

FAREHAM

BOROUGH COUNCIL

AGENDA PLANNING COMMITTEE

Date: Wednesday, 15 June 2022

Time: 2.30 pm

Venue: Collingwood Room - Civic Offices

Members:

Councillor N J Walker (Chairman)

Councillor I Bastable (Vice-Chairman)

Councillors Miss J Bull
D G Foot
M J Ford, JP
Mrs C L A Hockley
S Ingram
P Nother
Mrs S M Walker

Deputies: Ms C Bainbridge
F Birkett
S Dugan
Mrs K K Trott



1. Apologies for Absence

2. Minutes of Previous Meeting (Pages 1 - 5)

To confirm as a correct record the minutes of the Planning Committee meeting held on 25 May 2022.

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. Planning applications and Miscellaneous Matters including an update on Planning Appeals (Page 6)

To consider a report by the Director of Planning and Regeneration on development control matters, including information regarding new planning appeals and decisions.

ZONE 1 - WESTERN WARDS

- (1) **P/21/1832/FP - LAND TO THE SOUTH OF 79 GREENAWAY LANE WARSASH SO31 9HT (Pages 8 - 32)**

ZONE 2 - FAREHAM

- (2) **P/22/0571/FP - 97-99 WEST STREET FAREHAM PO16 0AS (Pages 34 - 41)**
- (3) **P/19/0894/OA - LAND EAST OF NORTH WALLINGTON ROAD FAREHAM (Pages 42 - 76)**

ZONE 3 - EASTERN WARDS

- (4) **P/22/0165/OA - LAND EAST OF NEWGATE LANE EAST FAREHAM (Pages 78 - 113)**
- (5) **P/21/1602/FP - 61 PORTCHESTER ROAD FAREHAM PO16 8AL (Pages 114 - 132)**
- (6) **P/22/0338/FP - TURRET HOUSE HOSPITAL LANE PORTCHESTER FAREHAM PO16 9LT (Pages 133 - 162)**
- (7) **Planning Appeals (Pages 163 - 170)**



P GRIMWOOD
Chief Executive Officer

Civic Offices
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07 June 2022

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FAREHAM

BOROUGH COUNCIL

Minutes of the Planning Committee

(to be confirmed at the next meeting)

Date: Wednesday, 25 May 2022

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor N J Walker (Chairman)

Councillor I Bastable (Vice-Chairman)

Councillors: Miss J Bull, D G Foot, M J Ford, JP, Mrs C L A Hockley,
S Ingram, P Nother and Mrs S M Walker

**Also
Present:**



1. APOLOGIES FOR ABSENCE

There were no apologies of absence.

2. MINUTES OF PREVIOUS MEETING

RESOLVED that the minutes of the Planning Committee meeting held on 13 April 2022 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

In accordance with Standing Orders and the Council's Code of Conduct, Councillor Mrs C L A Hockley declared a Personal Interest in Item 7(1) – Land to the East of Cartwright Drive, as the landowners are well known to her. She remained present in the room for this item but chose not to take part in the debate or vote on the application.

5. DEPUTATIONS

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

Name	Spokes person representing the persons listed	Subject	Supporting or Opposing the Application	Item No/ Application No/Page No	Dep Type
ZONE 1 – 2.30pm					
Mr Marshall B		LAND TO THE EAST OF CARTWRIGHT DRIVE - OUTLINE APPLICATION FOR THE ERECTION OF 49 DWELLINGS AND ASSOCIATED LANDSCAPING AND PARKING. ACCESS FROM CARTWRIGHT DRIVE AND ASSOCIATED WORKS	Opposing	7(1) P/21/1707/OA Pg 22	Written
ZONE 3 – 3.30pm					

Laura Burtenshaw		84 MERTON AVENUE – CONTINUED USE OF GARAGE AS A TAKEAWAY COFFEE SHOP AT WEEKENDS AND BANK HOLIDAYS	Opposing	7 (3) P/22/0439/CU Pg 67	Written
Mr R Tutton (Agent)		-DITTO-	Supporting	-Ditto-	In Person
Mrs Emma Wells		-DITTO-	-Ditto-	-Ditto-	In Person

6. FIVE YEAR HOUSING LAND SUPPLY POSITION

The Committee considered a report by the Director of Planning and Regeneration which provided an update on the Council's Five Year Housing Land Supply Position, and which supersedes the update previously provided to the Committee on 19 January 2022.

RESOLVED that the Committee noted: -

- (i) the content of the report and the current 5-Year Housing Land Supply position; and
- (ii) that the 5-Year Housing Land Supply Position set out in the attached report (which will be updated regularly as appropriate) is a material consideration in the determination of planning applications for residential development.

7. 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/21/1707/OA - LAND TO THE EAST OF CARTWRIGHT DRIVE

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

Councillor Mrs C L A Hockley declared a Personal Interest in this item as the Landowners are well known to her. She remained present in the room for this application but chose not to take part in the debate or vote on this item.

Upon being proposed and seconded the officer recommendation that had Members been able to determine the planning application they would have resolved to refuse permission, was voted on and CARRIED.
(Voting: 8 in favour; 0 against)

RESOLVED that had Members been able to determine the planning application they would have resolved to REFUSE PERMISSION.

Reasons for Refusal

The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS15, CS17, CS18, CS20 and CS22 of the Adopted Fareham Borough Core Strategy 2011, Policies DSP6, DSP13 & DSP15 of the Adopted Local Plan Part 2: Development Sites and Policies Plan and paragraph 174 of the National Planning Policy Framework and is unacceptable in that:

- a) The proposal represents unsustainable development outside the defined urban settlement boundary for which there is no justification or overriding need;
- b) The application site lies outside of the defined urban settlement boundary on land which is considered to form part of a valued landscape. As a result the proposed development would result in a range of significant adverse landscape and visual effects, harmful to the landscape character, appearance and function of the countryside and failing to respect or respond positively to the characteristics of the surrounding area;
- c) The proposed development would physically and visually reduce the separation between settlements significantly adversely affecting the integrity of the strategic gap;
- d) The proposal would have likely adverse effects on the integrity of habitat sites in combination with other developments due to the additional generation of nutrients entering the water environment and the lack of appropriate and appropriately secured mitigation;
- e) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of habitat sites which, in combination with other developments, would arise due to the impacts of recreational disturbance;
- f) In the absence of a legal agreement to secure such, the proposal fails to make on-site provision of affordable housing at a level in accordance with the requirements of the local plan;
- g) In the absence of a legal agreement to secure such, the proposal fails to secure the provision of a bus shelter on Cartwright Drive or the highway works required to form the access to the development site.

Notes for Information:

Had it not been for the overriding reasons for refusal to the proposal, the Local Planning Authority would have sought to address points e) – g) above by inviting the applicant to enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990.

(2) P/22/0330/FP - 160 SOUTHAMPTON ROAD TITCHFIELD PO14 4PP

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.

(3) P/22/0439/CU - 84 MERTON AVENUE PORTCHESTER PO16 9NH

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

A motion to refuse the application was proposed and seconded, voted on and declared LOST.

(Voting: 3 in favour; 6 against)

A motion was then proposed and seconded to accept the officer recommendation, subject to the conditions in the report and an additional condition stating that no tables and chairs are to be provided or stored on site in connection with the take away coffee shop use, was voted on and CARRIED.

(Voting: 6 in favour; 3 against)

RESOLVED that, subject to the conditions in the report and an additional condition stating that no tables and chairs are to be provided or stored on site in connection with the take away coffee shop use, PLANNING PERMISSION be granted.

(4) Planning Appeals

The Committee noted the information in the report.

(The meeting started at 2.30 pm
and ended at 4.30 pm).

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date: 15 June 2022

Report of: Director of Planning and Regulation

Subject: PLANNING APPLICATIONS AND MISCELLANEOUS MATTERS

SUMMARY

This report recommends action on various planning applications.

RECOMMENDATION

The recommendations are detailed individually at the end of the report on each planning application.

AGENDA

The meeting will take place on Wednesday 15th June 2022 at the Civic Offices, Civic Way, Fareham, PO16 7AZ. Items for Zone 1 (Sarisbury, Warsash, Park Gate, Titchfield, Titchfield Common and Locks Heath wards) and Items for Zone 2 (Fareham South, Fareham North, Fareham North-West, Fareham East and Fareham West wards) will be considered together and will start at 2.30pm.

Items for Zone 3 (Stubbington, Hill Head, Portchester East and Portchester West wards) will start no earlier than 4pm.

ZONE 1 – WESTERN WARDS

Park Gate

Titchfield

Sarisbury

Locks Heath

Warsash

Titchfield Common

REFERENCE NUMBER & WARD	SITE ADDRESS & PROPOSAL	ITEM NUMBER & RECOMMENDATION
P/21/1823/FP WARSASH	LAND TO THE SOUTH OF 79 GREENAWAY LANE WARSASH SO31 9HT ERECTION OF 6 RESIDENTIAL UNITS AND ASSOCIATED DETACHED GARAGES WITH ACCESS FROM GREENAWAY LANE VIA THE EXISTING APPROVED ACCESS TO 79 GREENAWAY LANE AND ADJACENT DEVELOPMENT	1 PERMISSION

Agenda Item 6(1)

OFFICER REPORT FOR COMMITTEE

DATE: 15/06/2022

P/21/1823/FP
MS HANSLIP

WARSASH
AGENT: PAUL AIREY PLANNING
ASSOCIATES

ERECTION OF 6 RESIDENTIAL UNITS AND ASSOCIATED DETACHED GARAGES WITH ACCESS FROM GREENAWAY LANE VIA THE EXISTING APPROVED ACCESS TO 79 GREENAWAY LANE AND ADJACENT DEVELOPMENT

LAND ADJOINING 79 GREENAWAY LANE, WARSASH

Report By

Rachael Hebden – direct dial 01329 824424

1.0 Introduction

- 1.1. This is a detailed planning application for 6 detached dwellings. It has been included on the agenda because of the location of the site within the Warsash Cluster and as a consequence of previous local interest in the site.
- 1.2. The application is on part of a site which presently enjoys outline planning permission for up to 30 dwellings (under planning reference P/18/0107/OA). Further detail is provided in section 5 (Relevant Planning History.)

2.0 Site Description

- 2.1. The application site measures 1.16 hectares and is located to the south of Greenaway Lane. The site comprises an open field which is predominantly flat with a gentle slope from the north-east corner towards the south-west.
- 2.2. A row of substantial trees fronting Greenaway Lane in addition to a treed western boundary, are covered by Tree Preservation Orders. A single detached house with access direct from Greenaway Lane is located in the centre of the field but outside of the application site. Construction has recently started on houses within plots to the east and west of no. 79 (as approved under application reference P/21/0133/RM and the Outline Planning Permission P/18/0107/OA).
- 2.3. Residential dwellings are located to the north, east and west of the application site. To the immediate south-east of the site is a private road which links Greenaway Lane to Warsash Road in the south. The Vero Industrial site is located to the south of the site.

- 2.4. The site is located outside of the defined urban settlement boundary and therefore for planning policy purposes is considered to be countryside. It is located in close proximity to Warsash local facilities.

3.0 Description of Proposal

- 3.1. Full planning permission is sought for the construction of 6, self-build, two storey dwellings with parking and soft landscaping. Access to the dwellings would be via the existing access from Greenaway Lane to no. 79 and would result in the loss of one of the approved plots fronting Greenaway Lane to accommodate the drive. The application also proposes the creation of an enhanced wildlife buffer around the south, east and western edges of the site and a wildflower meadow in the south-west of the site. Pedestrian and cycle links are proposed to the east and west of the site to provide enhanced connectivity to other developments adjoining the site.

4.0 Policies

The following policies and guidance apply to this application:

4.1 National Planning Policy Framework 2021

4.2 Adopted Fareham Borough Core Strategy

CS2 - Housing Provision

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS14 - Development Outside Settlements

CS15 - Sustainable Development and Climate Change

CS16 - Natural Resources and Renewable Energy

CS17 - High Quality Design

CS18 - Provision of Affordable Housing

CS20 - Infrastructure and Development Contributions

4.3 Adopted Development Sites and Policies Plan

DSP1 - Sustainable Development

DSP2 - Environmental Impact

DSP3 - Impact on living Conditions

DSP4 - Prejudice to adjacent land

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

DSP13 - Nature Conservation

DSP15 - Recreational Disturbance on the Solent Special Protection Areas

- 4.4 In addition to the adopted Local Plan, the emerging Fareham Local Plan 2037 has been through its examination and is therefore at a relatively advanced stage. Some weight can be applied to its emerging policies:

4.5 Revised Publication Local Plan 2037

DS1 Development in the Countryside
DS3 Landscape
H1 Housing Provision
HA1 North and South of Greenaway Lane
HP1 New Residential Development
HP5 Provision of Affordable Housing
CC2 Managing Flood Risk and Sustainable Drainage Systems
NE1 Protection of Nature Conservation, Biodiversity and the Local Ecological Network
NE2 Biodiversity Net Gain
NE3 Recreational Disturbance on the Solent Special Protection Areas (SPAs)
NE4 Water Quality Effects on the SPAs, SACs and Ramsar Sites of the Solent
NE6 Tress Woodland and Hedgerows
NE9 Green Infrastructure
TIN2 Highway Safety and Road Network
D1 High Quality Design and Placemaking
D2 Ensuring Good Environmental Conditions
D3 Coordination of Development and Piecemeal Proposals
D4 Water Quality and Resources
D5 Internal Space Standards

4.6 Other Documents:

Fareham Borough Design Guidance Supplementary Planning Document
(Excluding Welborne) 2015
Planning Obligation SPD for the Borough of Fareham (excluding Welborne)
(April 2016)
Residential Car and Cycle Parking Standards SPD 2009

5.0 Relevant Planning History

5.1 The following planning history is relevant:

This application site forms part of a wider site approved for Outline Planning Permission (reference P/18/0107/OA) for up to 30 dwellings on 20th January 2021. A reserved matters application for the first phase of development comprising 6 dwellings fronting Greenaway Lane (application reference P/21/0133/RM) was also approved on 21st April 2021. This application comprises the land to the south of the first phase of development. It has been submitted as a full planning application rather than a reserved matters application as it proposes access from Greenaway Lane rather than from Lockwood Road (as previously proposed in application reference P/21/0133/RM.)

5.2 This alternative application with fewer dwellings is proposed because the applicant has been unable to secure vehicular access across the track in order to connect the site with Lockwood Road. The number of dwellings has also been reduced in order to ensure no net loss in biodiversity within the site.

5.3 The following applications within the wider area are also of relevance:

P/19/0313/RM Land to the east of Brook Lane and South of Brookside Drive. Reserved matters application pertaining to layout, scale, appearance and landscaping for the construction of 85 dwellings and associated infrastructure, open space, landscape and other associated development works, pursuant to outline planning permission P/16/1049/OA. Approved 23.2.22

P/17/0845/OA Land to the east of Brook Lane. Outline application for up to 180 dwellings land to the East of Brook Lane, Warsash. Resolution to grant permission subject to completion of the legal agreement.

P/17/0752/OA Land East of Brook Lane, North of Warsash Road Outline application for up to 140 dwellings, land east of Brook Lane, North of Warsash Road. Approved 17.2.21

P/21/0300/RM Land East of Brook Lane and North of Warsash Road Warsash Reserved Matters Major application pertaining to layout, scale, appearance and landscaping for the construction of phase 1, 76 dwellings together with associated parking, open space, landscaping and other infrastructure and development works, pursuant to Outline Planning Permission P/17/0752/OA

P/18/0756/OA Land between and to the rear of 56-66 Greenaway Lane Warsash. Outline application for up to 28 dwellings together with associated landscaping, amenity space, parking and a means of access from Greenaway Lane. Appeal allowed 2.12.21

6.0 Representations

6.1. Eight representations have been received from 7 households.

Of these representations, 5 support the application and raise the following points:

- The proposed development is appropriate to the character of the area
- The decreased density is preferable
- Less traffic compared to the previously approved application
- Additional biodiversity in the wild-flower meadow
- Provision of homes suitable for families
- The proposed application provides the opportunity for families to build their own homes

6.2. The remaining 3 representations object to the application and raise the following concerns:

- Access onto Greenaway Lane is not in accordance with policy HA1
- Loss of habitat
- The data used to support the application is out of date

6.3. PETITION (signed by 2,390 people)

Members attention is also drawn to the fact that a petition has been received in response to the previous draft local plan consultation. It is titled "STOP the building of 1500 new homes in Warsash, Locks Heath, Park Gate and Titchfield Common" and includes the following Statement:

We the undersigned petition the Council to Stop the building of 1500 new homes in Warsash, Locks Heath, Park Gate and Titchfield Common. Whilst it is appreciated that the task is not an easy one, there are many sites that we believe the council should be looking at that are more suitable than Warsash and the Western Wards, such as Newlands Farm. We also request that FBC look at SHLAA Ref 3127 and the surrounding area of Fareham north and east of the town centre. This appears to be a prime location as it already has direct access to the motorway and easy access to the public transport links in Fareham town centre and three senior schools. Fareham centre is also an ideal place for leisure facilities and has space for doctors etc. to service the needs of any new houses. It would inject a new lease of life into what is already an established but underused town that is essentially being allowed to slide into disrepair.

Justification:

Below are the sites that we are protesting about.

- HA1 - North and South of Greenaway Lane, Warsash - 700 dwellings
- HA3 - Southampton Road, Titchfield Common - 400 dwellings
- HA7 - Warsash Maritime Academy, Warsash -100 dwellings
- HA9 - Heath Road, Locks Heath- 71 dwellings
- HA11 - Raley Road, Locks Heath- 49 dwellings
- HA13 - Hunts Pond Road, Titchfield Common- 38 dwellings
- HA14 - Genesis Community Youth Centre, Locks Heath - 35 dwellings
- HA15 - Beacon Bottom West, Park Gate -30 dwellings
- HA17 - 69 Botley Road, Park Gate -24 dwellings
- HA19 - 399 - 409 Hunts Pond Road, Titchfield Common- 22 dwellings

Traffic in this area is already at a gridlock during peak hours and since the new Strawberry Fields, Hunts Pond and Coldeast developments it has doubled the time for people to get to work. Improvements on major roads and motorways will try and ease congestion but it's not satisfactory as residents will not be able to actually get to these major roads. Local roads such as Brook Lane, Osborne Road, Warsash Road and Barnes Lane cannot be made wider, they were built to service the traffic and community of small villages and the resulting influx of 3000+ cars in such a small square area will lead to more accidents. Warsash specifically is on a peninsular and the only roads in and out are Brook Lane and Warsash Road. Emergency vehicles will be unable to ensure safe response times - during rush hour it is likely they will not have space to get to their destination. The consequences will be catastrophic.

Flooding is inevitable especially with recent climate changes; residents in local back garden developments are already experiencing this. Fareham is presently in trouble for poor air quality due to the amount of rush hour traffic. Bring another 3000+ cars in to the Western Wards and there will be more cases of asthma, lung

disease and related illnesses - all for the surgeries with not enough resources to treat. Doctors, schools, hospitals and emergency services are already stretched to breaking point. If the plans go ahead there will be hundreds of children needing school places. New schools might take pressure off the overcrowded ones - then the influx of new children will put it back on again. Children walking to Brookfield already face a perilous journey due to the amount of traffic on Brook Lane.

Brook Lane, Lockswood, Jubilee and Whiteley surgeries struggle to cope with the amount of patients they have. They wait an unacceptable amount of time for routine appointments (1 month plus) and often have very long waits when they get to there (30 minutes plus). Emergency appointments are becoming harder to book as there are not enough doctors or time. The very young, elderly and chronically ill are already vulnerable and bearing the brunt of this - add another 1,500 homes and these overstretched surgeries will be at crisis point. There will be an increased need for care homes, for which there is just no space. Residents' health will be at risk and possibly their lives.

Warsash is a place of outstanding natural beauty and home to precious wildlife such as badgers, bats and deer. The greenfield land proposed as the area for development also provides a defined strategic gap from neighbouring villages. Residents have the right to breathe clean air, have facilities, space and sufficient infrastructure and the assurance that emergency vehicles have access and can meet response times in life threatening situations. We genuinely fear for the health and safety of people in the Western Wards.

7.0 **Consultations**

EXTERNAL

7.1 Southern Water

SUDS are not adoptable by sewerage undertakers, therefore the applicant will need to ensure that arrangements exist for their long-term maintenance.

