraphs 109 and 110 (c) of the National Planning Policy Framework, and is unacceptable in that:*

*The proposal would result in a material increase in vehicular and pedestrian movements along Down End Road across the road bridge over the railway line. The works to the bridge as shown on drawing no. ITB12212-GA-051D (titled “Downend Road Bridge – Proposed Signal Arrangement With Footway General Arrangement”) would unacceptably affect the operation of the highway because of the vehicle queuing and driver delay that would arise and would result in unacceptable harm to the safety and convenience of users of the highway. Furthermore the application does not make acceptable pedestrian crossing provision on Down End Road for future residents of the development.”*

## **THE APPEAL**

6. Following the refusal of planning permission, Miller Homes Ltd (hereafter referred to as “the Appellant”) lodged an appeal against the Council’s decision. The appeal is currently in the process of being determined by a Planning Inspector appointed on behalf of the Secretary of State (appeal reference APP/A1720/W/21/3272188). The procedure being followed is the inquiry procedure.
7. The inquiry began on Tuesday 3<sup>rd</sup> August. In advance of the inquiry, as is standard procedure, the Appellant and the Council submitted evidence to the Planning Inspector on the key issues.
8. On the first day of the inquiry the Inspector heard evidence from local residents and ward councillors. The Council’s highways witness gave his evidence and by the end of proceedings on the third day was part way through cross-examination by the Appellant’s counsel.
9. The inquiry was adjourned at the start of the fourth day Friday 6<sup>th</sup> August due to the Council’s highways witness suffering a family bereavement on the Thursday night. The Planning Inspector has confirmed that the inquiry will resume on

Tuesday 14<sup>th</sup> September and will sit for a further three days in total (including Wednesday 15<sup>th</sup> September and Friday 17<sup>th</sup> September).

### **THE COUNCIL'S CASE**

10. The reasons for refusal given in the decision notice dated 25<sup>th</sup> November 2020 amount to essentially three elements as follows:
  - (1) that works to the bridge will unacceptably affect the operation of the highway because of vehicle queuing and driver delay which would cause unacceptable harm to the convenience of users of the highway;
  - (2) that the works would cause unacceptable harm to the safety of users of the highway, and
  - (3) that the application does not make acceptable pedestrian crossing provision for future residents.
11. In relation to the first element, the so called "capacity argument", the Council's case relied upon demonstrating that an alternative forecast of how Downend Road bridge will operate is the correct one rather than the Appellant's own. This in turn depended upon a number of assumptions coming together. These included (but were not limited to) demonstrating higher levels of vehicular and pedestrian movements to and from the appeal site and the need to incorporate controlled pedestrian crossings at the bridge which in turn would lead to unacceptable queuing and delays.
12. If all these assumptions were made good by evidence, the Council asserted that an alternative projection of the delay at the bridge was more likely to be correct. That delay, using the Council's own assessment criteria, would meet the "significant" or "severe" impact thresholds. However, if the Council were to be unsuccessful in respect to any one of these factors, any delay would not be severe and therefore would not justify refusal of planning permission under the relevant tests set out in the National Planning Policy Framework (NPPF) read together with the Council's policies, on the first element of the reason for refusal.
13. Following exchange of rebuttal evidence before the inquiry, the Council's highways witness confirmed that following this exchange he could not demonstrate that there will be unacceptable harm caused to the convenience of users of the highway through vehicle queueing and driver delay. In his professional view therefore he could not give evidence which supports the first element of the reason for refusal.
14. The Council notified the Appellant and the Planning Inspector on the Friday prior to the inquiry stating that, having now received and considered all of the rebuttal evidence produced by the Appellant, the Council would not be pursuing the first element of the reason for refusal.