An informative should be included to advise the applicant that a formal application is required for connection to the public sewerage system. The Lead Local Flood Authority need to confirm the acceptability of discharging surface water drainage into a watercourse.

7.2 HCC Highways

No objection subject to conditions.

7.3 Natural England

A Habitats Regulations Assessment (HRA) detailing potential impacts on designated sites and any measures taken to mitigate them is required.

Officer comment: An HRA has been completed and Natural England have been reconsulted. Natural England's comments on the HRA are outstanding.

INTERNAL

7.4 Public and Open Spaces

No objection

7.5 Environmental Health-Pollution

No objection

7.6 Ecology

No objection subject to conditions.

7.7 Environmental Health – Contamination

No objection subject to a condition requiring works to cease if any contamination not accounted for in the remedial statement is encountered.

7.8 Housing

A financial contribution in lieu of on-site provision of affordable housing is acceptable, however it should be 40% rather than 30% as this site forms part of a wider site.

7.9 Refuse and Recycling

No objection

7.10 Urban Design

No objection subject to conditions.

7.11 Trees

No objection subject to a condition.

8 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) The approach to decision making
- b) Residential development in the countryside and accessibility of the site
- c) Fareham Local Plan 2037 Policy Position
- d) Design
- e) Visual Impact
- f) Highways Impact
- g) Ecology

- h) Affordable housing
- i) Other Matters
- j) The Planning Balance

A) THE APPROACH TO DECISION MAKING

- 8.2 A report titled "Five year housing supply position" was reported to the May 2022 meeting of the Planning Committee for Members' information. That report sets out this Council's local housing need along with this Council's current housing land supply position. The report concludes that the Council has 5.08 years of housing supply against its five year housing land supply (5YHLS) requirement.
- 8.3 The starting point for the determination of this planning application is Section 38(6) of the Planning and Compulsory Purchase Act 2004: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*
- 8.4 In determining planning applications there is a presumption in favour of policies of the extant Development Plan, unless material considerations indicated otherwise. Material considerations include the planning policies set out in the NPPF.
- 8.5 Paragraph 60 of the NPPF seeks to significantly boost the supply of housing.
- 8.6 Paragraph 74 of the NPPF states that Local Planning Authorities should identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement including a buffer. Where a Local Planning Authority cannot do so, and when faced with applications involving the provision of housing, the policies of the local plan which are most important for determining the application are considered out-of-date. 'Paragraph 75 of the NPPF also states that the 'supply of specific deliverable sites should in addition include a buffer..... of 20% where there has been a significant under delivery of housing over the previous 3 years, to improve the prospect of achieving the planned supply.'
- 8.7 Paragraph 11 of the NPPF sets out what is meant by the presumption in favour of sustainable development for decision-taking, including where relevant policies are "out-of-date". It states: *"For decision-taking this means:*
- c) *Approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

8.8 Footnote 7 to paragraph 11 reads:

8.9 “The policies referred to are those in this Framework (rather than those in development plans) relating to: habitat sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; and designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal *change*.”

8.10 Footnote 8 to paragraph 11 reads (in part):

8.11 *“This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73);...”*

8.12 This planning application proposes new housing outside the defined urban settlement boundaries. Whilst the Council can demonstrate a five year housing land supply, the Housing Delivery Test results published on 14th January 2022 confirmed that 62% of the Council’s housing requirement had been delivered. This means the delivery of housing in the last three years (2018 to 2021) was substantially below (less than 75%) the housing requirement over the previous three years. Footnote 8 to NPPF paragraph 11 is clear that in such circumstances those policies which are most important for determining the application are to be considered out-of-date meaning that the presumption in favour of sustainable development in paragraph 11(d) is engaged.

8.13 Taking the first limb of NPPF paragraph 11(d), as this report sets out, in this instance there are specific policies in the NPPF which protect areas of assets of particular importance namely habitat sites which are specifically mentioned in footnote 7. Therefore, a judgement will need to be reached as to whether policies in the Framework would have provided a clear reason for refusing the development. Where this is found to be the case, the development should be refused.

8.14 The second limb of NPPF paragraph (d), namely whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole (the so called ‘tilted balance’) will only apply if it is judged that there are no clear reasons for refusing the development having applied the test at Limb 1.

8.15 Members will be mindful of Paragraph 182 of the NPPF which states that:

8.16 *“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone*

or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."

8.17 The wording of this paragraph clarifies that the presumption in favour of sustainable development set out in Paragraph 11 does not apply unless an appropriate assessment has concluded that the proposal would not adversely affect the integrity of the habitats site subject to mitigation.

8.18 The following sections of the report assesses the application proposals against this Council's adopted local planning policies and considers whether it complies with those policies or not. Following this Officers undertake the Planning Balance to weigh up the material considerations in this case.

B) RESIDENTIAL DEVELOPMENT IN THE COUNTRYSIDE AND ACCESSIBILITY OF THE SITE

8.19 Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the urban areas. Policy CS6 (The Development Strategy) goes on to say that development will be permitted within the settlement boundaries. The application site lies within an area which is outside of the defined urban settlement boundary.

8.20 Policy CS14 of the Core Strategy states that:

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

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

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

8.24 The site is close to rather than immediately adjacent to the urban settlement boundary, however members will be aware of a number of applications that have been approved for residential development between the site and the urban settlement boundary which will ensure that the site is well integrated into the neighbouring development. The site is also near to leisure and community facilities, schools and shops with improved pedestrian and cycling links secured within the recently approved planning applications that link the site to the urban settlement boundary. The proposal is therefore considered to be in a sustainable

location with pedestrian and cycle links to local services and facilities in the nearby urban settlement.

C) FAREHAM LOCAL PLAN 2037 POLICY POSITION

8.25 National planning policy allows Council's to give appropriate weight to relevant policies in emerging plans according to the stage of preparation of the plan, the extent to which there are unresolved objections and the degree of consistency with the NPPF (para 48 NPPF). Members will be aware that the Publication version of the Fareham Local Plan which addresses the Borough's development requirements up until 2037 is currently being examined by the Planning Inspector. The site of this planning application is within a wider allocation for housing with an indicative yield of 824 dwellings within the Revised Publication Local Plan (Policy HA1). A number of background documents and assessments support the proposed allocated of the site in terms of its deliverability and sustainability which are of relevance, however a number of representations have been submitted both in support of and objecting to the policy therefore Officers consider that full weight cannot be given to this policy in the assessment and determination of this application.

D) DESIGN

8.26 The application proposes 6 detached dwellings of which plots 1-3 would each have 4 bedrooms and plots 4-6 would each have 5 bedrooms. Each of the dwellings would also benefit from a detached double garage in addition to on-site car parking. Each of the dwellings exceeds the Nationally Described Minimum Space Standards and would benefit from generously sized rear gardens to provide private amenity space.

8.27 The application contains 3 house types which are all of a traditional design and would contain slight variations to provide an element of variety. The dwellings in plots 5 and 6 contain windows in the side elevations facing the wild-flower meadow to provide natural surveillance of the open space.

8.28 The materials palette for each of the proposed dwellings includes red/brown brick at ground floor level, cream render at first floor level and red handmade clay roof tiles. The fenestration would be dark grey and the balconies would have oak frames. The garages would have red handmade clay roof tiles and would be clad with douglas fir, waney edged timber boards.

8.29 The size, position and orientation of the proposed buildings would be compatible with no. 79 and the approved built form of the dwellings to the east and west of no. 79. The size, position and design of the proposed dwellings also responds positively to the established character of Greenaway Lane and is therefore considered to accord with policy CS17.

E) VISUAL IMPACT

8.30 The site is not located with a designated strategic gap. It is however, located within designated countryside where Policy CS14 of the adopted Fareham Borough Core

Strategy confirms that built development will be strictly controlled to protect it from development which would "adversely affects its landscape character, appearance and function".

- 8.31 In assessing the impact on the landscape character of the area, due regard has been given to The Fareham Landscape Assessment 2017 (which is part of the evidence base for the Revised Publication Fareham Local Plan 2036). The site lies within the Lower Hamble Valley (LCA2), Warsash Nurseries and is of lower sensitivity mainly because the character and quality of the landscape has been adversely affected by urban influences. The landscape is more tolerant of change and there is scope for development to bring about positive opportunities.
- 8.32 The site is currently viewed from adjoining residential properties in Greenaway Lane, properties served off the access track on the eastern boundary of the site and commercial premises to the south of the site. It is acknowledged that there will be a change in the character of the site when viewed from the immediate vicinity and that the outlook from nearby properties would change if the proposal were to go ahead. Officers are however satisfied that the proposed dwellings have been sensitively designed to reflect the local vernacular in particular the 6 houses approved to the north of the site.
- 8.33 Officers acknowledge that the provision of 6 dwellings as opposed to the 24 previously approved in this location does not make such efficient use of the land, however the reduction in numbers better reflects the spacious layout of both the approved self-build plots fronting Greenaway Lane and the existing pattern of development in Greenaway Lane. It is also of relevance to note that there have been several letters submitted that support the reduction from up to 24 dwellings to 6. Officers therefore consider that the provision of 6 dwellings in this location would be appropriate in its context and that the change in character would primarily have a localised visual impact that would be no greater than that of the previously approved application.
- 8.34 The visual impact from longer distance views would be limited due to existing built form and vegetation. The proposal would therefore satisfy policies CS17 and DSP1.

F) HIGHWAYS IMPACT

- 8.35 Concerns have been raised regarding the impact of the increased traffic on Greenaway Lane given that the development previously approved would have been accessed via Lockwood Road as indicated in policy HA1 of the Revised Publication Local Plan.
- 8.36 Policy HA1 of the Revised Publication Local Plan states that primary highway access for sites in the Warsash cluster should be focused on Brook Lane and Lockwood Road with limited access via Greenaway Lane and the plan is annotated to show an 'indicative secondary vehicular link road' to the site from Lockwood Road via the track to the east of the site. The applicant has however been unable to secure access rights across the track to the east of the site therefore the secondary vehicular access to the site via Lockwood Road is no

longer proposed. The application seeks instead to provide only 1 vehicular access to the site from Greenaway Lane via the access already approved for the 6 houses fronting Greenaway Lane.

- 8.37 The masterplan that accompanies policy HA1 includes an 'indicative principal vehicular access' to the site from Greenaway Lane. The Highways Authority has reviewed the application and is satisfied that the existing access onto Greenaway Lane can accommodate the proposed 6 dwellings. Officers are also satisfied that sufficient on-site parking and turning can be provided to comply with adopted policy.
- 8.38 Members will also be aware of the allowed appeal for 28 dwellings to the north of Greenaway Lane (application reference P/18/0756/OA). Each application is assessed on its own merits however the appeal is a material consideration and the Inspector's assessment of the impact of traffic on the safety and character of Greenaway Lane is particularly relevant given its close proximity to this site.
- 8.39 For the appeal proposal due north of the site Members were concerned about the lack of pavements and limited street lighting on Greenaway Lane however the Inspector concluded that the lane has good visibility and generous width with areas of verge that would serve as places for refuge that would allow pedestrians to step off the road surface if necessary. The Inspector also concluded that: *"...the evidence before me suggests that the resulting level of traffic would remain low and the road has the characteristics that mean that it would remain safe for cyclists and pedestrians to use the main area of carriageway. The road would continue to carry only local vehicular traffic and drivers would be naturally cautious of hazards arising from vehicles and pedestrians emerging from numerous domestic accesses."* The proposed additional 6 dwellings would not significantly increase the number of vehicles using the Lane to such an extent that interventions would be required or that the character would be materially changed.
- 8.40 Officers consider that, for this proposal, the provision of pedestrian and cycle links to the east and west of the site will enable good connectivity to the east and west via footpaths that promote sustainable travel methods other than the private car and potentially reduces the need for residents to exit the site onto Greenaway Lane via the vehicular access.
- 8.41 With regard to third party concern over the impact of the proposed development on the local highway network, the Highway Authority is satisfied that the additional traffic generation would not adversely affect the safety and operation of the strategic and local road network.
- 8.42 Turning to the impact of construction vehicles on Greenaway Lane, a planning condition is recommended for details to be agreed in respect of how construction vehicles will access the site, how provision is to be made on site for the parking and turning of operatives and delivery vehicles and the area to be used for the storage of building materials as well as a condition to prevent spoil and mud being deposited on the public highway.

8.43 Taking account of the above, Officers are satisfied that the proposal would not have any unacceptable amenity or traffic implications and would therefore comply with Policy CS5 of the Core Strategy.

G) ECOLOGY

8.44 The application proposes a reduction from the 24 dwellings previously approved down to six to ensure no net loss in biodiversity. (Development that results in a loss of biodiversity within the site can be mitigated by off-site enhancements, on the basis that off-site mitigation land can be secured in perpetuity.) The application is also supported by an Ecological Assessment which contains measures designed to minimise the impact on protected species.

8.45 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. In light of their importance, areas within The Solent have been specially designated under UK 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).

8.46 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 Habitat sites 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 Habitat sites. This is done following a process known as an Appropriate Assessment. The Competent Authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The Competent Authority is the Local Planning Authority.

8.47 The Council has completed an Appropriate Assessment to assess the likely significant effects of the development on the HS. The key considerations for the assessment of the likely significant effects are set out below.

8.48 Firstly, 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. The appropriate financial contribution towards The Solent Recreational Mitigation Partnership Strategy's mitigation solution can be secured via a legal agreement.

8.49 Natural England have also advised that the development's location within a 13.8km radius of the New Forest designated sites also requires mitigation. In order to mitigate the impact of increased recreational disturbance in combination with other development on the New Forest designated sites the applicant has also provided the appropriate financial contribution towards the Council's interim Mitigation Solution on New Forest Recreational Disturbance. The Appropriate

Assessment therefore concludes that the proposals would not have an adverse effect on the integrity of the HS as a result of recreational disturbance either alone or in combination with other plans or projects.

- 8.50 Secondly 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 are existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the PS.
- 8.51 A nitrogen budget has been calculated in accordance with Natural England's 'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region' (March 2022) which confirms that the development will generate 7 kg/TN/year. 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 people in line with the NE advice. The existing use of the land for the purposes of the nitrogen budget is considered to be for grazing horses. 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.
- 8.52 The applicant has purchased 27 nitrate mitigation 'credits' from the Hampshire and Isle of Wight Wildlife Trust. Through the operation of a legal agreement between the HIWWT, Isle of Wight Council and Fareham Borough Council dated 30th September 2020m, the purchase of the credits will result in a corresponding parcel of agricultural land (1.16 hectares) 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.
- 8.53 The Council has concluded within an Appropriate Assessment 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. The difference between the credits and the output will result in no increase in the amount of nitrogen entering The Solent. Natural England has been consulted on the Council's Appropriate Assessment and although their comments are outstanding, they have endorsed the principle of using nitrate credits to off-set nitrate production from new development.
- 8.54 The proposal is therefore considered to accord with the Habitat Regulations and complies with policies CS4 and DSP13 of the adopted Local Plan

H) AFFORDABLE HOUSING

- 8.55 Policy CS18 of the adopted Local Plan requires the provision of 40% affordable housing on sites of 15 or more dwellings. Policy HP5 of the emerging plan also states that greenfield sites that can accommodate 10 or more dwellings or sites with an area of 0.5 hectares or more shall provide 40% affordable housing. The

site is capable of accommodating more than 15 dwellings therefore policy CS18 requires the provision of 40% affordable housing. The applicant proposes a financial contribution towards the provision of off-site affordable housing (of the equivalent to 40%) in lieu of on-site provision. The financial contribution can be secured via a legal agreement. Fareham Housing have raised no objection to the proposed contribution in lieu of on-site provision and the proposal complies with the requirements of the adopted and emerging affordable housing policies therefore the proposal is considered to be appropriate.

I) OTHER MATTERS

8.56 Self-Build

8.57 The application proposes 6 houses that will be sold as plots to individuals who wish to build their own homes. Paragraph 60 of the NPPF states that the needs of groups with specific housing requirements (such as those who wish to build their own homes) are addressed. Policy HP9 of the Revised Publication Local Plan also promotes the provision of self-build dwellings however it is not applicable in this case as it relates to the provision of self-build houses in the urban area or to the provision of sites of 40 or more dwellings. The provision of self-build houses is not required in this instance, but it is desirable as it will help meet the demands of those on the Council's Self Build Register.

8.58 Loss of Agricultural Land

8.59 Parts of the site are classified as Grade 1 and 2 agricultural land which CS16 seeks to prevent the loss of. Paragraph 170(b) of the National Planning Policy Framework advises that planning decisions should contribute to and enhance the natural and local environment by (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services -including the economic and other benefits of the best and most versatile agricultural land.

8.60 The conflict with Policy CS16 needs to be considered in context with advice within the NPPF which does not place a bar on the development of best and most versatile agricultural land. Therefore, the development opportunity needs to be balanced against the potential harm. Taking account of the site size, the scale of permanent loss would be limited. The loss of agricultural land will be discussed further in the planning balance section of this report.

8.61 Drainage and Flood Risk

8.62 Third party representations have raised concerns regarding drainage and flood risk however the application is supported by a surface water drainage strategy that has been reviewed by the Lead Local Flood Authority who have confirmed that it is appropriate.

J) THE PLANNING BALANCE

- 8.63 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the starting point for the determination of planning applications:
- 8.64 *“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.*
- 8.65 As set out in paragraph 8.31 above, paragraph 182 of the NPPF states that:
- 8.66 *“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats sites (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.*
- 8.67 Officers have carried out an Appropriate Assessment that concludes that the proposed development would not have an adverse effect on the integrity of any habitats sites therefore the presumption in favour of development, known as the ‘tilted balance’ is applied.
- 8.68 Given that the policies of the local plan must be considered out-of-date by virtue of the Housing Delivery Test results, the application must be determined in accordance Paragraph 11(d).
- 8.69 Part I of Paragraph 11 (d) states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Having carried out an Appropriate Assessment Officers do not consider that there are any clear reasons for refusing the development (subject to the incorporation of conditions to secure habitat mitigation and to ensure no likely significant effect on the Protected Sites in the Solent) therefore part i) of Paragraph 11 d is met and the application falls to be determined under part ii).
- 8.70 Part ii of Paragraph 11(d) states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.
- 8.71 In terms of adverse impacts, the site is outside of the defined urban settlement boundary and the proposed development does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would therefore be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan. The development would also result in the loss of grade 1 and 2 agricultural land.
- 8.72 In terms of benefits, the proposal would be within the same site of the previously approved application for up to 30 dwellings and would have a limited urbanising impact given the existing soft landscaping which screens much of the site from

view beyond Greenaway Lane. Officers consider that the change in character of the site and the resulting visual effect would not cause any substantial harm.

- 8.73 The application would also be adjacent to and well related to existing and approved residential development and it would be sustainably located with pedestrian and cycle routes to facilities and amenities in Warsash. The proposal would deliver a net increase of 5 dwellings in the short term (6 dwellings are proposed, however one of the dwellings fronting Greenaway lane that was previously approved would be sacrificed to provide access therefore providing a net increase of 5) together with a contribution towards off-site Affordable Housing. The site is also allocated for development under emerging policy HA1 of the Revised Publication Local Plan. Although limited weight can be given to policy HA1 at this stage, Officers consider that the proposed development would be in accordance with the accompanying masterplan and that the proposed access onto Greenaway Lane would result in a limited increase in traffic that does not require any alterations to the highway and would not materially alter the character of the Lane.
- 8.74 In undertaking a detailed assessment of the proposals throughout this report and applying the *'tilted balance'* to those assessments, Officers consider that:
- 8.75 (i) There are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposal, particularly when taking into account that any significant effect upon Special Protection Areas can be mitigated through a financial contribution towards the Solent Recreation Mitigation Strategy and the impact of nitrogen loading on The Solent can be adequately mitigated; and
- 8.76 (ii) Any adverse impacts of granting planning permission (including the loss of grade 1 and 2 agricultural land) would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the National Planning Policy Framework taken as a whole.
- 8.77 Having carefully considered all material planning considerations, Officers recommend that planning permission should be granted subject to consideration of any comments received from Natural England and the imposition of appropriate planning conditions.