## THE APPELLANT'S OFFER OF A CONTROLLED PEDESTRIAN CROSSING

15. The evidence submitted to the Inspector on behalf of the Council by its highways witness states that in order to provide a safe crossing of Downend Road, a controlled crossing integrated into the proposed shuttle-working traffic lights should be provided. In the absence of a controlled crossing the appeal proposal does not make acceptable pedestrian crossing provision for future residents.
16. Following the adjournment of the inquiry the Appellant contacted the Council in relation to this matter. The Appellant has said that they are willing to make amendments to the appeal proposal to incorporate a pedestrian phase within the proposed signalised shuttle working arrangement. Controlled pedestrian crossing points would be provided on both the northern and southern ends of the bridge crossing junction. They have provided a drawing showing this revised arrangement – drawing no. ITB12212-GA-071B (attached to this report as Appendix B). The revised drawing shows:
  - The removal of the proposed pedestrian refuge crossing at the northern end of the bridge
  - An extension of the proposed footway located on the southern side of Downend Road to take the footway from the development site to the signals
  - A pedestrian signal pole on the northern side of Downend Road within the existing footpath
17. The Appellant has also provided junction modelling evidence and a tracking plan showing how an articulated vehicle could move through the junction (over the bridge through the lights).
18. Making amendments to appeal proposals such as this are normally considered acceptable under the “Wheatcroft principles” – a reference to case law which sets out the circumstances under which minor amendments may be made to proposals during the course of an appeal being determined.
19. The Appellant does not consider these amendments to be necessary to make the scheme acceptable in planning terms and their agreement to make such amendments does not alter its case for the appeal. However, the Appellant is willing to make these amendments if it addresses the Council’s outstanding substantive concern regarding the pedestrian crossing provision. If the Council is satisfied it addresses the concerns, the Appellant has asked that, once it formally submits the amendments to the Planning Inspector, the Council confirms that it will withdraw its reasons for refusal in totality. That being the case, the Appellant has agreed not to pursue an application to the Inspector for an award of costs against the Council.

### **ADVICE FROM THE HIGHWAY AUTHORITY HAMPSHIRE COUNTY COUNCIL**

20. The highway authority Hampshire County Council have been provided with the drawings and junction modelling for the Appellant's proposed revision and invited to confirm if this alternative arrangement is acceptable.
21. Officers from the highway authority have confirmed with the Appellant and the Council that they are satisfied with the principle of the proposals. In terms of capacity, whilst the Appellant has only provided modelling to show how the junction would perform in the AM peak period this is considered to represent the highest traffic flows and worst case scenario. Overall the performance with both pedestrian crossings in place would still operate within capacity.

### **UPDATED SUMMARY OF COUNCIL'S CASE**

22. The Appellant's offer to include controlled pedestrian crossings at each end of the bridge junction would address the concerns raised by the Council's highways witness who in evidence has said that the proposals must be modified to include controlled pedestrian crossings.
23. The evidence initially submitted to the Planning Inspector by the Council's highways witness had argued that using a longer "intergreen" period in the traffic model and introducing controlled pedestrian crossings would, in combination with a number of factors, lead to delays which would be "severe" or "significant". However, as explained in paragraph 13 above, the Appellant has submitted further evidence to demonstrate why this is not the case and this has been accepted by the Council's witness. Even taking into account therefore the inclusion of controlled pedestrian crossings, the evidence on both the Appellant's side and the Council's side demonstrates the junction operates within capacity. This is consistent with the findings of the highway authority in their response to the revised proposals from the Appellant as set out at paragraph 21 above.
24. As already explained, the Council has confirmed that it will not pursue the capacity argument in the first element of the reason for refusal. Officers are of the view that the Appellant's offer to include controlled pedestrian crossings would address the third element of the reason for refusal meaning that only the second element would remain.
25. The evidence presented to the inquiry in relation to that second element is based on the appeal proposal resulting in an unsafe environment for cyclists. The Council has argued that the proposed shuttle-working bridge arrangement, at the top of a hill, along with refuge and splitter islands will effectively create a highway environment where it is very difficult to over-take cyclists for around 180m. When considered with the concerns about the lack of acceptable pedestrian crossings, the proposals are considered unsafe.
26. The Appellant's revised proposals would provide controlled pedestrian crossings which Officers consider to be acceptable. It would also remove a previously

proposed refuge island north of the bridge from the layout. This would improve the cycle overtaking environment to substantially reduce risks. The Council's highways witness has already acknowledged in evidence that the use of intelligent transport systems (ITS) such as MOVA, a form of ITS equipment which minimises junction delay, could be used to preserve a modicum of safety for cyclists. Officers consider that these factors combined mean that the Council's case in relation to this matter, which in any case is not supported by the highway authority, would not be capable of being sustained.

## **CONCLUSION**

27. During the course of appeal proceedings it has been demonstrated that there would be no unacceptable harm caused to the convenience of users of the highway through vehicle queueing and driver delay. The Council has already confirmed to the Planning Inspector that it will not pursue this particular element of the reason for refusal.
28. Officers consider that the Appellant's offer to incorporate controlled pedestrianised crossings satisfactorily addresses the concern over the lack of adequate crossing provision across Downend Road. As a result of the revised proposals the cycle overtaking environment would also be improved.
29. The Officer recommendation set out below is that Members confirm that, subject to the Appellant submitting these amended proposals to the Planning Inspector ahead of the restart of the adjourned inquiry, those remaining elements of the reason for refusal relating to highway safety, including the lack of acceptable pedestrian crossing provision for future residents, be withdrawn.

## **RECOMMENDATION**

30. That Members of the Planning Committee confirm that:
  - a) Subject to the Appellant Miller Homes Ltd submitting amended proposals to the Planning Inspector showing the inclusion of controlled pedestrian crossings as indicated in drawing no. ITB12212-GA-071B (or substantially similar to that drawing):
    - i) Those elements of the reason for refusal relating to unacceptable harm to the safety of users of the highway and the lack of acceptable pedestrian crossing provision for future residents be withdrawn;
    - ii) For the avoidance of any doubt, the reasons for refusal previously given are withdrawn in totality.