Recommendation

DELEGATE to the Head of Development Management, in consultation with the Solicitor to the Council, to consider any comments received from Natural England relating to the consultation on the Appropriate Assessment and make any minor modifications to the proposed conditions, addition of conditions or any other subsequent minor changes arising as a result of Natural England's comments regarding the Appropriate Assessment;

Then;

complete a s106 legal agreement to secure

- a) A financial contribution to secure 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 Coastal Special Protection Areas.
- b) A financial contribution equivalent to the value of 40% of on-site affordable housing towards off-site provision
- c) Pedestrian and Cycle Connectivity to the east and west;
- d) The creation and retention of ecology buffers on the site prior to occupation of any dwelling;
- e) The creation of a management company to monitor and manage the ecology buffers for the lifetime of the development
- f) The creation of a management company to monitor and manage the wildflower meadow for the lifetime of the development (in the event that the land is not offered to the council for adoption)..
- g) Mechanism for securing appropriate funding of the management company for the lifetime of the development
- h) Mechanism for ensuring collection and enforcement of the funding stream provided in f) above to fund the monitoring and management of the communal areas of the development for the lifetime of the development
- i) Commuted sums towards management of the open space and any trees within the open space in the event that the public spaces are adopted by the Council

Then:

GRANT PLANNING PERMISSION, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiry of 3 years from the date of this decision.

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

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

Location Plan Drawing no. 170809/LO Rev A

Site layout Drawing no. 170809/SL01/PL Rev K

Site layout (including electric vehicle charging locations)

Site layout (including location of lighting)

Phasing Plan Drawing no. 170809/SL06/PP

House type A plans and elevations Drawing no. 170809/HT/A/EP Rev B

House type B plans and elevations Drawing no. 170809/HT/B/EP Rev A

House type C plans and elevations Drawing no. 170809/HT/C/EP Rev D

Garage plans and elevations Drawing no. 170809/HT/GAR Rev A

Landscaping Drawing no DD530L02 Rev A

Landscaping Drawing no DD530L03

Landscaping Drawing no DD530L04

Landscaping Drawing no DD530L05

Landscaping Drawing no DD530L06

Landscaping Drawing no DD530L07

Landscaping Drawing no DD530L08

Landscaping Drawing no DD530L09

Landscaping Drawing no DD530L10

Materials Schedule dated 15.10.21

Assessment of Water consumption dated October 2021

Ecological Assessment Issue number 2 (produced by Peach Ecology)

Biodiversity Net Gain Enhancement Plan Issue number 2 (produced by Peach Ecology)

Arboricultural Impact Assessment & Tree Survey reference J893.07 dated February 2018

Flood Risk and Drainage Strategy Technical Note Issue 3 dated September 2021 (Stuart Michael Associates)

Drainage strategy Drawing no. 6778.400 Rev E

Surface water discharge method statement

Porous car parking calculations

Surface water drainage strategy

Proposed drainage strategy

Arboricultural impact assessment and method statement Ref AAAIA79 GR dated 18th March 2022

Lucande lighting specification

Wallpod Rolec EV charging specification 1

Quebev Electric Vehicle Charging specification 2

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

3. The development shall be constructed in accordance with the Phasing Plan Drawing no. 170809/SL06/PP. Phase 1 must be completed before the commencement of any subsequent phases. Notwithstanding the numbering of the subsequent phases (2-7) these phases may be commenced in any order.

REASON: To ensure that adequate access is provided to the plots.

4. The development shall be carried out in accordance with the measures contained within the Arboricultural impact assessment and method statement Ref AAAIA79 GR dated 18th March 2022.

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.

5. The development shall be carried out in accordance with the measures contained within the Ecological Assessment Issue number 2 (produced by Peach Ecology) and the Biodiversity Net Gain Enhancement Plan Issue number 2 (produced by Peach Ecology) and shall be subsequently retained in accordance with the details in both documents thereafter.

REASON: To ensure that protected species are not harmed and that habitat is enhanced as a result of the proposed development.

6. The development shall be carried out in accordance with the Lucande lighting specification and shall be subsequently retained in accordance with the specification thereafter.

REASON: To ensure that protected species are not harmed and that habitat is enhanced as a result of the proposed development.

7. No development shall take place until details of the type of construction proposed for the roads and access and the method of disposing of surface water have been submitted to and approved by the local planning authority in writing. The development shall be built in accordance with the approved details.

REASON: To ensure that the roads are constructed to a satisfactory standard; in accordance with Policies CS5 and CS17 of the Fareham Borough Core Strategy.

8. The development shall be undertaken in accordance with the Flood Risk and Drainage Strategy Technical Note Issue 3 dated September 2021 (Stuart Michael Associates), the Surface water discharge method statement, the Surface water drainage strategy and the Drawing no. 6778.400 Rev E and shall be retained in accordance with the approved details thereafter.

REASON: To ensure that appropriate drainage is provided.

9. The hard and soft landscaping works as approved under Landscaping Drawing no's: DD530L02 Rev A, DD530L03, DD530L04, DD530L05, DD530L06, DD530L07, DD530L08, DD530L09 and DD530L10 shall be implemented in full within the first planting season following occupation of the dwelling to which the landscaping relates 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.

10. The development shall be undertaken in accordance with the Materials Schedule dated 15.10.21.

REASON: In the interests of the visual amenities of the area.

11. The development shall be carried out in accordance with the measures contained in the approved Construction Environment Management Plan.

REASON: In the interests of highway safety and to protect the amenities of the neighbouring properties during the construction period.

12. If, during any stage of the works, unexpected ground conditions or materials which suggest potential contamination are encountered all development shall stop on site in the affected area. An investigation and risk assessment of the identified ground conditions shall be undertaken and details of the findings, along with a detailed remedial scheme, must be submitted to and approved in writing by the Local Planning Authority before work can re-commence in the affected area. The development will subsequently be undertaken in accordance with the approved details.

Prior to the occupation of any of the dwellings hereby permitted in the affected area the remediation scheme shall be fully implemented and details of as built records and photographic records of the construction shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure any potential contamination found during construction is properly taken into account and remediated where required.

13. No dwelling erected on the site subject to this planning permission shall be first occupied until there is a direct connection from it, less the final carriageway and

footway surfacing, to an existing highway. The final carriageway and footway surfacing shall be commenced within three months and completed within six months from the date upon which erection is commenced of the penultimate building/dwelling for which permission is hereby granted. The roads and footways shall be laid out and made up in accordance with the approved specification, programme and details.

REASON: To ensure that the roads and footways are constructed in a satisfactory manner; in accordance with Policies CS5 and CS17 of the Fareham Borough Core Strategy.

14. No dwelling shall be occupied until the approved parking and turning areas 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 made for that purpose.

REASON: In the interests of highway safety; in accordance with Policies CS5 and CS17 of the Fareham Borough Core Strategy.

15. No dwelling shall be occupied until an electric vehicle charging point has been provided for that dwelling in accordance with the approved specifications (Wallpod Rolec EV charging specification 1 or Quebev Electric Vehicle Charging specification 2.) These charging points shall thereafter be retained for the charging of cars.

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.

16. The development shall be undertaken in accordance with the details contained within the Assessment of Water consumption dated October 2021.

REASON: In the interests of preserving water quality and resources.

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

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

18. No materials obtained from site clearance or from construction works shall be burnt on the site.

REASON: To protect the amenities of the nearby residents; in accordance with Policy DSP2 of the Local Plan Part 2: Development Sites and Policies 2015.

INFORMATIVES

Applicants should be aware that, prior to the commencement of development, contact must be made with Hampshire County Council, the Highway Authority. Approval of this planning application does not give approval for the construction of a vehicular access, which can only be given by the Highway Authority. Further details regarding

the application process can be read online via <http://www3.hants.gov.uk/roads/apply-droppedkerb.htm> Contact can be made either via the website or telephone 0300 555 1388.

A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House,

Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructurecharges>.

The development hereby permitted is subject to The Community Infrastructure Levy (CIL). The payment is due before development commences and the parties liable to pay the charge will receive a Liability Notice shortly to explain the amount due and the process thereafter. Further details about CIL can be found on the Council's website on the following link:

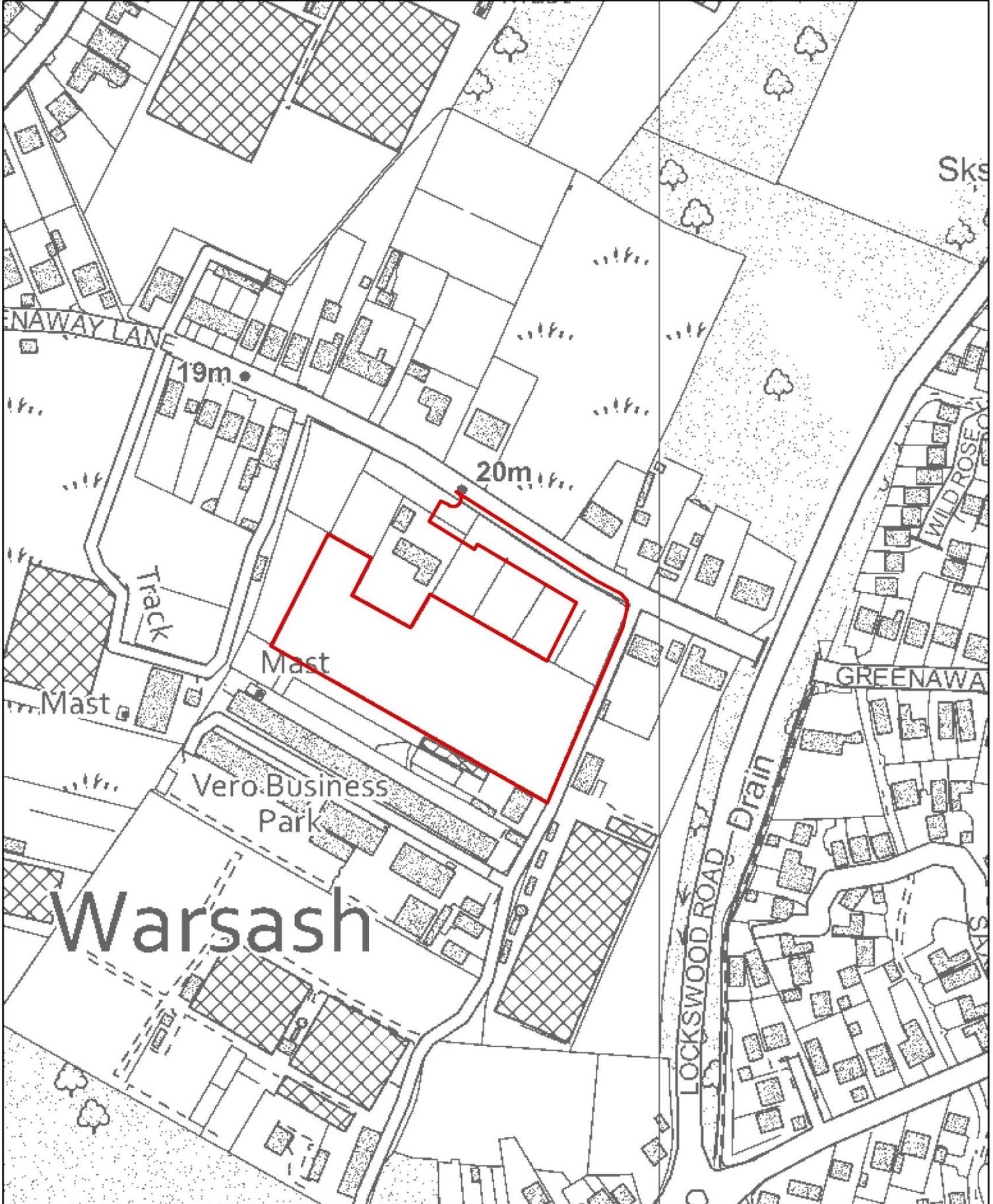
http://www.fareham.gov.uk/planning/local_plan/ciladopt.aspx

BACKGROUND PAPERS

P/21/1823/FP

FAREHAM

BOROUGH COUNCIL



Land South of 79 Greenaway Lane
Warsash
Scale 1:2,500



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<p>ZONE 2 – FAREHAM</p> <p>Fareham North-West</p> <p>Fareham West</p> <p>Fareham North</p> <p>Fareham East</p> <p>Fareham South</p>

REFERENCE NUMBER & WARD	SITE ADDRESS & PROPOSAL	ITEM NUMBER & RECOMMENDATION
P/22/0571/FP FAREHAM EAST	97-99 WEST STREET FAREHAM PO16 0AS CHANGE OF USE OF FIRST FLOOR TO PLACE OF WORSHIP (USE CLASS F1) & ASSOCIATED FIRST FLOOR REAR EXTENSION AND EXTERNAL ALTERATIONS TO FORM GROUND FLOOR ENTRANCES FROM WEST STREET AND WESTBURY ROAD	2 PERMISSION
P/19/0894/OA FAREHAM EAST	LAND EAST OF NORTH WALLINGTON FAREHAM OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT FOR ACCESS) FOR RESIDENTIAL DEVELOPMENT OF UP TO 29 DWELLINGS, ASSOCIATED LANDSCAPING AND ACCESS OFF NORTH WALLINGTON ROAD	3 REFUSE

Agenda Item 6(2)

OFFICER REPORT FOR COMMITTEE

DATE: 15/06/2022

P/22/0571/FP
KENSINGTON PROPERTIES
SOUTHERN LTD

FAREHAM EAST
AGENT: PLC ARCHITECTS

CHANGE OF USE OF FIRST FLOOR TO PLACE OF WORSHIP (USE CLASS F1)
& ASSOCIATED FIRST FLOOR REAR EXTENSION AND EXTERNAL
ALTERATIONS TO FORM GROUND FLOOR ENTRANCES FROM WEST STREET
& WESTBURY ROAD

97-99 West Street, Fareham

Report By

Susannah Emery – direct dial 01329 824526

1.0 Introduction

This application is being presented to the Planning Committee due to the number of third-party representations received.

2.0 Site Description

- 2.1 The application site lies within the urban area and the Fareham Town Centre boundary. It also falls within the primary shopping area.
- 2.2 The commercial unit occupying the site is a two storey building used for retail (Use Class E) purposes. The ground floor was historically occupied by Argos although more recently it has been occupied by a furniture store. The first floor has been used for storage and staff facilities.
- 2.3 The site is located on the corner of West Street and Westbury Road. Westbury road is a narrow road subject to parking restrictions on both sides which provides access only to a small number of buildings including Moresby Court retirement housing and Westleigh Dental Practice. Beyond these buildings the road narrows to just a public footpath with a public right of way extending along the entire length of the road/footpath.
- 2.4 To the rear of the building is a service yard and loading/unloading area for the retail unit which is shared with the adjacent commercial units occupied by Stones Café and McDonalds. There is ample space in this area for bin storage.

3.0 Description of Proposal

- 3.1 Planning permission is sought for a change of use of the first floor of the building to a Place of Worship (Use Class F1).
- 3.2 It has been confirmed that the place of worship would initially be a Mosque for the Muslim community although any planning permission granted would not be specific in this respect.
- 3.3 The proposed first floor extension would measure 4.7m in depth and 11.4m in length and would extend over part of the central flat roof element of the building which is enclosed on three sides by the existing first floor accommodation and by the adjacent building to the west. This extension would therefore not be visible from the public realm.
- 3.4 There would be minimal change to the external appearance of the building however two separate entrances would be formed to the first floor independent of the ground floor use. One would be located on the front elevation on West Street and one approximately midway along the eastern elevation on to Westbury Road. The two access/egress points are required to comply with building regulations in terms of a means of escape.
- 3.5s The existing ground floor retail unit would be retained.

4.0 Policies

- 4.1 The following policies apply to this application:

Adopted Fareham Borough Core Strategy

CS5: Transport Strategy and Infrastructure

CS6: The Development Strategy

CS7: Development in Fareham

CS15: Sustainable Development and Climate Change

CS16: Natural Resources and Renewable Energy

CS17: High Quality Design

Adopted Development Sites and Policies

DSP1: Sustainable Development

DSP2: Environmental Impact

DSP3: Impact on Living Conditions

DSP21: Primary Shopping Area

DSP23: Making the Most Effective Use of Upper Floors

5.0 Relevant Planning History

- 5.1 The following planning history is relevant:

P/19/1202/FP

Refurbish Building & Addition of Second Floor &
Conversion of First Floor to provide 4 x 2- Bed
Dwellings and 5 x 1 Bed Dwellings

Undetermined

6.0 Representations

6.1 Four representations have been received (including a petition from the residents of Moresby Court signed by 52 residents) raising the following concerns;

- Increased illicit parking at Moresby Court
- Detrimental to highway/pedestrian safety with additional vehicles using Westbury Road
- Vehicles park on the double yellow lines and obstruct Westbury Road
- There are enough places of worship in Fareham
- Noise

7.0 Consultations

INTERNAL

Environmental Health

7.3 In relation to the proposed activity and estimated usage/footfall this is not considered likely to have an adverse effect on the amenity of the area. Planning conditions should be imposed to restrict amplified sound/voice and music between 18:00hrs and 08:00 daily to prevent any nuisance to nearby neighbours should activities change. There should also be no access to the flat roofed area for gatherings or prayer.

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 Character and Appearance of the Area
- c) Impact to Living Conditions of Neighbouring Properties
- d) Highways

a) Principle of Development

8.2 The aim of Policy DSP21 (Primary Shopping Area) of the Fareham Borough Local Plan Part 2: Development Sites & Policies is to protect ground floor retail uses within the primary shopping area within Fareham Town Centre to

ensure that the vitality and viability of the town centre is not undermined. The proposal would retain the existing ground floor retail use.

- 8.3 Policy DSP23 of the Local Plan Part 2: Development Sites & Policies seeks to encourage the most efficient use of the upper floors within the Town Centre. It is recognised that the town centre has a lot of floorspace above ground floor level and that these areas offer a great opportunity to make more efficient use of space and create a mixed use environment across the Town Centre as a whole. The conversion of spaces that are currently underutilised or used for storage, into more suitable main Town Centre uses or residential units, is to be encouraged.
- 8.4 Policy DSP23 states that the conversion of upper floor spaces for other 'main town centre uses' (as defined in the NPPF) will be permitted provided that;
- i) Any alterations to the external appearance do not harm the character of the surrounding area,
 - ii) The development would have no impact on the amenity of neighbouring or adjacent properties and business; and
 - iii) Areas that are designated for refuse storage are appropriately sized and easily accessible.
- 8.5 It is considered that the proposal represents an appropriate re-use of the upper floor of an existing building within a sustainable town centre location with good access to public transport. The application is considered acceptable in principle subject to an assessment of any impacts arising.

b) Impact on Character and Appearance of the Area

- 8.6 The proposal involves only minor alterations to the external appearance of the existing building. Whilst due to its neglected appearance any investment in the building fabric would be welcomed it is not considered that there would be any adverse impact on the character and appearance of the area as a result of the proposal.

c) Impact to Living Conditions of Neighbouring Properties

- 8.7 Concerns have been raised that the proposal would have an unacceptable impact on the living conditions of the residents within Moresby Court which lies to the north of the site and is accessed from Westbury Road and would result in noise disturbance.
- 8.8 Policy DSP2 of the Local Plan Part 2: Development Sites and Policies states that development proposal should not individually or cumulatively have a significant adverse impact, either on neighbouring development, adjoining

land, or the wider environment, by reason of noise, heat, liquids, vibration, light or air pollution.