**Background Papers:**

P/20/0912/OA

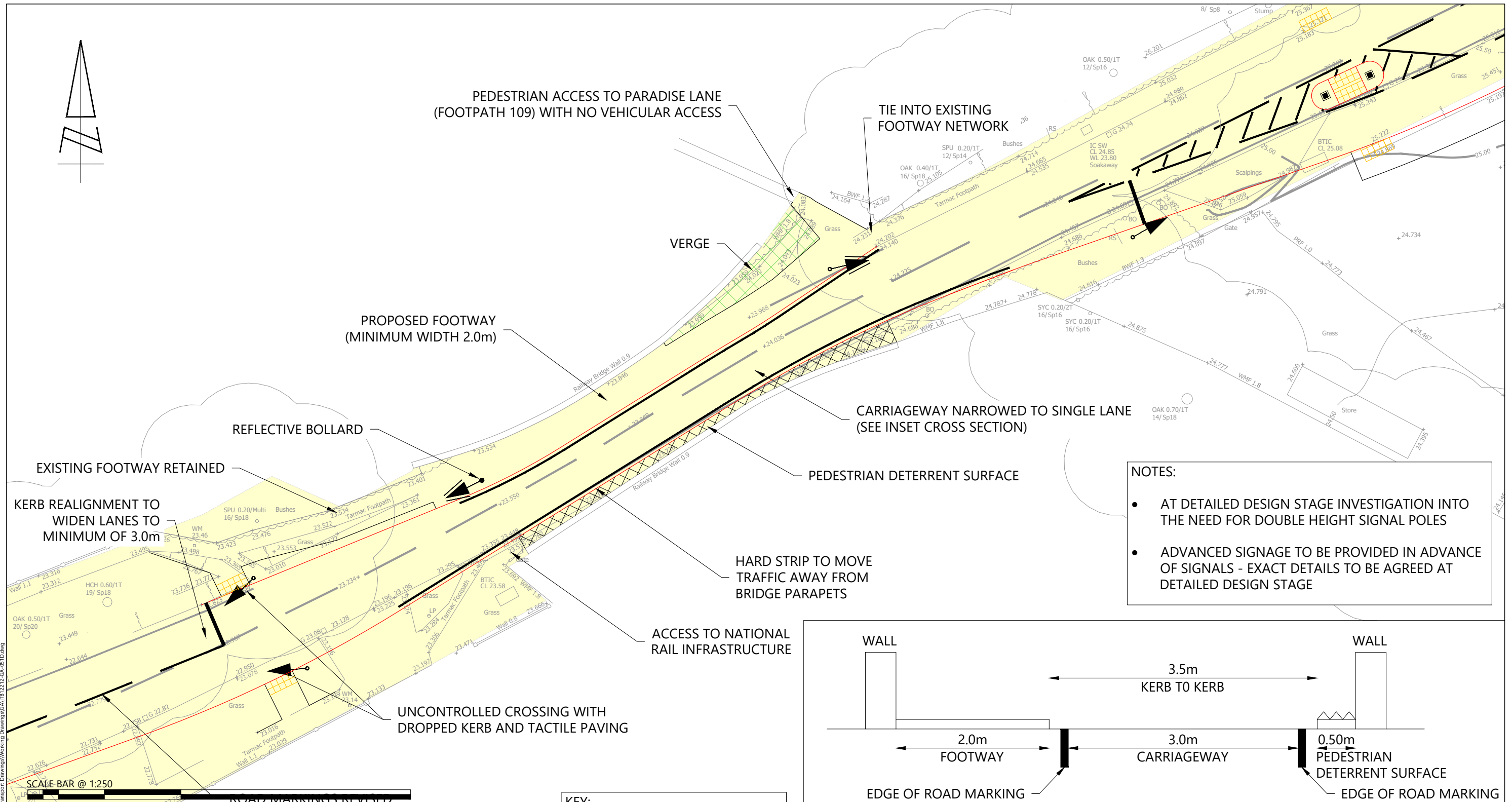
**Enquiries:**

For further information on this report please contact Richard Wright (Ext 4758)

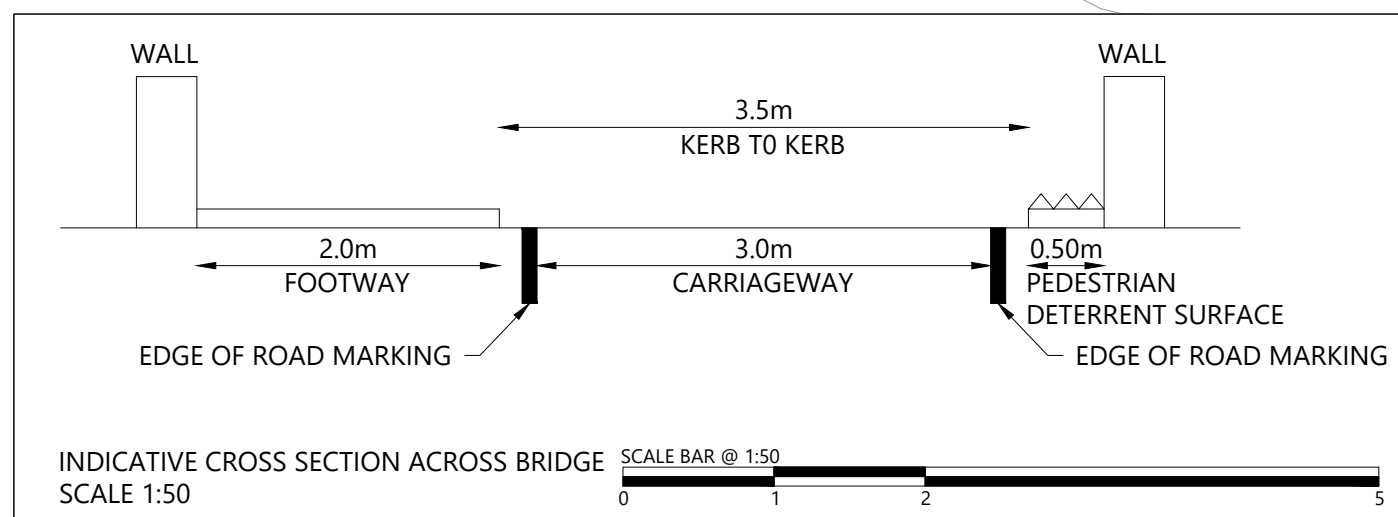
**Appendices:**

Appendix A – Downend Road bridge signalised shuttle arrangement - drawing no. ITB12212-GA-051D (as proposed with application)

Appendix B – Downend Road bridge signalised shuttle arrangement incorporating controlled pedestrian crossings – drawing no. ITB12212-GA-071B



- NOTES:**
- AT DETAILED DESIGN STAGE INVESTIGATION INTO THE NEED FOR DOUBLE HEIGHT SIGNAL POLES
  - ADVANCED SIGNAGE TO BE PROVIDED IN ADVANCE OF SIGNALS - EXACT DETAILS TO BE AGREED AT DETAILED DESIGN STAGE



**KEY:**

EXTENTS OF HIGHWAY BOUNDARY

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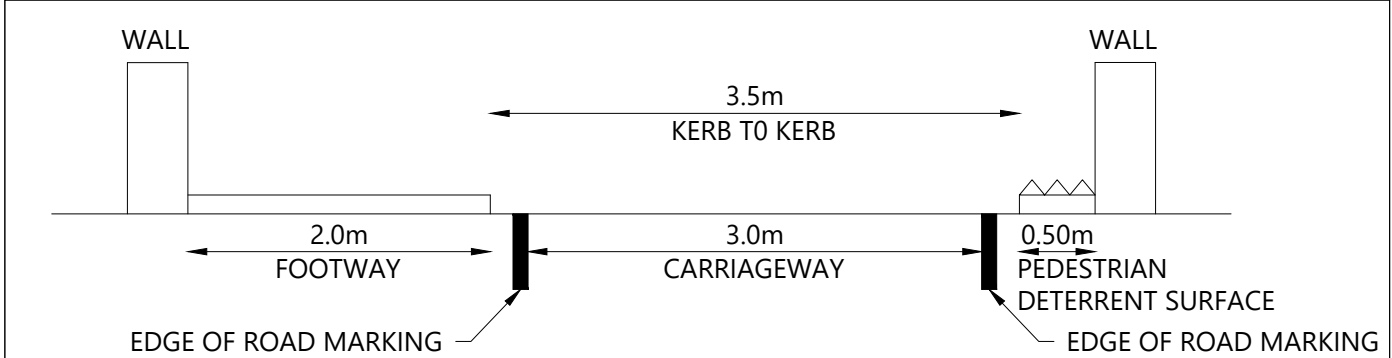
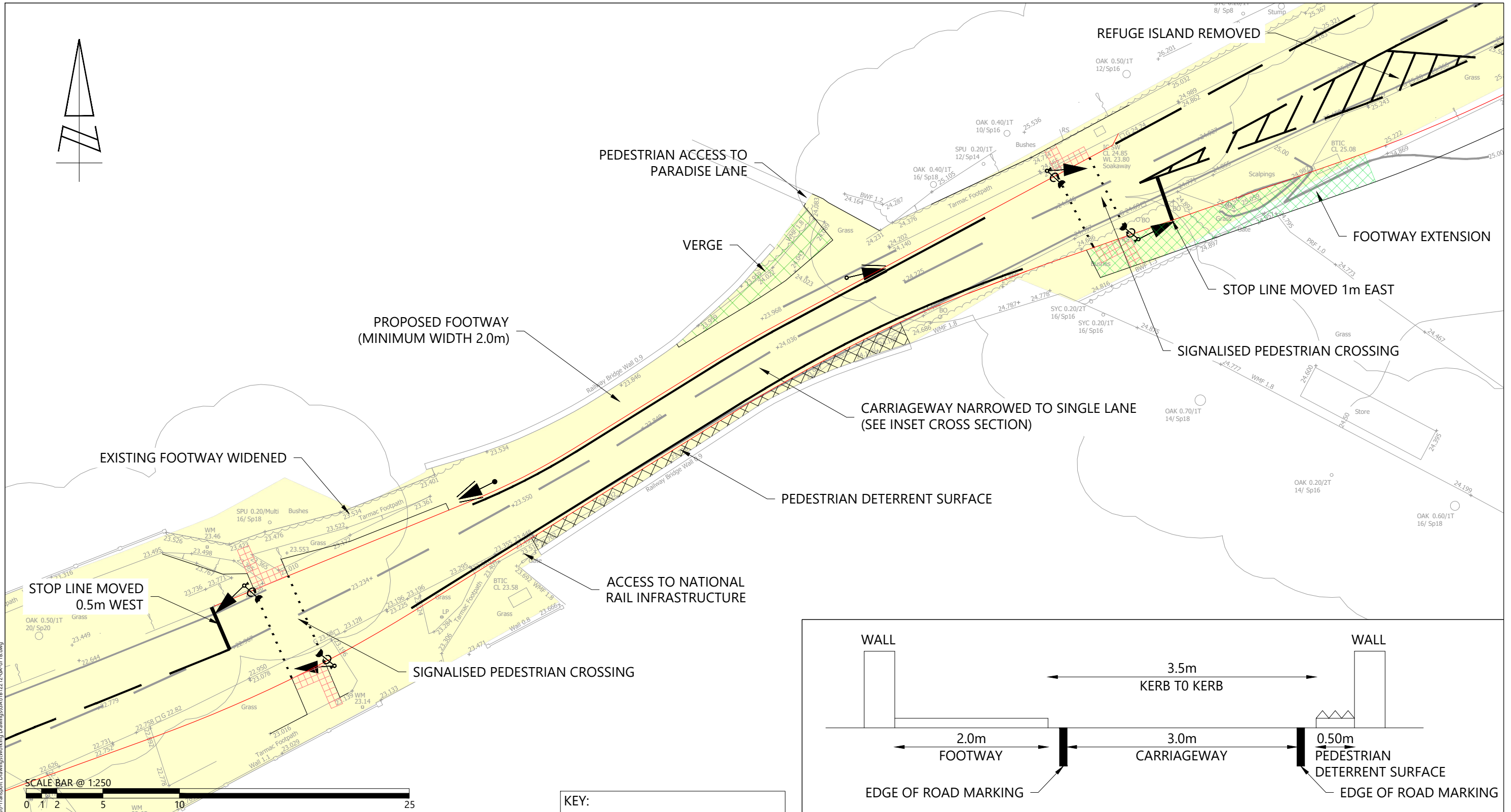
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REV	DATE	BY	DESCRIPTION	CHK	APD
D	06.10.20	MC	UPDATED IN LINE WITH HCC COMMENTS	RS	TW
C	24.07.20	MC	UPDATED IN LINE WITH HCC COMMENTS	RS	TW
B	18.03.20	MC	PADR COMMENTS INCORPORATED	RS	TW
A	05.02.20	JD	RSA COMMENTS INCORPORATED	RS	TW