- 8.9 Additional information has been sought from the applicant in respect of the nature and hours of the proposed use. It has been confirmed that there would be five prayer services daily, the times of which vary throughout the year as follows.
- The dawn service - typically held an hour before sunrise, so in the summer months this is usually between 4-6am and between 6-7am during the rest of the year.
 - The early afternoon service - typically held between 1-2pm all year.
 - The late afternoon prayer service - typically held between 6-7pm during the Summer and between 3-5pm for the rest of the year.
 - The sunset prayer service is held 3 minutes after sunset, so varies throughout the year between 4pm-9.30pm.
 - The night prayer service is typically held between 9.30pm and 11pm during the Summer and between 7-8.30pm during the rest of the year
- 8.10 Each prayer service lasts no more than 30 minutes with the exception of the extended night prayer service during the month of Ramadan. This service lasts for two hours each night. The prayer service is led by one person, typically an Imam (Minister of Religion) who would softly recite some passages from the Qur'an. The worshippers in attendance listen to the recital and follow the movements of the prayer. It is confirmed that there is no congregational chanting or singing during the prayer service and musical instruments are not used. This part of the service lasts approx. 5-6 minutes with the remainder of the service conducted in silence.
- 8.11 The Friday afternoon prayer service, which is the equivalent of a Christian Sunday Church service, is the most heavily attended. It would be expected that approximately 50 worshipers would attend this service. The expected attendance for the other daily prayer services would be significantly lower.
- 8.12 There are no windows on the north elevation of the building which face towards Moresby Court which could be a potential source of noise break out. It is not proposed that the existing flat roof of the building would be accessible to worshippers, and this can be secured by planning condition. The access/egress points to the building would not be visible from Moresby Court and would be a minimum of 40m from the closest part of the building.
- 8.13 Officers do not consider that based on the anticipated level of activity within the building that the proposal would give rise to noise levels that would be

detrimental to the living conditions of residents within Moresby Court. Whilst the applicant confirms that this would not be the intention, planning conditions would be imposed to ensure that no amplification of music, voices or sounds emanate takes place within the unit between the hours of 08:00am-18:00pm.

d) Highways

- 8.14 The application site is within an accessible and sustainable town centre location. There is ample public car parking available locally. There is a loading layby on West Street which could be used for the setting down of elderly/disabled persons if required. Whilst Westbury Road is a well-used pedestrian right of way, the existing road signage at the junction of West Street and Moresby Court is clear that this is a no through road for vehicles. The narrow nature of the road and presence of double yellow lines on both sides does not invite vehicles to attempt to park or turn in the road nor travel at speed. It is not considered that the proposal would result in a significant increase in vehicle movements on Westbury Road given the lack of any parking opportunity.
- 8.15 The car park at Moresby Court is not gated and residents report that it is sometimes used by the public. It is considered that this is a private matter and that the use of the Moresby Court public car park by vehicles not associated with this property may need to be controlled by a gate or barrier if problems should arise.
- 8.16 It is not considered that the proposal would give rise to any significant highway or pedestrian safety implications.
- 8.17 Notwithstanding the representations received, Officers consider the proposal to be an appropriate use within this Town Centre location, in accordance with the Council's planning policies.

9.0 *Recommendation*

9.1 GRANT PLANNING PERMISSION, subject to the following Conditions:

1. The development hereby permitted shall be begun within 3 years from the date of this decision notice.
REASON: To allow a reasonable time period for work to start, to comply with Section 91 of the Town and Country Planning Act 1990, and to enable the Council to review the position if a fresh application is made after that time.
2. The development hereby permitted shall be carried out strictly in accordance with the following drawings/documents:
 - i) Location Plan & Block Plan – drwg No. 104 P1

- ii) Existing Floor Plans – drwg No. 100 P2
- iii) Existing Elevations – drwg No. 101 P2
- iv) Proposed Floor Plans – drwg No. 102 P3
- v) Proposed Elevations – drwg No. 103 P3

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

3. The premises shall be used as a place of worship and for no other purpose including any other purpose in Class F of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification, or as may be permitted by any Class within Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification

REASON: To protect the occupiers of the nearby residential properties from possible disturbance from permitted uses other than that specifically granted through this permission.

4. At no time shall the flat roof of the building or external areas be used for prayer or worship.

REASON: To prevent avoidable disturbance to nearby residents from noise.

5. No amplification of music, sounds or voices shall take place within the place of worship hereby permitted between the hours of 18:00-08:00.

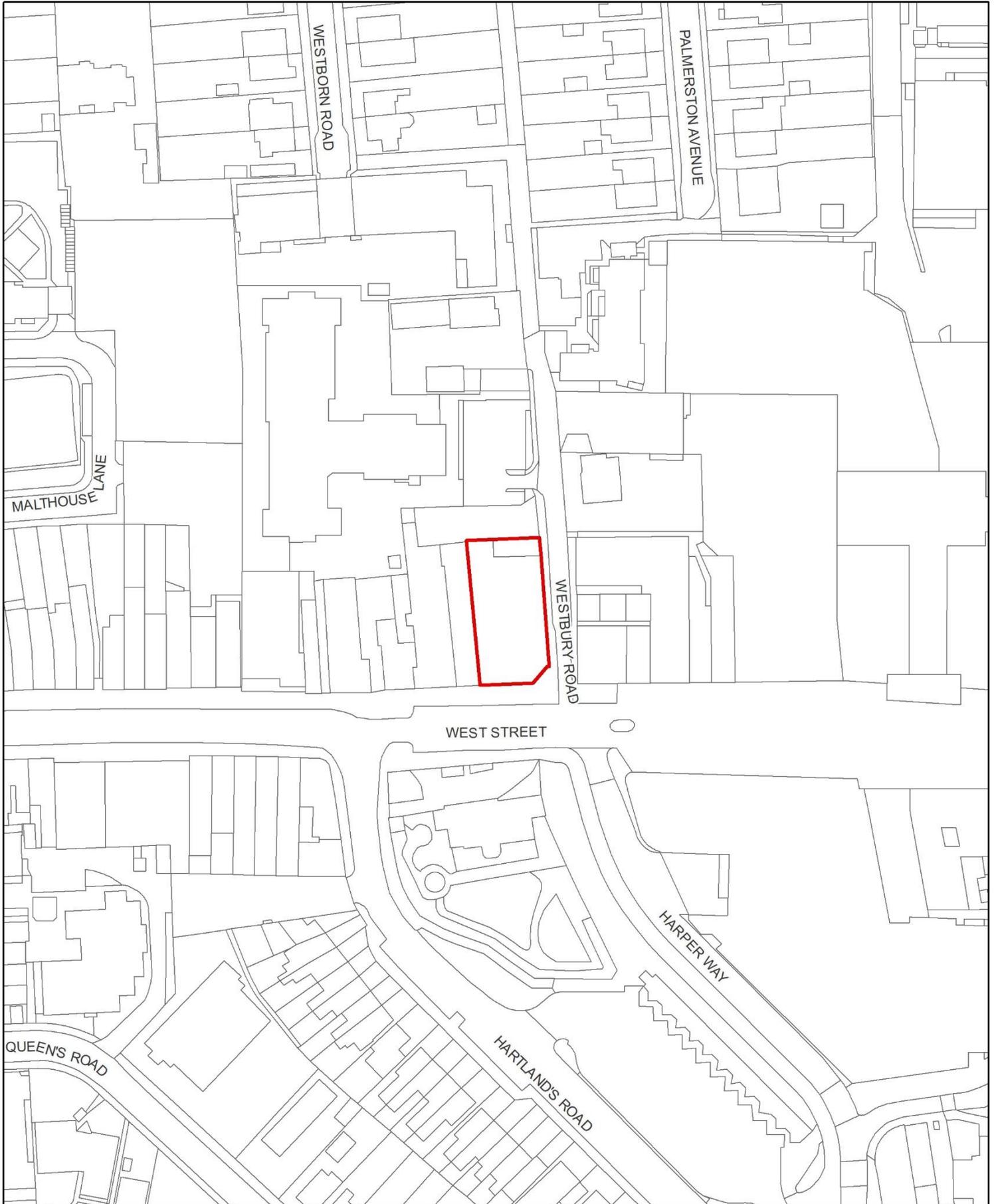
REASON: To prevent avoidable disturbance to residents from noise.

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



97-99 West Street
Fareham
Scale 1:1,250



Agenda Item 6(3)

OFFICER REPORT FOR COMMITTEE

DATE: 15/06/2022

**P/19/0894/OA
FOREMAN HOMES**

FAREHAM EAST

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT FOR ACCESS) FOR RESIDENTIAL DEVELOPMENT OF UP TO 29 DWELLINGS, ASSOCIATED LANDSCAPING AND ACCESS OFF NORTH WALLINGTON

LAND EAST OF NORTH WALLINGTON, FAREHAM

Report By

Richard Wright - direct dial 01329 824758

1.0 *Introduction*

- 1.1 This application is being presented to the Planning Committee due to the scale and nature of the proposed development on a site located outside of the defined urban settlement boundaries.
- 1.2 This application was submitted in September 2019 and has since been amended by the applicant a number of times to address various issues raised by Officers. Most recently Officers provided Foreman Homes with an update on several outstanding matters in January this year and asked for confirmation on how the applicant wished to proceed. On 25th April the applicant subsequently lodged an appeal with the Planning Inspectorate against the failure of the Council to determine the application within the prescribed time period. The Inspectorate has confirmed that the appeal will be determined by way of a hearing scheduled to take place on 23rd August 2022.
- 1.3 Whilst this Council is no longer able to decide this application it is necessary for Members to confirm the case that this Council will present to the Planning Inspector. This report sets out all the relevant planning policies and relevant material planning considerations and invites Members to confirm the decision they would have made if they had been able to determine the planning application. This will then become the Council's case in respect of the forthcoming appeal.
- 1.4 Members will note from the 'Five Year Housing Land Supply Position' report to Planning Committee presented on the agenda for the last meeting on 25th May that the Council currently has a housing land supply of 5.08 years including a 20% buffer.

2.0 ***Site Description***

- 2.1 This application relates to a piece of land at the far northern end of North Wallington on its eastern side where it meets Standard Way. The site measures 0.87 hectares in size and is mainly used as horse pasture, with scrubland and tree planting around much of its perimeter. It is bound on its northern side by Standard Way, North Wallington to the west and car park/scrubland to its south. The gradient of the land rises from north to south.
- 2.2 The site lies outside of the designated urban settlement boundary as defined in the adopted local plan. The nearest part of the urban area lies around 35 metres away to the south west. On the opposite side of the road at North Wallington lies Wallington Water Meadow, a Site of Importance for Nature Conservation (SINC). Approximately 150 metres to the south lies Fort Wallington, a Grade II Listed Building now occupied by various employment related uses. To the north on the opposite side of Standard Way lies the M27 motorway.

3.0 ***Description of Proposal***

- 3.1 Outline planning permission is sought for the erection of 29 dwellings with access proposed off North Wallington.
- 3.2 The proposed access is shown on drawing no. ITB14153-GA-001 Rev E which is included as part of the submitted Transport Statement.
- 3.3 Matters of scale, appearance, layout and landscaping are to be reserved however the applicant has submitted an illustrative site plan. The site plan shows an arrangement of 23 dwellings in a crescent formation fronting the site's northern boundary. A further 6 dwellings are located behind those dwellings backing onto the site's southern boundary.

4.0 ***Policies***

- 4.1 The following policies apply to this application:

Adopted Fareham Borough Core Strategy

- CS2: Housing Provision
- CS4: Green Infrastructure, Biodiversity and Geological Conservation
- CS5: Transport Strategy and Infrastructure
- CS6: The Development Strategy

- CS14: Development Outside Settlements
- CS15: Sustainable Development and Climate Change
- CS16: Natural Resources and Renewable Energy
- CS17: High Quality Design
- CS18: Provision of Affordable Housing
- CS20: Infrastructure and Development Contributions
- CS21: Protection and Provision of Open Space

Adopted Development Sites and Policies

- DSP1: Sustainable Development
- DSP2: Environmental Impact
- DSP3: Impact on Living Conditions
- DSP5: Protecting and Enhancing the Historic Environment
- DSP6: New residential development outside of the defined urban settlement boundaries
- DSP13: Nature Conservation
- DSP15: Recreational Disturbance on the Solent Special Protection Areas

Other Adopted Documents:

Planning Obligation SPD for the Borough of Fareham (excluding Welborne) (April 2016)

5.0 *Relevant Planning History*

5.1 None

6.0 *Representations*

6.1 A total of 163 comments have been received from 89 residents or households (some have commented more than once). This includes representations from The Fareham Society. The following material planning considerations were raised:

On the principle of development

- Site unsuitable for development
- Area has a rural feel which would be lost
- Three storey development not in keeping with surrounding area
- Lack of infrastructure to cope with more dwellings (doctors, schools, etc)

On environmental matters

- Flood risk
- Surface water drainage issues

- Inadequate sewerage infrastructure
- Loss of habitat for protected species
- Increase in noise pollution
- Noise for new residents living on the site would be in excess of permitted limits
- Light pollution and nuisance to neighbouring properties on opposite side of North Wallington
- Loss of privacy to neighbouring properties on opposite side of North Wallington

On traffic and highways matters

- Road is dangerous to walk down without a footpath
- Loss of parking spaces due to access road being created
- Poor pedestrian access to site
- Increase in traffic through Wallington village
- Increase in vehicles will affect availability of street parking
- Priority shuttle system unsafe, confusing for drivers and likely to lead to increased vehicle speeds
- Priority shuttle system will affect the flow of vehicles
- Priority shuttle system to detriment of cyclists
- Priority shuttle system needs wider consultation
- Priority shuttle system will lead to loss of parking spaces on street pushing parking problems further into village
- Improvements to North Wallington will destabilise the vegetated bank on south side of the road affecting the private road which runs parallel
- Improvements to North Wallington not feasible without using privately owned land
- Improvements to North Wallington will result in loss of vegetation on banks to side of the road harming the rural appearance of the area

7.0 **Consultations**

EXTERNAL

HCC Highways

- 7.1 On 21st November 2019, HCC Highways responded to a consultation request to do with this application. With regards to Active Travel they said the following:

The site is located on North Wallington which primarily runs south west from the site towards Wallington and onwards to Fareham. It is noted in the Transport Statement (TS) that pedestrian and cycle facilities are sparse to

non-existent in this direction, with limited land available for additional provision. The safest access for pedestrian and cycle users is via Standard Way and towards Broadcut, which is a longer and more convoluted route.

Whilst the TS suggests the upgrade of facilities (i.e., additional crossing points) for pedestrians, the route pedestrians would have to take, would take them away from the desire line to the town centre and public transport nodes. The site is therefore not in a location conducive to pedestrian usage.

7.2 On 10th February 2020, the consultee wrote:

The applicant has marginally reduced the number of residential units and confirmed an access design.

The previous comments made by the Highway Authority (10th October 2019) still stand. The proposed access and retention of the parking bay to the north is considered acceptable. The retention of the layby will not result in displaced parking in or around the development and therefore reduces the impact on the local road network.

There are still concerns regarding the pedestrian access to the town centre and public transport via North Wallington. Whilst the submitted Transport Assessment maintains that North Wallington acts as shared use in accordance with MfS, it is also acknowledged that this route would not be suitable for users with certain disabilities. There is also no differentiation in surfacing to make drivers aware of the shared use nature. The route also requires pedestrians to walk around outside parked cars and into the flow of traffic.

The Highway Authority would still wish to see further improvements to the pedestrian access to the site, specifically regarding the route to Fareham town centre and bus stops to show the site is suitably promoting sustainable travel.

7.3 On 17th September 2020, the consultee advised:

These comments are in response to the additional plans submitted under planning application P/19/0894/OA. The plans relate to footway improvements along North Wallington to better the pedestrian access to the site and links to sustainable transport.

The proposed concept of introducing a formal shuttle system is reasonable. It should be noted that the existing on-street parking results in a form of

informal shuttle system, however there are gaps where vehicles can pull in to give way. The proposed shuttle system would result in a significant stretch of 75m of single file traffic. This length should be reduced.

In addition to the above, the formal shuttle system would remove some level of parking provision along North Wallington. The quantum of spaces available (and thus to be removed) has not been evaluated, and no indication of where the displaced parking will move to has been assessed. This assessment should be provided.

For vehicles travelling east, the design may result in increased speeds due to the new regulated priority system. It is requested that an RSA 1 (Road Safety Audit) is conducted to assess this and any other potential safety concerns with the proposals.

Due to the road narrowing and introduction of kerb lines, vehicles may strike or mount the kerb causing maintenance issues and posing concern regarding pedestrian safety. As above, a RSA1 would highlight this if a concern.

It is noted that there are significant trees in the area and close to the indicative works. The embankments and proximity of the waterway will also have an impact to the costs and deliverability of the works. Further information would be required to assure the Highway Authority that the works are both deliverable and financially viable for the site.

No assessment of street lighting has been undertaken for the new footpath and should be provided.

In line with tangent discussion with other sites in the Wallington area, this site will have an impact on Pinks Hill. Pinks Hill is not adopted public highway and is therefore not controlled or maintained by HCC as HA. As such, the highway authority, whilst not objecting directly, recommended the improvement works to Pinks Hill set out in applications P/20/0636/OA and P/19/0169/OA are secured to make the development acceptable. This is to ensure the proposed development does not have a detrimental impact on public safety regardless of the status of the road.

A cumulative impact leading to unacceptable harm has been identified on Pinks Hill from the current applications and emerging local plan allocations in the Wallington area. It is recommended that, to mitigate this impact, a contribution should be taken to provide the Pinks Hill improvements from developments in the Wallington area forecast to increase traffic via Pinks Hill; this contribution should be split proportionally between the

developments. A contribution should be paid prior to commencement of each development site.

Pinks Hill is not adopted highway and is owned and maintained by FBC; as such, securing of improvement works and arrangements for their construction will be the responsibility of FBC. A modest level of residential occupations may be considered acceptable prior to construction of the required improvement works; further evidence could be submitted to support this. Should this evidence not be provided, or not be considered appropriate to justify a level of increased traffic, then it is the Highway Authority's recommendation that the Pinks Hill improvement works should be completed prior to occupation of any significant development in the Wallington Area, including this site.

7.4 Then, following the submission of a revised footway assessment by the applicant in October 2021, the consultee wrote in November 2021:

The documents do not address any of the points raised in our comments from 17th Sep 2020. In brief, the following points were raised which required addressing:

- The length of the shuttle system should be reduced from 75m
- Assessment of the resulting displaced parking should be provided
- An RSA1 should be submitted, including comments regarding the potential increase in eastbound vehicles and vehicle strikes due to road narrowing
- Detail of groundworks and impact on trees and waterway required to show works are deliverable and financially viable
- Street lighting assessment of new footway to be provided

Until the above points have been addressed, the Highway Authority would maintain their objection to the proposals.

HCC Children's Services

7.5 The only contribution required is that of a revenue amount of £15,000 towards the production of a school travel plan (STP) plus the provision of additional cycle and scooter storage to be provided at local schools. The primary catchment is Harrison Primary and the funding will be utilised towards facilities and STP at this school and any other school where pupils from this development attend at the discretion of the County Council.

7.6 It is important that safe walking routes exist from the development to the local schools, Harrison Primary and Cams Hill Secondary with any

necessary contributions required to ensure such routes exist.

HCC Minerals & Waste Planning

- 7.7 The proposed development lies within the mineral and waste consultation area adjacent to the safeguarded site Wallington Depot, Fareham operated by SITA.
- 7.8 The purpose of this policy is to protect current and potential waste sites from pressures to be replaced by other forms of development, including through 'encroachment' where nearby land-uses impact their ability to continue operating.
- 7.9 It is often the case that appropriate buffers and mitigation measures can make potential nearby development compatible. Any mitigation measures would need to be undertaken by the proposed non-waste development and reduce potential impacts to and from the safeguarded site to levels that would ensure the safeguarded site could continue its intended waste use.
- 7.10 Usually the mitigation measures would need to focus on impacts such as noise, dust, visual impact, odour and traffic movements. They can take a variety of forms, including landscape design, tree planting, barriers, building design and orientation and use of different building materials (such as double glazing for windows).
- 7.11 The appropriate mitigation measures are best informed through direct discussions with the operator of the safeguarded site as they will be most aware of operational requirements. However, Hampshire County Council is also available for further discussions, as well as facilitation, if required.
- 7.12 In order to discharge the requirements of the safeguarding policy, Hampshire County Council would expect to see how the nearby safeguarded site was considered, how operator comments were taken into account and what impacts that had on the proposed development design. If the details of mitigation are to follow in a future application, Hampshire County Council would expect to see a condition requiring such details.
- 7.13 In the unlikely event that it is not possible to agree appropriate mitigation measures, Hampshire County Council would be seeking evidence that the waste management capacity can be relocated or provided elsewhere and delivered.

HCC Archaeology

- 7.14 I would draw your attention to the file entitled Archaeological Desk Based Assessment that is included among the documentation attached to the

above application on your website. This Desk-Based Assessment (DBA) concludes that the site is located in an area with moderate potential for prehistoric activity and negligible potential for Roman and medieval archaeology, while the remains of the former Palmerstonian fort of Fort Wallington are located around 130 metres to the south east.

- 7.15 Considering the evidence presented in the DBA it seems possible that further, as yet unrecorded, archaeological features may survive within the site (particularly those dating from the later prehistoric era). While the DBA does not set out a strategy for assessing this potential, I feel that further work will be required in order to establish the character, date and extent of any archaeological remains prior to the development of the site. Therefore, while there is no indication that archaeology presents an overriding concern I would advise that the assessment, recording and reporting of any archaeological deposits affected by the proposed development be secured through the attachment of suitable conditions to any planning consent that might be granted.