STATUS: FOR INFORMATION

TITLE: DOWNEND ROAD BRIDGE - PROPOSED SIGNAL ARRANGEMENT WITH FOOTWAY		DRAWN: MC	CHECKED: TW	APPROVED: TW
GENERAL ARRANGEMENT		SCALE @ A3: AS SHOWN		
SHEET 1 OF 7		DATE: 25.01.19		
PROJECT: DOWNEND ROAD, PORTCHESTER	CLIENT: MILLER HOMES	PROJECT No: ITB12212		
		DRAWING No: ITB12212-GA-051		REV: D

T:\Projects\12000 Series\Project Numbers\12121218 Downend Road Portchester\Technical\Drawings\GA\ITB12212-GA-051.dwg



KEY:

EXTENTS OF HIGHWAY BOUNDARY

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REV	DATE	BY	DESCRIPTION	CHK	APD
B	20.08.21	MC	ANNOTATION AMENDMENTS	MC	TW
A	18.08.21	MC	CROSSING POINT REVISED	MC	TW
STATUS: FOR INFORMATION					

TITLE: DOWNEND ROAD BRIDGE - PROPOSED SIGNAL ARRANGEMENT WITH FOOTWAY AND CONTROLLED CROSSINGS	
PROJECT: DOWNEND ROAD, PORTCHESTER	CLIENT: MILLER HOMES

DRAWN: MC	CHECKED: TW	APPROVED: TW
SCALE @ A3: AS SHOWN		DATE: 10.05.21
PROJECT No: ITB12212		
DRAWING No: ITB12212-GA-071		REV: B