HCC Flood & Water Management Team

- 7.16 The submitted information indicates that surface water from the application site will be managed through a cellular storage tank and permeable paving with total infiltration. Additionally, surface water from part of the internal access road will be managed through a cellular storage tank and discharge to an existing Southern Water surface water sewer at a constant discharge rate of 0.9 l/s. At this stage, this is acceptable in principle since the submitted infiltration testing (BRE365) and groundwater levels demonstrate that infiltration is feasible at the application site.
- 7.17 However, the proposed surface water outfall for the access road goes through the North Wallington which might be under the control of the relevant highway organisation. Therefore, the applicant should submit evidence that relevant highway organisation authorise the passage of any drainage asset through the road. Additionally, agreement in principle from Southern Water for the proposed connection and discharge rate should be submitted. Failure to secure these agreements is likely to necessitate in the need to review the drainage proposals for the application, which may have implications for the proposed quantum and layout of the proposed development.
- 7.18 The Environment Agency (EA) data shows that the application site is within a Groundwater Vulnerability Zone. Therefore, the applicant should consult the (EA) regarding the potential for contamination associated with the use of infiltration at the application site.

7.19 Nevertheless, since this is an outline planning application with approval sought for the site access, we believe that the above concerns can be addressed through the imposition of suitably worded planning conditions on any planning permission granted. Therefore, the County Council as the Lead Local Flood Authority has no objection to the proposals, subject to conditions.

Environment Agency

7.20 We have reviewed the Drainage Strategy Technical Note (January 2020). Groundwater is very sensitive in this area and all measures must be undertaken to prevent and protect groundwater from pollution. We support the use of the CIRIA pollution indices and recommend the design and system meets the requirements as set out in CIRIA SUDS manual C753. All pipe work must be sealed apart from a rodding inlet so that no spillage or unauthorised discharges can be made into this system.

7.21 Surface water from driveways and roads are to be discharged via the use of cellular storage tanks and a permeable pavement system. In principle this system is acceptable. The maintenance requirements are set out in section 4.4, we would like to stress the importance of good management and maintenance throughout the life of the system in order to protect the sensitive groundwater in this location.

7.22 Therefore we have no objection in principle to the proposed surface water system as detailed in this report.

Southern Water

7.23 No objection.

Portsmouth Water

7.24 This development lies in a very sensitive location in terms of controlled waters of particular concern to us is groundwater. It is within the Source Protection Zone One (SPZ1) for the local Public Water Supply abstraction at Maindell, approximately 30m to the south, and situated on the Chalk Principal aquifer. Due to the high sensitivity of the groundwater environment there are a number of outstanding concerns in relation to groundwater quality protection which will need to be addressed prior to full approval.

7.25 Our concerns regarding groundwater quality protection can be addressed through the addition of appropriate planning conditions to reduce the potential risks posed to groundwater and our resource as a result of the proposed development. Without these conditions we would object to the proposal due to the risk to groundwater quality and the local public water

supply.

- 7.26 The proposed surface water drainage strategy for the site is infiltration by SuDs features (cellular storage tanks and permeable paving). All clean roof water runoff is proposed to drain to cellular storage tanks. This is acceptable to Portsmouth Water in relation to groundwater quality protection. Surface water drainage from car parking areas and roads will be discharged via permeable paving into ground. The technical note submitted by Odyssey calculated the pollution hazard level of this land use and concludes that permeable paving provides adequate water quality treatment. Portsmouth Water are satisfied with the surface water drainage strategy for the proposed development however would wish to see the full detail design of the permeable paving once available.
- 7.27 Portsmouth Water are pleased to see no soakaway drainage for the proposed development, as we would have a presumption against soakaways in this area. If soakaways are the chosen surface water drainage strategy for the site the application must be accompanied by a detailed plan and a risk assessment stating how risks to the underlying principal aquifer have been assessed and mitigated through design. Portsmouth Water would wish to be consulted on the detailed plan and accompanying risk assessment.
- 7.28 The proposed foul drainage strategy is discharge into the existing main sewer network. Details of the foul drainage connections, materials and layout should also be provided and approved. We will require the use of the highest specification pipework and designs for sewerage systems in the SPZ1 to minimise leakage.

Natural England

- 7.29 A Habitat Regulations Assessment (HRA) is required, including consideration of the surface water drainage proposals (SuDs). Without this information, Natural England may need to object to the proposal.

Deterioration of the water environment

The nutrient budget has been calculated in line with Natural England's Advice on Achieving Nutrient Neutrality in the Solent (version 5 June 2020). Provided the competent authority is assured and satisfied that the site areas used in the calculation are correct and that the existing land uses are appropriately precautionary, then Natural England raises no concerns with regard to the nutrient budget.

Please note the calculation is based on all wastewater from the

development being treated at Peel Common WwTWs. If this situation changes, a reassessment of the nutrient calculation will be required and a revised Habitats Regulations Assessment will be necessary.

It is noted that the approach to address the positive nitrogen budget for this development is via the section 106/section 33 legal agreement dated 30th September 2020 between the HIWWT, Fareham Borough Council and Isle of Wight Council. It enables land at Little Duxmore Farm, Isle of Wight to be used to neutralise the additional nutrient burden that will arise from the proposed development. This is achieved by taking land out of intensive agricultural use at Little Duxmore Farm. It has been calculated that 0.944 hectares of land at Little Duxmore Farm will be removed from mixed agricultural use.

It is understood that this has been secured through legal agreements to ensure that effective mitigation is delivered in a timely manner for the lifetime of the development. It is also understood that a system has been set up to monitor the developments using the mitigation scheme to ensure there is capacity available for each scheme. Provided this is the case and the long term management of the mitigation scheme is monitored by the local planning authority, as competent authority, to ensure effective mitigation for the lifetime of the development, Natural England raises no further concerns.

Surface Water Drainage

It is noted that a Drainage Strategy Technical Note has been produced for this development (Odyssey, January 2020).

Best practice SuDS should be designed and installed in accordance with the requirements in the CIRIA SuDS Manual (C753).

Please note, the pollution hazard indices in the CIRIA SuDS Manual (C753) relate to 'protected waters' with regards to drinking water supply. Step 3 under Section 26.7.1 of the SuDS manual outlines that the requirement for extra treatment should be considered in relation to discharge to environmentally protected sites. It states that 'an additional treatment component (i.e. over and above that required for standard discharges), or other equivalent protection, is required that provides environmental protection in the event of an unexpected pollution event or poor system performance'.

Due to the close proximity of the designated sites, this should be confirmed for consideration within the Habitat Regulations Assessment. Where

applicable, it is advised details are provided with regards to the long-term (in perpetuity) maintenance/replacement and funding of SuDS, and which authority will have responsibility for this, for incorporation into your authority's appropriate assessment.

The detailed design of a Sustainable Drainage System (SuDS) should be submitted and agreed with Fareham Borough Council. This should include evidence to show that the proposed SuDS scheme will ensure there will be no deterioration in water quality [or changes in water quantity] in discharges from the site. Information on the long term management and maintenance (including funding) of the SuDS for the lifetime of the development should also be secured prior to the commencement of any works.

Construction Environmental Management Plan (CEMP)

The development site is approximately 25m from the River Wallington at its closest point, which drains into the designated sites within Portsmouth Harbour.

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should include the following impacts:

- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/vibrational impacts

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

INTERNAL

Trees

7.30 No objection.

Environmental Health

7.31 The development should incorporate all mitigation measures as detailed in the noise impact assessment dated 13th January 2020 reference AC105901-1R3. These include:

- Higher fencing to a height of 2.6m should be installed as shown on Figure 10 (of the noise impact assessment) in order to achieve the best practicable noise levels and to meet the required criterion;
- Alternative ventilation should be fitted to specified habitable rooms as an alternative to opening windows; and
- Glazing with a range of higher specifications up to $Rw+Ctr=40$ should be fitted to specified facades as shown in the Figures (of the noise impact assessment).

Given the proximity of the development to a major source of traffic noise I strongly advise that where windows must remain closed to achieve acceptable indoor noise levels, to address the risk of solar gain overheating dwellings that alternate mechanical ventilation should be provided opposed to relying on acoustic trickle ventilators. The developer should provide a specification for the mechanical ventilation system.

Contaminated Land

7.32 No objection subject to comments and recommendations from Portsmouth Water. Condition relating to contamination recommended.

Conservation Planner

7.33 The submitted heritage statement appears very comprehensive and has addressed the relevant heritage matters including an archaeological assessment and the relationship with Fort Wallington which is a listed building. The site is enclosed by hedges and trees and the land rises to the south where the tree screen forms the boundary. To the south there is a water treatment works within a lower area and there is some sporadic residential development.

7.34 Fort Wallington is a substantial structure constructed as part of the Palmerston forts to protect Portsmouth Harbour in the 1860s. The fort is a significant structure, but its setting has been encroached upon with modern development comprising industrial warehouses and although this has significantly impacted on the setting of the fort, it is still a substantial and significant heritage asset.

7.35 However, the setting of the proposed site is some distance from the fort and would not have a direct impact on the fort or its immediate setting and given the character and development in close proximity of the fort it

would appear that the proposed development would have minimal impact in relation to the significance of the fort or its setting. As the site is enclosed by established landscape screening which maintains the character of the setting it would be beneficial to retain as much of the existing arboreal character as possible if the land is to be developed.

Housing

7.36 As the proposal consists of 29No. dwellings the affordable housing provision should be 11.6 (to achieve the 40% policy requirement). I am happy if the 0.6 unit equivalent is provided as a financial contribution in lieu of on-site provision.

7.37 Subject to a split/mix of affordable homes that provides for the following, I would not raise an objection:

- 64% affordable rent 2 x 2-bed, 4 x 3-bed and 1 x 4-bed homes
- 36% shared ownership consisting of 4 x 2-bed homes

Ecology

7.38 No objection. As there has been a few ecology responses dating between October 2019 and November 2021, with a number of updated ecology reports submitted as a result, below is a summary of the ecological issues on site:

Protected species

- Reptiles – The reptile survey work carried out in 2018 confirmed the likely absence of reptiles from site. As these surveys are now out of date, updated surveys were requested. However, it has been confirmed that the suitable reptile habitat on site, mainly located along the boundaries will be retained and protected during the construction phase. If this is the case, I have no further concerns in relation to reptiles.
- Dormice – Due to the presence of dormice in the locality, their presence on site has been assumed and due to the clearance of some scrub on site, it has been confirmed that an EPS licence from Natural England will be obtained, along with compensatory habitat creation in the form of a hedge/scrub planting in the north-eastern corner (shown below for avoidance of doubt) to provide better connectivity between the habitats in the north and south of the site. This is acceptable and based on the information provided, I am confident that an EPS licence could be obtained.

- Badgers – Whilst a badger sett is located within the site, it has been confirmed that it will not be directly affected by the proposals. Provided that an updated walkover survey is carried out prior to the commencement of the works to ensure no new activity on site, the information provided is considered to be sufficient.

Habitats

- It has been confirmed that with the exception of a small area to facilitate the access road, the boundary vegetation in the north, south and west will be retained and will be located outside the residential curtilage. This is acceptable.

Designated sites

- It is understood that the necessary financial contribution as part of the SRMP will be secured and a nitrogen neutrality strategy in the form of land purchase (to be taken out of agricultural use) has been submitted. Therefore, I raise no concerns in relation to impacts on designated sites. Furthermore, due to the relatively small scale of the works and proposed mitigation in the form of installation of an interpretation board, no significant impacts on the nearby SINC is anticipated. Overall, I have no concerns in relation to this scheme, however if you were minded to grant permission, I suggest that the below condition is added to the decision notice [condition relating to Biodiversity Enhancement and Management Plan].

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) The approach to decision making
- b) Residential development in the countryside
- c) Accessibility of the site
- d) Landscape and visual impacts
- e) Heritage impacts
- f) Highways impacts
- g) The impact on Habitat Sites
- h) Other matters
- i) The Planning Balance

a) The approach to decision making

- 8.2 A report titled "Five year housing land supply position" was reported to the Planning Committee meeting on the 25th May. That report sets out this Council's local housing need along with the Council's current housing land supply position. The report set out that the Council has 5.08 years of housing supply against its five year housing land supply (5YHLS) requirement.
- 8.3 Had a non-determination appeal not been lodged and had the Council been in a position to determine the application, the starting point for making a decision would have been section 38(6) of the Planning and Compulsory Purchase Act 2004:
- "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".*
- 8.4 In determining planning applications there is a presumption in favour of the policies of the extant Development Plan unless material considerations indicate otherwise. Material considerations include the planning policies set out in the National Planning Policy Framework (NPPF).
- 8.5 Paragraph 60 of the NPPF seeks to significantly boost the supply of housing.
- 8.6 Paragraph 74 of the NPPF states that local planning authorities should identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement including a buffer. Where a local planning authority cannot do so, and when faced with applications involving the provision of housing, the policies of the local plan which are most important for determining the application are considered out- of-date.
- 8.7 Paragraph 11 of the NPPF then clarifies what is meant by the presumption in favour of sustainable development for decision-taking, including where relevant policies are "out-of-date". It states:

"For decision-taking this means:

c) Approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 8 below), granting planning permission unless:

- i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed (see footnote 7 below); or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

8.8 Footnote 7 to Paragraph 11 reads:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”

8.9 Footnote 8 to paragraph 11 reads:

"This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three years."

8.10 This planning application proposes new housing outside the defined urban settlement boundaries. Whilst the Council can demonstrate a five year housing land supply, the Housing Delivery Test results published on 14th January 2022 confirmed that 62% of the Council's housing requirement had been delivered. This means the delivery of housing in the last three years (2018 to 2021) was substantially below (less than 75%) the housing requirement over the previous three years. Footnote 8 to NPPF paragraph

11 is clear that in such circumstances those policies which are most important for determining the application are to be considered out-of-date meaning that the presumption in favour of sustainable development in paragraph 11(d) is engaged.

8.11 Taking the first limb of NPPF paragraph 11(d), as this report sets out, in this instance there are specific policies in the NPPF which protect areas of assets of particular importance namely habitat sites which are specifically mentioned in footnote 7. Therefore, a judgement will need to be reached as to whether policies in the Framework would have provided a clear reason for refusing the development. Where this is found to be the case, the development should be refused.

8.12 The second limb of NPPF paragraph (d), namely whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole (the so called 'tilted balance') will only apply if it is judged that there are no clear reasons for refusing the development having applied the test at Limb 1.

8.13 Members will be mindful of Paragraph 182 of the NPPF which states that:

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

8.14 The wording of this paragraph clarifies that the presumption in favour of sustainable development set out in Paragraph 11 does not apply unless an appropriate assessment has concluded that the proposal would not adversely affect the integrity of the habitats site subject to mitigation.

8.15 The following sections of the report assesses the application proposals against this Council's adopted local planning policies and considers whether it complies with those policies or not. Following this Officers undertake the Planning Balance to weigh up the material considerations in this case.

b) Residential Development in the Countryside

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

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

8.17 Policy CS14 of the Core Strategy states that:

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

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

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

c) Accessibility of the site

8.20 As set out above, the site lies outside of the defined urban settlement boundaries and is located at the far end of North Wallington. The applicant has submitted a Sustainability Statement (dated January 2021) which lists various local services and facilities and gives the distance residents would have to walk to get to those destinations from the development site.

8.21 The assessment demonstrates that, whilst some services lie beyond what is considered an acceptable walking distance, a number are within a reasonable walk from the development site. It is not clear what walking routes have been used to plot the distances given. Officers have asked for clarification from the applicant as to how the distances given in the document have been arrived at, but no further explanation has been provided.

8.22 It is likely that the assessment assumes pedestrians would walk along North Wallington itself into Wallington village (where two public houses are located) and then onwards to Fareham town centre and Broadcut retail park to access a number of services and facilities.

8.23 Paragraph 5.5.6 of the applicant's Transport Statement highlights the problem with relying on North Wallington in its current condition as a route for pedestrians:

"The main issue affecting walking routes is the lack of footway on North Wallington. North Wallington is a rural lane which is synonymous with its village location. There is no footway between Riverside Avenue and Standard Way, a distance of some 275m. Existing pedestrians are observed to walk in the lane, which operates as a shared surface and has historically done so without recorded incident."

8.24 It continues at paragraph 5.5.9 to say:

"Overall, it is considered that North Wallington is suitable for the modest additional pedestrian demand that would be generated by the development. There are limited opportunities to improve the walking environment due to its constraints, but should the Council seek to deliver measures, these could include:

- *Additional signage to identify the presence of pedestrians; and*
- *Delivery of a virtual footway scheme."*

8.25 The Highway Authority have commented on the application and their position is summarised at paragraphs 7.1 – 7.4 above. Initially when the application was first submitted, in order to improve active travel options to and from the site for pedestrians, the applicant proposed improvements to pedestrian routes using Standard Way. The Highway Authority noted that this would improve access for pedestrians into the industrial park but not for those using North Wallington, the desire line from the site to the town centre and public transport links. The improvements would not be conducive to improving the site's accessibility in terms of promoting journeys on foot.

8.26 The applicant subsequently presented a set of proposals to provide a 1.2 – 1.5 metre wide footway connection along North Wallington on the southern side of the road from the site down to the junction with Riverside Avenue. Due to the limited width of the highway the existing two-way carriageway would need to be narrowed to a single lane 3.5 metre wide priority shuttle working system for approximately 75 metres. The raised land on the southern side of the road would need retaining structures at various points between 0.5 – 1.0 metre high.

8.27 In principle, the provision of the footway connection would provide the necessary improvements to facilitate safe and convenient journeys on foot

and bring the development within a reasonable walking distance from local services and facilities. However, there are several outstanding issues which the Highway Authority have raised which require addressing before Officers can confirm the proposals are satisfactory in this regard.

8.28 The length of the shuttle system, at 75m, is considered too long and should be reduced. In addition, the shuttle system would remove some of the existing parking provision along North Wallington which has not been evaluated and replacement parking space not assessed. A Road Safety Audit (RSA) to take account of increased speeds due to this priority system has not been provided, neither has further information to demonstrate the works are deliverable and financially viable. No assessment of street lighting has been undertaken for the new footpath. The Highway Authority have made it clear that, until these points have been addressed, they would maintain their objection to the proposals. The applicant was invited to address these matters when discussions with Officers last took place in January this year, however no further information has been provided. Had this information been provided to the satisfaction of Officers and the Highway Authority, it is likely the development would have been found to be sustainably located.

8.29 In summary of this matter, in response to the proposed improvements along North Wallington, the applicant has failed to demonstrate to the satisfaction of Officers of both the Local Planning Authority and the Highway Authority that proposed improvements to provide a footway connection along North Wallington would be deliverable and viable and would not adversely affect the safety and operation of the highway contrary to Core Strategy Policy CS5. In the absence of such improvements, the proposal is not considered to be sustainable development in that its location is poor in relation to access on foot or cycle to local services and facilities meaning future residents would rely heavily on use of the private motor car. The proposal fails to promote and secure sustainable development with sustainable transport options and access to local services contrary to Core Strategy Policy CS15.

d) Landscape and visual impact

8.30 The application is accompanied by a high-level, desk top based, landscape and visual appraisal of the site carried out in January 2021. This followed concerns raised by Officers over the arrangement of dwellings in a crescent facing outwards along the northern boundary of the site as shown in the submitted illustrative site plan. Whilst the layout of the site, and the scale and appearance of the buildings themselves, are reserved matters not for consideration at the outline application stage, the requirement to form a

crescent shaped building mass between the interior of the site and the M27 motorway to the north of the site stems from the Noise Assessment commissioned by the applicant. The Noise Assessment itself was carried out in order to measure the impact of road traffic noise on the proposed new houses. As part of that assessment a 3D computer model of noise propagation across the site has been created using the layout shown on the illustrative site plan. The findings of the assessment are discussed later in this report however, in short, the crescent formation is necessary in order to reduce motorway traffic noise in gardens in the interior of the site to an acceptable level.

- 8.31 The landscape and visual appraisal concludes that visibility of the site appears to be localised and potential views are limited to those of vehicle users along North Wallington and Standard Way. However, there is only very limited commentary on the visual effects of the proposed development and it is unclear what set of proposals the appraisal has been based on. There is no reference to the illustrative site plan, sketch drawings or the likely height and bulk of the buildings which, according to the illustrative material, could be up to three storeys high along the site's northern boundary. With this in mind the landscape and visual appraisal supplied by the applicant can only be given limited weight in terms of its usefulness in understanding the impacts of the proposed development.
- 8.32 Officers acknowledge that the site is surrounded by the urban area close by to the south and the M27 motorway a short distance to the north. There is agreement with the applicant's appraisal insofar as views into the site may be limited and therefore visual impacts localised. Nonetheless, as acknowledged by the applicant's own appraisal, there would inevitably be significant adverse effects locally from the development on this previously undeveloped parcel of land which, for planning purposes, lies within the countryside. The extent to which those effects could be mitigated by reducing the scale of development along the northern boundary of the site is unclear given the requirement for buildings in this location to act as a 'shield' against unacceptable motorway traffic noise. That said, significant boundary tree planting exists and more landscape planting could be carried out in areas where none currently exist to soften and mitigate those local impacts.
- 8.33 In conclusion, the proposed development would be harmful to the local landscape character, appearance and function of the countryside in which the site lies contrary to Policy CS14 & CS17.

e) Heritage impacts

8.34 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty that local planning authorities shall, in considering whether to grant planning permission for development which affects a listed building or its setting, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

8.35 Policy DSP5 of the adopted Fareham Borough Local Plan Part 2 is the main development plan policy relating to protecting and enhancing the historic environment. Taking the pertinent points relevant to this proposal, it says that:

“...In considering the impacts of proposals that affect the Borough’s designated heritage assets, the Council will give great weight to their conservation (including those that are most at risk through neglect, decay, or other threats). Harm or loss will require clear and convincing justification in accordance with national guidance. Substantial harm or loss to a heritage asset will only be permitted in exceptional circumstances.

Listed buildings will be conserved by:

- b) supporting proposals that sustain and where appropriate enhance their heritage significance;*
- c) refusing to permit demolition, changes of use or proposed additions and/or alterations that would unacceptably harm the building, its setting or any features of special architectural or historic interest which it possesses; and*
- d) ensuring that development does not harm, and if desirable, enhances their settings.”*

8.36 The heritage statement that accompanies the application identifies the presence of the nearby Grade II Listed Building Fort Wallington. The advice received from the Council’s Conservation Planner is included earlier in this report. There is broad agreement with the conclusions in the applicant’s heritage statement. There would be no harm to the setting of Fort Wallington and the proposal would accord with Policy DSP5. Having regard to the statutory duty set down in Section 66 of the Act, the proposed development would preserve the setting of the Grade II Listed fort.

f) Highways impacts

8.37 The Highway Authority HCC have confirmed that the proposed access from North Wallington, and the retention of the layby to the north of that

access, is considered acceptable.

8.38 HCC Officers have also commented that the site will have an impact on Pinks Hill, an unadopted private road further eastwards which links Standard Way with the A27 and Junction 11 of the M27. HCC note that, in line with other discussions relating to other sites in the vicinity, improvements should be sought to Pinks Hill as set out in the highways consultation response for two other applications (a proposal also by Foreman Homes for up to 22 employment units at Land north of Military Road, Wallington – ref P/20/0636/OA and an application again by Foreman Homes for up to 2,000 square metres of employment floorspace on Land at Standard Way, Wallington). This is, they say, to ensure the proposed development does not have a detrimental impact on public safety regardless of the status of Pinks Hill as a road. A cumulative impact leading to unacceptable harm has been identified on Pinks Hill from the applications combined and it is suggested that a contribution be taken from this particular development towards improvements to the road.

8.39 Officers have carefully considered the advice from HCC regarding Pinks Hill. It is noted that the comments are specifically framed not as an objection but a recommendation. It is also noted that the Highway Authority acknowledge in their consultation response that a modest level of residential occupations may be considered acceptable prior to improvements being carried out to Pinks Hill. With this in mind, and also having regard to the fact that neither of the two other applications referred to by the Highway Authority have been granted planning permission at this current time, Officers do not consider that the level of traffic generated by the proposed development at the application site Land east of North Wallington would be significant enough by itself to have the detrimental impacts described. The application site is further away from Pinks Hill than both of the other two development sites and, due to its location and nature as a residential development, travel by private motor car to the site is likely to be just as appropriately accessed through Wallington village rather than Pinks Hill. Unlike the two employment related applications there is likely to be relatively little in the way of commercial and large sized vehicles travelling to and from the site after construction has finished. These factors all indicate that requiring improvements to Pinks Hill in this particular case would not be reasonable or proportionate.

8.40 The Highway Authority's position regarding the proposed footway connection along North Wallington is set out earlier in this report in relation to the site's locational sustainability.

g) The impact upon Habitat Sites

- 8.41 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive habitat sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats are protected and where appropriate enhanced.
- 8.42 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.
- 8.43 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).
- 8.44 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 habitat sites 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 habitat sites. This is done following a process known as an Appropriate Assessment. The competent authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The competent authority is either the local planning authority or the Planning Inspectorate, depending on who is determining the application. In this case, because an appeal has been lodged, it is the Planning Inspectorate.
- 8.45 When considering the proposed development there are two main likely significant effects on HS.

Nutrient neutrality

- 8.46 The first likely significant effect on HS relates to deterioration in the

water environment through increased nitrogen. Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the HS.

- 8.47 Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England have provided a methodology for calculating nutrient budgets and options for mitigation should this be necessary. The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research, however for each input there is a degree of uncertainty. Natural England advise local planning authorities to take a precautionary approach when addressing uncertainty and calculating nutrient budgets.
- 8.48 The applicant has previously submitted a nutrient budget in April 2020 based on a previous, now superseded, version of the guidance issued by Natural England on achieving nutrient neutrality. No up-to-date nutrient budget has been provided by the applicant which would now need to be carried out in line with the latest guidance issued by Natural England in March this year. Whilst the applicant has demonstrated that they have entered into an agreement to purchase 22 kg/N/year of nitrate mitigation credits from the Hampshire & Isle of Wight Wildlife Trust mitigation site at Little Duxmore on the Isle of Wight, it is unclear whether this is sufficient in the absence of an up-to-date assessment.
- 8.49 In summary, Officers consider that the applicant has failed to satisfactorily demonstrate that the proposed development would achieve nutrient neutrality. As a result there is no certainty that the proposed development would not have an adverse effect on the integrity of the HS of The Solent. The application fails to address the likely significant effects arising from increased wastewater from the development entering The Solent leading to adverse effects on the integrity of the HS of The Solent. The application is contrary to Policies CS4 & DSP13 of the adopted local plan as a result.

Recreational disturbance

- 8.50 The second of these likely significant effects on HS concerns disturbance on The Solent coastline through increased recreational use by visitors to the sites.

8.51 DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to The Solent Recreation Mitigation Strategy (SRMS). Had the Council been able to determine the application and had the proposal been found acceptable in all other regards the applicant would have been invited to make a financial contribution through the SRMS. In the absence however of a legal agreement to secure such a contribution, or the submission of evidence to demonstrate that the 'in combination' effects of the development can be avoided or mitigated in another way, the proposal is held to be contrary to Policy DSP15.

h) Other matters

Groundwater pollution & surface water drainage

8.52 Environment Agency (EA) data shows that the application site is within a Groundwater Vulnerability Zone. As a result Officers have sought advice from the EA as well as Portsmouth Water and the Lead Local Flood Authority. Those comments are provided earlier in this report at paragraphs 7.15 – 7.27. In summary, whilst Officers are mindful of the sensitivity of the location with regards groundwater pollution, subject to conditions recommended by the consultees to control the method of construction and most importantly specific details of the surface water drainage system to be employed on the site, there is no objection from any of those consultees.

Road traffic noise

8.53 As referred to earlier in this report, the applicant's Noise Assessment provides a 3D noise map to calculate noise levels in specific parts of the site based on the illustrative site plan. Based on the ability for buildings in the crescent around the northern boundary of the site to shield motorway traffic noise to a certain extent, the noise map shows that most private gardens would experience noise levels below 55dB in accordance with the relevant British Standard (BS8233:2014). For two plots higher level boundary fencing (up to 2.6m high) would be required to achieve a satisfactory level of noise.

8.54 The Noise Assessment also shows that facades of buildings most

exposed to road noise would experience noise levels during the daytime which exceeds the 35bBA internal criterion set out in the relevant guidance when windows were open. Some facades would fail to meet this criterion even with windows closed and standard double glazing used. The same conclusions were reached for facades containing bedrooms using the night time criterion of 30dBA. The assessment recommends alternative ventilation for those affected dwellings and a higher specification of double glazing.

- 8.55 The Council's Environmental Health Officer has reviewed the Noise Assessment and agreed with its findings. They however strongly recommend that mechanical ventilation be used (instead of passive measures, such as for example trickle vents). Had Officers been minded to recommend planning permission be granted a suitably worded planning condition could have been used to secure the details of the mitigation measures including higher than normal boundary fencing, ventilation and glazing specifications.

On-site ecology

- 8.56 The Council's ecologist has provided an up-to-date review of the various ecological supporting information provided by the applicant some of which required revision due to the length of time the application has been under consideration. Consideration has been given specifically to the likely presence of dormice, reptiles and badgers on the site, but no objection has been raised subject to conditions being imposed on any consent to provide the necessary mitigation. Conditions have also been recommended relating to biodiversity enhancement measures.

Local infrastructure

- 8.57 Concerns have been raised by some local residents over the effect of the number of dwellings on doctors, schools and other services in the area.
- 8.58 The difficulty in obtaining doctor's appointments and dental services is an issue regularly raised in respect of new housing proposals. It is ultimately for the health providers to decide how they deliver their services. In the view of Officers, a refusal on these grounds could not be substantiated.
- 8.59 With regards the likely impact on schools in the local area, Hampshire County Council Children's Services have commented on the

application to confirm that, in this particular instance, they do not wish to request a financial contribution towards primary and secondary education infrastructure. A contribution is however sought towards the production of a school travel plan and cycle/scooter storage at Harrison Primary School.

- 8.60 Advice has been received from Fareham Housing as to the local identified need for affordable housing in the area. Had Officers been minded to recommend that planning permission be granted, the applicant would have been invited to enter into to Section 106 legal agreement to secure an appropriate level of affordable housing provision on the site to meet that identified need in terms of dwelling types, sizes and tenures.

i) The Planning Balance

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

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

- 8.62 As set out in paragraph 8.11 above, the effect of Paragraph 182 of the NPPF is that:

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

- 8.63 The effect of NPPF paragraph 182 means that if having carried out an Appropriate Assessment it is concluded that the proposal is likely to have an adverse effect on the integrity of a habitats sites, then the application can be determined in accordance with paragraph 38(6) under the 'straight' balance.

- 8.64 In this instance Officers have identified likely significant effects upon Habitat Sites as a result of an unmitigated surplus of nitrate pollution generated by the development entering the water environment of The Solent. If the Council had been able to determine this application, the

applicant would have been invited to address that issue by producing a revised nutrient budget for the site and new mitigation proposals. If those mitigation proposals had been satisfactory to Officers, an Appropriate Assessment would have needed to have been carried out concluding no adverse effects on HS before a decision to grant planning permission could have been made. In the absence of an up-to-date nutrient assessment and appropriate mitigation proposals, the proposed development would fail to identify and secure appropriate mitigation and would be contrary to Policies CS4 & DSP13. In this particular case however the Officer recommendation would have been to refuse planning permission and so since the application is not able to be favourably determined it has not been necessary for the authority to carry out an Appropriate Assessment.

- 8.65 As the application is the subject of Appeal, should the Inspector be minded to grant permission for the development then it would fall to the Inspector as the Competent Authority to undertake this Appropriate Assessment.
- 8.66 If having carried out an Appropriate Assessment, the Inspector judges that the proposal would not adversely affect the integrity of the habitat sites, then the application, given that the policies of the local plan must be considered out-of-date by virtue of the Housing Delivery Test results, must be determined in accordance Paragraph 11(d). In this instance, Limb i) of Paragraph 11 d would be met (there would be no clear reason for refusing the development remaining if potential impacts on habitat sites have been addressed) and the application would fall to be determined under Limb ii), applying the presumption in favour of sustainable development. This approach detailed within the preceding paragraphs, has become known as the 'tilted balance' in that it tilts the planning balance in favour of sustainable development and against the Development Plan.
- 8.67 The site is outside of the defined urban settlement boundary and the proposed development does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan. In the absence of satisfactory measures to improve journeys on foot for local residents to local services and facilities, the site is not considered to be sustainably located contrary to Policy CS15. Those measures proposed by the applicant have not been properly demonstrated to be deliverable, viable or acceptable with regards to the safety and operation of the

highway contrary to Policy CS5. Furthermore, the development would harm the landscape character, appearance and function of the countryside contrary to Policies CS14 & CS17, albeit such impacts would be localised.

8.68 Officers have carefully weighed the benefits which would be delivered by the proposals, namely the provision of 29 dwellings, including a policy compliant proportion of affordable housing on the site. However, in Officer's views, the harm identified in the preceding paragraphs and conflict with the development plan outweigh the benefits arising from the scheme.

8.69 In summary, in undertaking a detailed assessment of the proposals throughout this report, and assuming that the 'tilted balance' is applied to those assessments (the Inspector having carried out an Appropriate Assessment concluding there would be no adverse effects on the integrity of the Habitats sites) Officers consider that in respect of NPPF Paragraph 11(d):

(i) there are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed; and

(ii) any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

8.70 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should have been refused.

9.0 ***Recommendation***

9.1 Members confirm that had they been able to determine the planning application they would have resolved to REFUSE PERMISSION for the following reasons:

The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS15, CS17, CS18 and CS20 of the Adopted Fareham Borough Core Strategy 2011, Policies DSP6, DSP13 & DSP15 of the Adopted Local Plan Part 2: Development Site and Policies Plan and is unacceptable in that:

- a) The proposal represents development outside the defined urban settlement boundary for which there is no justification or overriding need;
- b) The proposal fails to demonstrate that proposed improvements to provide a footway connection along North Wallington would be deliverable and viable and would not adversely affect the safety and operation of the highway. In the absence of such improvements, the proposal is not considered to be sustainable development in that its location is poor in relation to access on foot or cycle to local services and facilities meaning future residents would rely heavily on use of the private motor car;
- c) The proposed development would be harmful to the landscape character, appearance and function of the countryside and fail to respect or respond positively to the key characteristics of the surrounding area;
- d) The proposal would have likely adverse effects on the integrity of habitat sites in combination with other developments due to the additional generation of nutrients entering the water environment and the lack of appropriate and appropriately secured mitigation;
- e) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of habitat sites which, in combination with other developments, would arise due to the impacts of recreational disturbance;
- f) In the absence of a legal agreement to secure such, the proposal fails to make on-site provision of affordable housing at a level in accordance with the requirements of the local plan;
- g) In the absence of a legal agreement to secure such, the proposal fails to secure a financial contribution towards a school travel plan and cycle/scooter storage at Harrison Primary School.

10.0 **Notes for information:**

10.1 Had it not been for the overriding reasons for refusal to the proposal, the Local Planning Authority would have sought to address point d) by inviting the applicant to provide an up-to-date nutrient assessment of the development site and appropriate mitigation proposals. It would also have sought to address points e) – g) above by inviting the applicant to

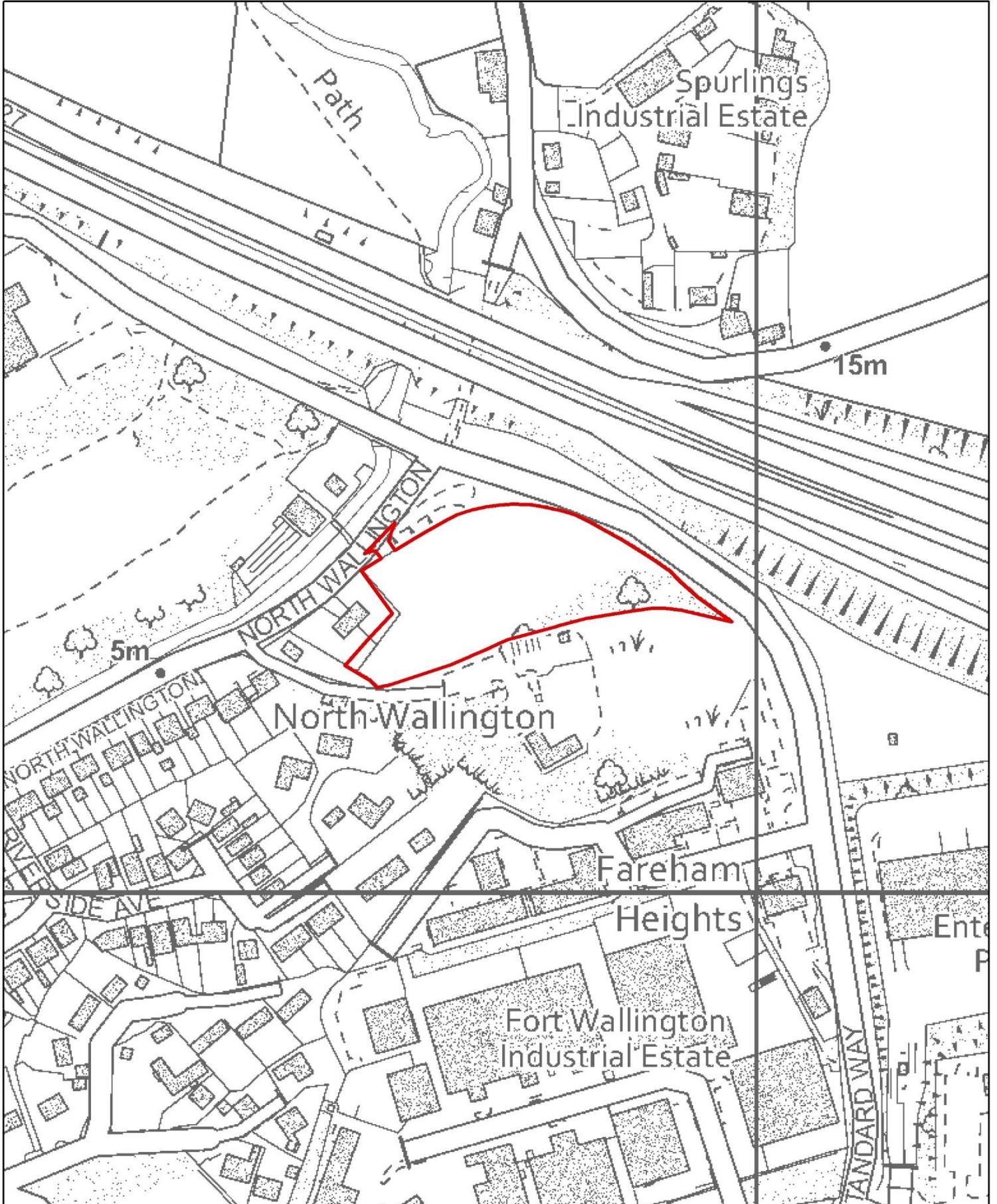
enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990.

11.0 ***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 East of North Wallington Road
Fareham
Scale 1:2,500



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ZONE 3 – EASTERN WARDS

Portchester West

Hill Head

Stubbington

Portchester East

REFERENCE NUMBER & WARD	SITE ADDRESS & PROPOSAL	ITEM NUMBER & RECOMMENDATION
P/22/0165/OA STUBBINGTON	LAND EAST OF NEWGATE LANE EAST FAREHAM OUTLINE APPLICATION WITH ALL MATTERS RESERVED (EXCEPT ACCESS) FOR RESIDENTIAL DEVELOPMENT OF UP TO 375 DWELLINGS, ACCESS FROM NEWGATE LANE EAST, LANDSCAPING AND OTHER ASSOCIATED INFRASTRUCTURE WORKS	4 REFUSE
P/21/1602/FP PORTCHESTER WEST	61 PORTCHESTER ROAD FAREHAM PO16 8AL DEMOLITION OF EXISTING DWELLING AND ERECTION OF A PAIR OF SEMI-DETACHED TWO STOREY DWELLINGS ON THE FRONTAGE AND A DETACHED BUNGALOW TO THE REAR	5 PERMISSION
P/22/0338/FP PORTCHESTER EAST	TURRET HOUSE HOSPITAL LANE PORTCHESTER FAREHAM PO16 9LT NEW DETACHED DWELLING (SELF BUILD)	6 REFUSE

Agenda Item 6(4)

OFFICER REPORT FOR COMMITTEE

DATE:15/06/2022

**P/22/0165/OA
MILLER HOMES LTD & BARGATE
HOMES LTD**

**STUBBINGTON WARD
AGENT: PEGASUS GROUP**

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT ACCESS) FOR RESIDENTIAL DEVELOPMENT OF UP TO 375 DWELLINGS, ACCESS FROM NEWGATE LANE EAST, LANDSCAPING AND OTHER ASSOCIATED INFRASTRUCTURE WORKS

LAND EAST OF NEWGATE LANE EAST, FAREHAM

Report By

Peter Kneen – direct dial 01329 824363

1.0 Introduction

- 1.1 This application is presented to the planning committee following notification from the applicant of their intention to lodge an appeal against the non-determination of the application. The application has attracted a substantial number of third party representations raising objection.
- 1.2 Whilst this Council is no longer able to decide this application it is necessary for Members to confirm the case that this Council will present to the Planning Inspector. This report sets out all the relevant planning policies and relevant material planning considerations and invites Members to confirm the decision they would have made if they had been able to determine the planning application. This will then become the Council's case in respect of the forthcoming appeal
- 1.3 The Council presented an updated 'Five Year Housing Land Supply Position' report to the 25th May Planning Committee. This report demonstrated that the Council has a five year supply of housing land (5.08 years), including a 20% buffer.

2.0 Site Description

- 2.1 The application site is located within the designated Strategic Gap between Fareham, Gosport and Stubbington and lies wholly within the designated countryside. The site extends to some 20.04 hectares and comprises arable farmland. The fields are bounded by hedgerows, fencing and mature belts of trees. To the eastern boundary, beyond a belt of mature trees lies a service road and the rear gardens of properties fronting Tukes Avenue and Pettycot

Crescent. Tukes Avenue and Pettycot Crescent are located within the administrative area of Gosport Borough Council.

- 2.2 To the south of the planning application site lies a further arable field. This field benefits from outline planning permission for 99 houses, granted on appeal (under planning reference P/19/1260/OA in July 2021), which will be accessed via Brookers Lane.
- 2.3 The western boundary of the site is formed by the Newgate Lane East relief road (B3385). Newgate Lane East was constructed to provide a wider, more suitable link between Fareham and Daedalus, by-passing the relatively narrow original road. To the west of Newgate Lane East is further scattered development, the Peel Common Wastewater Treatment Works and open fields.
- 2.4 To the north/ west of the planning application site lies HMS Collingwood's playing fields, which would abut the development along its southern and eastern boundaries.
- 2.5 Along the northern boundary lies a public right of way, that connects Tukes Avenue (to the east) to Newgate Lane (to the west). North of the public right of way is Tukes Avenue Recreation Ground and Speedfields Park, which contains a number of large-scale retail and industrial units.

3.0 *Description of Proposal*

- 3.1 Outline planning permission is sought for the erection of up to 375 dwellings and associated works. All matters are reserved except for the means of access.
- 3.2 The development proposal would see the construction of a large roundabout on Newgate Lane East, at its existing junction with the original Newgate Lane to provide the sole vehicular access for the development.
- 3.3 An indicative concept masterplan has been submitted showing residential blocks totalling up to 375 dwellings, with open spaces, green infrastructure and Sustainable Urban Drainage Systems, together with pedestrian and cycle links to the north, east, south and west of the site.
- 3.4 The majority of the open space is proposed to be located on the western side of the site between the proposed dwellings and Newgate Lane East, with green corridors shown throughout the site and around the periphery.
- 3.5 Matters of scale, appearance, layout and landscaping are reserved for decision at a later date if outline planning permission is granted.

4.0 Policies

4.1 The following policies apply to this application:

Adopted Fareham Borough Core Strategy

CS2	Housing Provision
CS4	Green Infrastructure, Biodiversity and Geological Conservation
CS5	Transport Strategy and Infrastructure
CS6	The Development Strategy
CS14	Development Outside Settlements
CS15	Sustainable Development and Climate Change
CS16	Natural Resources and Renewable Energy
CS17	High Quality Design
CS18	Provision of Affordable Housing
CS20	Infrastructure and Development Contributions
CS21	Protection and Provision of Open Space
CS22	Development in Strategic Gaps

Adopted Development Sites and Policies

DSP1	Sustainable Development
DSP2	Environmental Impact
DSP3	Impact on Living Conditions
DSP6	New Residential Development Outside of the Defined Urban Settlement Boundaries
DSP13	Nature Conservation
DSP14	Supporting Sites for Brent Geese and Waders
DSP15	Recreational Disturbance on The Solent Special Protection Areas

4.2 In addition to the adopted Local Plan, the emerging Fareham Local Plan 2037 has been through its examination and is therefore at a relatively advanced stage. Some weight can be applied to its emerging Policies:

Emerging Fareham Local Plan 2037

DS1	Development in the Countryside
DS2	Development in the Strategic Gaps
DS3	Landscape
H1	Housing Provision
HP1	New Residential Development
HP4	Five Year Housing Land Supply
HP5	Provision of Affordable Housing
HP9	Self and Custom Build Homes
CC1	Climate Change
CC2	Managing Flood Risk and Sustainable Drainage Systems

NE1	Protection of Nature Conservation, Biodiversity and the Local Ecological Network
NE2	Biodiversity Net Gain
NE3	Recreational Disturbance on the Solent Special Protection Areas (SPAs)
NE4	Water Quality Effects on the Special Protection Areas, Special Areas of Conservation (SACs) and Ramsar Sites of The Solent
NE5	Solent Wader and Brent Goose Sites
NE6	Trees, Woodland and Hedgerows
NE8	Air Quality
NE9	Green Infrastructure
TIN1	Sustainable Transport
TIN2	Highway Safety and Road Network
D1	High Quality Design and Placemaking
D2	Ensuring Good Environmental Conditions
D3	Co-ordination of Development and Piecemeal Proposals
D4	Water Quality and Resources
D5	Internal Space Standards

Other Documents:

- Fareham Borough Design Guidance: Supplementary Planning Document (excluding Welborne) December 2015
- Residential Car Parking Standards 2009
- Planning Obligations Supplementary Planning Document for the Borough of Fareham (excluding Welborne) April 2016

5.0 *Relevant Planning History*

5.1 There is no recent relevant planning history regarding the application site. However, it is important to note several recent planning applications and appeal decisions on sites nearby:

P/19/1260/OA	SITE TO THE SOUTH Land East of Newgate Lane East Outline planning application for up to 99 dwellings with access from Brookers Lane, Gosport
APPEAL ALLOWED	28 July 2021
P/18/1118/OA	SITE TO WEST OF NEWGATE LANE EAST Land at Newgate Lane (North) Outline planning application for up to 75 dwellings
APPEAL DISMISSED	8 June 2021
P/19/0460/OA	SITE TO WEST OF NEWGATE LANE EAST

Land at Newgate Lane (South)
Outline planning application for up to 115
dwellings

APPEAL DISMISSED 8 June 2021

6.0 Representations

6.1 One hundred and forty-eight third party representations have been received regarding this application. Of these one is in support and one hundred and forty-seven raise objection. The main points raised are summarised below:

Objections

- Impact on the Strategic Gap (Policy CS22 of Adopted Local Plan, Policy DS2 in the Emerging Local plan)
- Contrary to the Hampshire County Council's current and emerging Local Transport Plans
- Impact on local amenities
- Increase in carbon footprint
- Increase in nitrate levels
- Increase in air pollution adversely affecting the health and wellbeing of residents
- Increased traffic congestion
- Construction vehicles on inadequate roads
- Lack of public transport along Newgate Lane
- Concerns that Tukes Avenue, Bridgemary, Gosport will become a rat run and have an impact on the safety of children going to and from school
- Brookers Lane will become even more of a driving hazard
- The cycle way will become dangerous with the increase in traffic
- Businesses will be dissuaded from relocating to the Daedalus site
- Impact on wildlife and green areas
- The need for council owned social housing or for people requiring affordable rental properties will not be met
- The development will have an impact on Daedalus airfield by creating extra noise which the airfield already bears the brunt of noise complaints. The future flight paths will be affected by the positioning of the development
- Southern Water Services will not be able to cope with the increased number of households
- Lack of local employment increasing the need to travel to and from work
- Risk of flooding
- Concerns for the security of existing properties
- Increased smell from the sewerage works
- No contact by the developers has been made to Gosport Council
- Loss of agricultural land
- Cumulative impact with 99 houses that have been permitted

- Development should be carried out on Brownfield Sites.
- Council tax will be paid to Fareham Borough Council, but Gosport Borough Council's amenities will be used

Support

- More housing needed

6.2 Included in the 148 letters received are representations from The Fareham Society, the Gosport and Stubbington Member of Parliament, Caroline Dineage, and the Lee-On-The-Solent Residents' Association. Their concerns largely mirror those of local residents and include:

- Harm to the Strategic Gap
- Insufficient evidence to support the proposed number of houses
- Highway impacts

7.0 Consultations

EXTERNAL

Hampshire County Council (HCC) Archaeology

7.1 No overriding objections to application, subject to appropriate conditions.

Hampshire Fire and Rescue Services

7.2 Comments made to ensure compliance with Building Regulations. No objection.

HCC Lead Local Flood Authority

7.3 No objection subject to conditions

Southern Water

7.4 No objection

HCC Children's Services

7.5 No objection raised subject to a financial contribution towards school infrastructure, early years infrastructure, the provision of cycle and footpaths to catchment area schools to encourage active travel and active travel school travel plans. Without the provision the contributions detailed and infrastructure provided to encourage active travel to the catchment area schools, the County Council, as Local Education Authority, would object to the proposal on the grounds that the impact on the existing infrastructure cannot be sufficiently mitigated and therefore the development is unacceptable in planning terms.

Gosport Borough Council

- 7.6 Objection to proposal. Contrary to Fareham Borough Council (FBC) Development Plan, Contrary to emerging FBC Plan. Impact on Strategic Gap and Landscape and conflict with Policies CS14, CS16, CS17, CS22, DSP6 and DSP40. Serious concerns about impact on Newgate Lane East, impacting on the free flow of traffic, detrimental to Gosport residents and Solent Enterprise Zone.

HCC Highways

- 7.7 The County Council notes that the new Fareham Borough Council Local Plan was submitted for examination in September 2021, with examination hearings subsequently taking place in March and April 2022. A report from the Inspector on the outcome of these hearings is expected shortly.

HCC notes that this site was removed from the emerging Plan by Fareham Borough Council following the Regulation 18 Draft Local Plan consultation. Representations were made by the local highway authority on the Regulation 18 Local Plan raising concerns about the proposed allocation. In summary, the local highway authority considered that, on the basis of the evidence available at the time, the proposal would unacceptably undermine the purpose of the Newgate Lane improvements.

It is understood that the site's promoters have subsequently made representations objecting to the omission of this site from the Local Plan and that this matter is the subject of active consideration by the Planning Inspector examining the Local Plan.

In this context it is noted that the emerging Local Plan proposes a spatial distribution for growth in the borough and this has been supported by evidence which considers the cumulative impact of that specific spatial distribution on infrastructure and environmental considerations. Clearly, if the Inspector were to conclude that the Local Plan was unsound, and that there was merit in further consideration of new development sites to help address their concerns, this would be the subject of further work and evidence base preparation.

The impact of this development, were it to be granted for this planning application, has not featured as part of any such recent assessment to date. Noting the scale and location of the proposed development in relation to current highway improvements and other proposed development in the area, the County Council considers that granting permission at this time would be premature. This is particularly the case considering the advance stage of the Plan's preparation.

Notwithstanding the above, the Local Highway Authority has reviewed the evidence submitted by the applicant to date. On the basis of the information provided by the applicant in this regard, the County Council as the local Highway Authority considers that the proposal is contrary to Paragraphs 110, and 111 of the National Planning Policy Framework.

The reasons for refusal may be overcome by the applicant submitting the information detailed below:

- A Walking, Cycling and Horse Riding Assessment and Review of routes to the catchment schools and amenities within Stubbington.
- Consideration of improvements for cyclists on Wych Road, between Tukes Avenue and the Henry Cort Way.
- Consideration of Redlands Lane cycle improvements, between the northern end of Henry Cort Way and The Gillies.
- Agreement of a contribution of £16,000 towards the provision of Real Time Information (RTI) at Tukes Avenue bus stops.
- A sensitivity junction model test for the proposed site access in the 2037 future year scenario, uplifted to the recorded ATC flows.
- Revised traffic flow diagrams to include the bypass straight ahead lane at the Newgate Lane/ Speedfield business park roundabout.
- Extended traffic flow diagrams to include the Gosport Road/ Palmerston Drive junction and associated Newgate Lane flyover.
- Consideration of Physical Infrastructure Access (PIA) mitigation at Newgate Lane/ A32 Gosport Road interchange.
- Address comments relating to the design of the proposed pedestrian and cycle accesses.
- Address comments relating to the proposed southern emergency access link.
- Consideration of lighting of the Brookers Lane/ Woodcot Lane pedestrian and cycle link.
- Consideration of cycle improvements on the route to the catchment schools of Wallisdean Infant and Junior and Fareham Secondary Academy at, and north of, Longfield Avenue.
- Agreement of a contribution of £42,000 towards the producing and delivering School Travel Plans for the catchment schools.
- Address comments relating to the design of the proposed roundabout site access.
- Inclusion of the catchment schools in the pedestrian and cycle demand forecasts.
- Amend the routing and journey times for the destinations noted and resubmit a revised traffic distribution.
- Confirm the distribution of Welborne Garden Village committed development trips from the A27 Gosport Road.
- Compare queue length data with the baseline models to ensure the base models are validated to observed conditions. Calibrate baseline models if necessary.
- Geometry drawings for all off-site highway junction models.
- Updated modelling using a one-hour profile rather than direct flow input for the proposed site access.
- Confirm that HGV percentages are derived from traffic survey data.
- Clarify the discrepancy between the 18.91m effective flare length shown on drawing 1TB10353-GA-105 and the 52.1m coded in the site access junction model.

- Provide modelling to reflect the current scheme being constructed at Peel Common roundabout.
- Address the modelling comments relating to Newgate Lane/ HMS Collingwood Access/ Speedfields Park junction.
- Address the modelling comments relating to Brookers Lane Toucan Crossing.

In summary, the County Council has concerns that the proposal is premature in the context of the emerging Local Plan which is currently at a late stage in its preparation and that it is contrary to planning policy relating to highways operation, safety and accessibility. On the basis of the information submitted in support of the planning application, the Local Highway Authority would recommend that the Local Planning Authority refuse the application due to the following reasons:

The applicant has failed to demonstrate the development would not result in an unacceptable impact on highway operation and safety. On this basis the proposed development would be contrary to NPPF Paragraph 111 in that it would result in a severe impact on the road network.

The applicant has failed to demonstrate that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would be contrary to NPPF Paragraph 110.

HCC Countryside and Rights of Way

- 7.8 No objection to improvements to access to the rights of way network. Concern raised regarding lack of information in relation to horse-riders.

Environment Agency

- 7.9 No comments raised.

Natural England (NE)

- 7.10 The proposals will affect Solent Wader and Brent Goose Strategy (SWBGS) sites. These sites form a network of terrestrial sites located outside of The Solent Special Protection Area (SPA) boundaries that are used by SPA species as alternative areas for roosting and foraging. These sites support the functionality of the designated sites and are therefore protected in this context.

The proposals will result in the total loss of the SWBGS site F23 (4.67ha), a secondary support site with records of use by green sandpiper, greenshank and lapwing. To address this loss, it is proposed that 2ha of on-site land towards the western boundary of the site will be secured in perpetuity as a

bird mitigation area. This area currently forms part of F15, a low use SWBGS site. This on-site bird mitigation area would be managed primarily as short-sward grassland.

A seasonal waterbody is proposed to improve habitat suitability for wading birds (this basin would also form part of the SuDs network for the site). Permitted access would be for management and monitoring purposes, with measures to prevent unauthorised access to include stock-proof fencing and hedgerows planted along the northern and southern boundaries. Given its proximity to the proposed development consideration should be given to enforcement of these measures, in addition to their management in perpetuity, to provide certainty that no unauthorised access would occur.

There is uncertainty as to whether the proposed on-site mitigation area would provide suitable and sufficient habitat to address the loss of F23. Given the relatively small size of this site, and the presence of boundary hedgerows and trees it is unlikely that the site could provide long sight-lines preferred by overwintering bird species. In line with the SWBGS Mitigation guidance, there is a preference for on-site provision to maintain a network of sites across the region. However, it must be sufficient size and of suitable design, with management in perpetuity including controlled access during winter months. 'Significant enhancements' would need to be delivered, such as long term secured management.

In this instance NE raise concerns regarding the small size of the mitigation area proposed, the likelihood of limited sight lines and uncertainty regarding informal access by people and dogs. The current proposals do not provide the certainty needed that the continued ecological function of the SWBGS network would be maintained. Therefore, NE advise consideration should be given to broadening the scope of on-site mitigation, or to funding a suitable offsite project.

This proposal will also result in the loss of 9.92ha of SWBGS site 'F15', representing a partial loss of this low use site, which has records of use by lapwing. All low use sites have the potential to support the existing network and provide alternative options and resilience for the future network.

To address the loss of part of SWBGS site F15, it is proposed that a 5ha off-site Winter Bird Mitigation area is secured in perpetuity at Old Street in Stubbington. Natural England previously agreed that this mitigation area could make provision for the loss of 11.84ha of F15 arising from three developments. Following unsuccessful appeals relating to two of these developments (Land at Newgate Lane North and South), it is proposed that this off-site Mitigation area instead provides for the combined loss from the

third development (Land at Newgate Lane East) in addition to the current development proposal. This would total approximately 13.8ha of loss from F15 according to the applicant, representing an additional c.2ha of loss.

It is advised that further measures are sought to address this additional loss of c.2ha. Options to expand the Winter Bird Mitigation area could be explored, or a suitable contribution made in line with the Solent Wader and Brent Goose strategy could be provided to address any level of uncertainty arising from this increase in loss. NE advise that suitable project(s) are identified to ensure that this contribution will benefit the wider SWBGS network of sites.

A monitoring and management plan for the offsite Winter Bird Mitigation Area has been produced in support of this application (WYG, February 2021). NE advise that this plan should be costed, as the decision maker will need to be satisfied that financial arrangements are in place that will guarantee the provision of sufficient funds to ensure the full delivery of the agreed management plans for the lifetime of the development. The plan should make clear the organisation(s) responsible for delivering the mitigation and should cater for instances where monitoring shows declining effectiveness and allows for remedial management measures.

The mitigation land should be delivered in advance of any loss of SPA functionally linked land and managed by a suitable third party (such as the Local Planning Authority or Non-Governmental Organisation partner, or similar stable management body such as the Land Trust) in perpetuity. Where a management body is employed that is not the public authority, legal step-in rights may be required to take over management of the area in the case where that body fails or folds.

Without the information set out above, Natural England may need to object to the proposal.

Landscape

- 7.11 Nicholson Lockhart Garratt, a private consultancy firm (specialising in Environmental Planning, Landscape Design and Forestry and Woodland Management), have been instructed by the Council to assess the landscape and visual impacts of the proposed development.
- 7.12 In their assessment, the site is in a highly sensitive location and its development would result in a significant and permanent adverse change in the character of the area and the complete loss of any remaining rural integrity. The scale and location of the proposed development is such that it would result in significant coalescence between Fareham and Gosport; this is anticipated to significantly reduce the integrity of the Strategic Gap in this

location. Development would result in permanent significant adverse effects upon visual receptors in the close vicinity of the site.

INTERNAL

Environmental Health (Contaminated Land)

7.12 No objection

Trees

7.13 No objection

Ecology

7.14 Badgers: The potential impact upon badgers can be satisfactorily mitigated.

Reptiles: A good population of slow-worm and a low population of grass snake has been confirmed on site. No definite receptor area has been secured on site, however it is acknowledged that there will be scope on site for reptile receptor areas in the form of green corridors and bird refuge areas. Provided that a reptile mitigation strategy with necessary updated surveys (no older than 2 years old) is secured via a planning condition, no objection raised.

Bats and Nesting Birds: There are limitations in relation to the surveys carried out on site, as the largest part of the site was surveyed much later than the northern section of the site and therefore the overall assessment of impacts is not considered to be robust enough. This limitation has however been acknowledged and it has been stated that "Five additional surveys are scheduled to be undertaken in 2022 between April and July 2022". The results of these surveys are required.

Whilst it may be acceptable to compensate for the loss of Secondary Support Areas by creating smaller but higher quality habitats, I am not satisfied that the mitigation proposed along the western side of the site will be of such higher value to over-wintering birds.

Concern is raised that it is proposed to plant a hedge along the northern and southern boundaries, along with occasional hedgerow trees. This field already supports a hedge along the eastern and western boundaries. This will affect the clear sight lines that many birds require.

It is also noted that a ditch is proposed outside the northern boundary of the Bird Mitigation Area. This feature could enhance the value of the site and it is not clear why it has been located outside the Mitigation Area.

Most importantly, whilst creation of shallow scrapes will enhance the value of the site for waders, a single large basin which is likely to be a requirement as part of the drainage strategy for the site and not a well-considered enhancement feature designed for the birds, is proposed to be located in this field. No information has been provided in relation to the levels/depths of this feature (other than it will be 0.8m deep) to ensure that it will be suitable for wintering birds recorded on and adjacent to the site.

The 'F15' Low use site is approximately 9.92ha in area. To compensate for the loss of F15, it is proposed that a Winter Bird Mitigation Area measuring 5.0 ha is created at Old Street, Stubbington. It is understood that it was agreed with Natural England that the proposed area was capable of mitigating the loss of F15 associated with three sites (Newgate Lane East, Land at Newgate Lane (South) and Land at Newgate Lane (North)). This combined loss was estimated as 11.84 ha. Following the unsuccessful appeals at the latter two sites, it is now proposed that the strategy is secured to mitigate the loss of F15 for Newgate Lane East and the current proposal. This combined loss is estimated as 13.8 ha by the applicant. The same Bird Mitigation Area at Old Street is now compensating for the loss of an extra area of 2ha. No justification has been provided as to how this Mitigation Area is still suitable.

Based on the above, unable to support the conclusions of the submitted 'REPORT TO INFORM HABITATS REGULATIONS ASSESSMENT' and request that further information is submitted.

Fareham Housing

- 7.15 No objection likely subject to compliance with identified affordable housing requirement for a site of 375 dwellings in Fareham South.

Recycling Co-ordinator

- 7.16 No comments raised at this stage

Open Spaces Manager

- 7.17 Comments only at this stage. Indicative open space layout is acceptable, but SuDS will have impacts on the open spaces which will need to be considered at the detailed design stage. Suitable play facilities should be provided for a development of this size.

Conservation/Historic Environment

- 7.18 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) The approach to decision making;
- b) Residential development in the countryside
- c) Accessibility of the site
- d) Landscape and visual impact
- e) Strategic Gap
- f) Highway impacts;
- g) Impact on Habitat Sites;
- h) Ecology and protected species
- i) Other matters
- j) The planning balance

a) The Approach to Decision Making

8.2 A report titled 'Five Year Housing Land Supply Position' was reported to the May meeting of the Planning Committee. That report set out this Council's local housing need along with the Council's current housing land supply position. The report concluded that the Council has 5.08 years of housing supply against its five-year housing land supply (5YHLS) requirement.

8.3 Had a non-determination appeal not been lodged and had the Council been in a position to determine the application, the starting point for making a decision would have been section 38(6) of the Planning and Compulsory Purchase Act 2004, which states:

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

8.4 In determining planning applications there is a presumption in favour of the policies of the extant Development Plan unless material considerations indicate otherwise. Material considerations include the planning policies set out in the National Planning Policy Framework (NPPF) 2021.

8.5 Paragraph 60 of the NPPF seeks to significantly boost the supply of housing.

8.6 Paragraph 74 of the NPPF states that Local Planning Authorities should identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement, including a buffer. Where a Local Planning Authority cannot do so, and when faced with applications involving the provision of housing, the policies of the local plan

which are most important for determining the application are considered out-of-date. 'Paragraph 74 of the NPPF also states that the 'supply of specific deliverable sites should in addition include a buffer..... of 20% where there has been a significant under delivery of housing over the previous 3 years, to improve the prospect of achieving the planned supply.'

8.7 Paragraph 11 of the NPPF sets out what is meant by the presumption in favour of sustainable development for decision-taking, including where relevant policies are 'out-of-date'. It states:

"For decision-taking this means:

- c) Approving development proposals that accord with an up-to-date development plan without delay; or*
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 8 below), granting planning permission unless:
 - i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed (see footnote 7 below); or*
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."**

8.8 Footnote 7 of paragraph 11 reads:

"The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change."

8.9 Footnote 8 to paragraph 11 reads:

"This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing

was substantially below (less than 75% of) the housing requirements over the previous three years.”

- 8.10 This planning application proposes new housing outside the defined urban settlement boundaries. Whilst the Council can demonstrate a five year housing land supply, the Housing Delivery Test results published on 14 January 2022 confirmed that the Council has achieved 62% of its housing target. This means the delivery of housing in the last three years (2018 to 2021) was substantially below (less than 75%) the housing requirement over the previous three years. Footnote 8 of paragraph 11 of the NPPF is clear that in such circumstances those policies which are most important for determining the application are to be considered out-of-date, meaning that the presumption in favour of sustainable development in paragraph 11(d) is engaged.
- 8.11 Taking the first limb of NPPF paragraph 11(d), as this report sets out, in this instance there are specific policies in the NPPF which protect areas of assets of particular importance, namely habitat sites, which are specifically mentioned in footnote 7. Therefore, a judgement will need to be reached as to whether policies in the Framework would have provided a clear reason for refusing the development. Where this is found to be the case, the development should be refused.
- 8.12 The second limb of NPPF paragraph 11(d), namely whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole (the so-called ‘tilted balance’) will only apply if it is judged that there are no clear reasons for refusing the development having applied the test at limb one.
- 8.13 Members will be mindful of paragraph 182 of the NPPF which states that:
- “The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”*
- 8.14 The wording of this paragraph clarifies that the presumption in favour of sustainable development set out in paragraph 11 does not apply unless an appropriate assessment has concluded that the proposal would not adversely affect the integrity of the habitat sites subject to mitigation.

8.15 The following sections of this report assesses the application proposals against this Council's adopted local planning policies and considers whether it complies with those policies or not. Following this Officers undertake the Planning Balance to weigh up the material considerations in this case.

b) Residential Development in the Countryside

8.16 Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the urban areas. Policy CS6 (The Development Strategy) goes on to say that development will be permitted within the settlement boundaries. The application site lies within an area which is outside of the defined urban settlement boundary.

8.17 Policy CS14 of the Core Strategy states that:

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

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

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

c) Accessibility of the site

8.20 It is acknowledged that the site is located immediately adjacent to the urban areas of Bridgemary and Woodcot, in Gosport Borough, and on the southern end of the Speedfields Park, a large commercial area at the southern end of the defined urban area of Fareham. It is also acknowledged that the proposal includes the provision of pedestrian and cycle links to the neighbouring urban areas.

8.21 In considering whether the site would be accessible, it is important to have regard to the considerations raised by the Appeal Inspectors on the recent cases outline in Section 5.0 of this report. All these sites are located immediately adjacent to this application site, with the allowed appeal site (Appeal A) being located to the south and would be linked via pedestrian and cycling paths through the site to Brookers Lane (to the south). The other two

sites (Appeal B (Newgate Lane North) and Appeal C (Newgate Lane South)) are located immediately to the west of the site, on the western side of Newgate Lane East, both of which were dismissed on appeal.

- 8.22 The Appeal Inspector for Appeal A concluded that whilst the site was “*not perhaps an ideal form of development. It would be sustainable development in terms of the Framework*”. This reflected the site’s direct connection into Gosport, via Brookers Lane for motorists, cyclists and pedestrians. Future residents would only achieve vehicular access via Brookers Lane, with only pedestrian and cycle access westwards across Newgate Lane East. The accessibility of the site, subject to mitigation, was not one of the Council’s objections to the scheme.
- 8.23 The Appeal Inspector for Appeals B and C (located on the western side of Newgate Lane East) identified concerns regarding the ability of future residents to walk to local services and facilities, largely due to the need to cross Newgate Lane East to access both facilities in Bridgemary and Speedfields Park, despite the presence of a pedestrian crossing to the north of the site, and a proposed toucan crossing at Brookers Lane. The Inspector also noted the limited bus services along Newgate Lane East, and the limitations of the site in terms particularly for walking and use of public transport. Furthermore, the sites are not located adjacent to an existing urban settlement boundary. The Inspector concluded the sites were not sustainably located, in terms of accessibility.
- 8.24 The present application site is located immediately adjacent to the urban area of Gosport. In terms of the use of public transport, buses along Newgate Lane East are considered to be limited, but a more regular service along Tukes Avenue would be accessible to future residents. Future residents would have direct pedestrian, cycle and public transport access to the services and facilities in Bridgemary and Woodcot, together with access to services and facilities in Speedfields Park without the need to cross Newgate Lane East.
- 8.25 As identified on the Concept Masterplan, only one pedestrian and cycle link would be created directly to the east, towards the northern part of the site. The greatest proportion of residents living in the central and southern part of the site would be required to walk or cycle some distance to access Tukes Avenue, averaging at least 500 metres to reach either Tukes Avenue or Brookers Lane. Residents would need to travel through the scheme allowed on appeal (Appeal A) to access Tukes Avenue via Brookers Lane or travel northern towards the eastern link (opposite Woodcot Primary School), or via the public right of way along the northern boundary of the site.

- 8.26 Hampshire County Council Children's Services, consider that the catchment for pupils from this development would not be for the schools in Gosport Borough, despite Woodcot Primary School being located to the immediate east of the site beyond Tukes Avenue. HCC consider the catchment for pupils will be schools in Stubbington and Fareham, and this would require both a fairly lengthy walk or cycle, crossing Newgate Lane East to get into Stubbington, or the use of the Bus Rapid Transit (BRT) on Henry Cort Way to access Fareham. No details regarding the need for sustainable and active travel routes to the catchment schools has been provided to the satisfaction of the Local Education Authority.
- 8.27 Planning permission for 99 dwellings, immediately to the south of the present application site, was granted on appeal in July 2021. The Council did not raise objection to that proposal on the grounds of accessibility. It is located adjacent to the existing urban settlement boundaries. It differs from the current application site in that vehicular access will be gained from the east.
- 8.28 Whilst the proposed pedestrian and cycle links on the site are focused towards the northern and southern ends of the site, Officers consider these would provide reasonable accessibility to facilities located to the east. Local bus services can be accessed to the east of the site or on Newgate Lane East, immediately adjacent to the west of the site. Speedfields Park, immediately to the north of the application site contains retail facilities, including large food retail stores.
- 8.29 Having regard to all of the above, it is considered in locational terms that on balance, the site is accessibly located with options for direct access to local services and facilities. The matters and concerns raised by Hampshire County Council in its capacity as the Highway Authority are considered separately elsewhere in this report. Similarly, the comments of Hampshire County Council Children's Services are noted, and any improvements relating to active travel to school will need to be addressed by the applicant.

d) Landscape and Visual Impact

- 8.30 Nicholson Lockhart Garratt, a private consultancy firm (specialising in Environmental Planning, Landscape Design and Forestry and Woodland Management), have been instructed by the Council to assess the landscape and visual impacts of the proposed development.
- 8.31 Natural England's National Character Assessment places the site within the South Coast Plain National Character Area (NCA). This is broadly described as a flat, coastal landscape with an intricately indented shoreline lying between the dip slope of the South Downs and South Hampshire Lowlands, and the waters of the English Channel, Solent and part of Southampton

Water. The site and its setting are therefore considered to be moderately representative of this NCA, in particular in relation to the site's presence as an area of farmed land separating developed areas that slopes gently to the south.

8.32 At a county level, the Hampshire Integrated Character Assessment (2012) places the site within Gosport and Fareham Coastal Plain Landscape Character Area (9F). The site and its setting are considered to be strongly representative of the key features outlined by this Character Area, with only exceptions being that that only occur near to the coast. Additionally, the Assessment also places the site within land associated with the Coastal Plain Open Landscape Type, reflecting the majority of the identified key characteristics.

8.33 At the local level, the Fareham Landscape Assessment, published in 2017 places the site within the Woodcot/Alver Valley Landscape Character Area (LCA8), close to the boundary of the Fareham/Stubbington Gap Landscape Character Area (LCA7), which lies beyond Newgate Lane to the west.

8.34 The Woodcot/Alver Valley Landscape Character Area is described as follows:

“The Alver Valley also forms part of the strategic gap separating Fareham and Gosport but it is very different in character and scale from the open farmed landscape to the west. It comprises a mixed pattern of wooded common, small-scale pasture and ribbon development along the corridors of the River Alver and Newgate Lane and is bounded to the east by the urban edge of Gosport and to the north by the outskirts of Fareham”.

8.35 The site and its setting are therefore considered to be strongly representative of the Woodcot/Alver Valley Landscape Character Area, representing all key characteristics with the exception of the one that only occurs to the south of the area.

8.36 The Fareham Landscape Assessment further divides these areas into Local Landscape Character Areas (LLCAs), of which the application site lies wholly within LLCA 8.1a (Woodcot). The Assessment draws the following conclusion:

“As a whole, this area is of high sensitivity primarily on account of its critical role in preventing the coalescence of the urban areas of Fareham, Bridgemary and, to a lesser extent, Stubbington, and in defining the edges, setting and separate identity of these settlements. The relatively small size of the area, the high degree of intervisibility and its generally unspoilt, rural character make it particularly vulnerable to change. The generally open nature of the landscape means that it is difficult to integrate development

without it being highly visible and potentially affecting the rural undeveloped character across a wide area, as well as eroding the physical, visual and perceived gap between settlements. The situation is further complicated by the proposed new road [now constructed] which will have some effect on the integrity and character of the landscape resource and undeveloped gap. Even a small amount of encroachment of further built development within the area could exacerbate these effects to the point at which the character of the whole area may be fundamentally altered.”

- 8.37 In relation to the landscape implications of the proposed development, Nicholson Lockhart Garratt advise as follows:

“The Site and its landscape setting are characterised by their open character as part of the gently sloping Alver Valley, their use as large predominantly arable fields with weak hedgerows, and the important role that they play in preventing the further coalescence and preserving the individual character of Fareham and the Woodcot suburb of Gosport.

The Council’s published landscape sensitivity assessment has determined that the sub-area of the Woodcot/Alver Valley Local Landscape Character Area in which the site is located is of high landscape sensitivity to development, with very little scope to accommodate development. It acknowledges the impact of the recent construction of Newgate Lane East in reducing the integrity of the area but concludes that this would in fact increase the sensitivity of the area to further development.

The development proposals represent a large-scale residential development, which would act in combination with the recently approved scheme to the south to entirely eliminate the open character of the Woodcot/Alver Valley, and to reduce the rural component to a small collection of arable fields to the north of Peel Common, which are unlikely to remain viable as an agricultural unit. Whilst it is noted that a field in the western part of the scheme is proposed to be retained, this is anticipated to comprise a combination of public open space and engineered sustainable urban drainage features, and therefore its rural integrity would still be permanently lost.

The illustrative development design itself is a relatively bland and generic collection of perimeter blocks of residential development, and a significant proportion of the open space within the scheme is given over to storm water attenuation. Whilst a linear park is retained in association with an existing hedgerow, this is truncated in two places by main vehicle routes and flanked by another route, and it is further breached in three places by lesser access routes, therefore it is highly unlikely to function as an effective green infrastructure corridor. Other public access areas are restricted to corners of

the scheme, where 'pocket parks' coincide with areas of planting for visual screening. All of these factors indicate that response to the prevailing character and the creation of high-quality places were not significant considerations in the design of this scheme.

Whilst it is noted that the planting proposals within the illustrative scheme would result in some reduction in the level of change within the landscape with time as it matures, it is unlikely that this will be to the extent that it would reduce the impact of development within this highly sensitive and inappropriate location to an acceptable level.

It is therefore concluded that the proposed development, by nature of its scale and design is inappropriate in principle within this highly sensitive location, and that it would bring about a significant and permanent adverse change in the character of the area and the complete loss of any remaining rural integrity. The illustrative scheme represents a generic design response to the character of the area, and fails to minimise landscape harm, or to recognise the inherent character and beauty of the countryside.”

8.38 In terms of visual amenity the following points were raised:

“The applicant’s assessment of visual impacts correctly identifies that the Site occupies a relatively restricted visual envelope, by that the proposed development would be visible from a number of highly sensitive receptors in its vicinity, including the users of Public Rights of Way and recreational facilities, and the occupants of private dwellings. It anticipates that a number of these receptors would experience adverse visual impacts of moderate to major significance upon completion of the scheme.

I do not agree that the measures enshrined within the illustrative development design would reduce the significance of effect upon these receptors to the extent stated by the applicant by year 15 because the measures proposed are insufficient, and the species proposed to be used for screening planting are deciduous. As an example, the magnitude of change upon the users of the Meadow Walk Recreation Ground is judged to reduce from medium to low, even though no new planting is proposed along the northern edge of the scheme.

Whilst a number of potentially sensitive receptors have been identified to the south of the Site, I am in agreement with the applicant that the delivery of the consented scheme to the south of the Site would reduce the level of change upon these receptors.

It is therefore concluded that the proposed development is likely to result in a number of permanent significant adverse effects upon visual receptors in the close vicinity of the Site, but that the restricted visual envelope of the Site is such that significant effects upon wider views are considered to be unlikely.”

- 8.39 Officers have carefully considered the assessments of landscape and visual impacts, undertaken by the applicants and by Nicholson Lockhart Garratt. Officers consider that the proposed development would result in significant harm upon the local landscape character. The development of the site is inappropriate in principle within this highly sensitive location, and it would bring about a significant and permanent adverse change in the character of the area and the complete loss of any remaining rural integrity, and the visual environment. The development would be contrary to the advice in paragraph 174(b) of the NPPF failing to recognise the intrinsic character and beauty of the countryside and policies CS14 and CS17 of the adopted Core Strategy.

e) Strategic Gap

- 8.40 In addition to being located within a highly sensitive countryside location, the site is also identified as being within the Strategic Gap, designated to prevent the coalescence of Gosport, Fareham and Stubbington in this location. Policy CS22 of the adopted Core Strategy states that:

“Development proposals will not be permitted either individually or cumulatively where it significantly affects the integrity of the gap and the physical and visual separation of settlements.”

- 8.41 Fareham Borough Council’s Technical Review of Areas of Special Landscape Quality and Strategic Gaps, published in 2020 includes the Fareham - Stubbington Gap. It states the Key Features of the Gap to be as follows:

- Open, predominantly arable farmland and horticulture with some glasshouses, a weak hedgerow structure and few trees
- The settlement edges are for the most part well screened by mature tree canopy, but there is some minor visual intrusion from Fareham, Stubbington and HMS Collingwood
- A few scattered farmsteads/horticultural holdings and a mosaic of small fragments of open farmland and horse-grazing pastures sandwiched between:
- Large-scale non-agricultural uses of Business and airfield development at Solent Airport in Daedalus to the South and the utilities of:
- Peel Common Water Treatment Works enclosed from views by an earth bund and mature tree belt
- Peel Common Solar Farm

- Construction site of Stubbington by-pass, which will provide an East-West and South route through the Gap that has not previously existed
- Urban fringe character of Peel Common residential area
- Recently completed highway works to Newgate Lane, and Peel Common roundabout, with associated noise attenuation fencing and bus and cycle infrastructure.

8.42 The Technical Review considers the potential impact of development within the Fareham-Stubbington Gap to be high. The Technical Review further narrows down consideration to a smaller area, the Strategic Gap Study Area (8c), which comprises the area of the application site. The Review states:

“Despite the proximity of Fareham and Gosport in the north part, the gap is currently still effective in providing a ‘sense of separation’ but it is at risk. Substantial vegetation around boundaries currently prevents visual coalescence. There is a defined boundary along settlement edges and a gap of sufficient scale and coherence of character...Further development within the gap in addition to the road scheme [Newgate Lane East], together with existing urban fringe activity, is likely to cause visual, or even physical, coalescence of settlements on either side of the new road corridor.”

8.43 Nicholson Lockhart Garratt summarised the implications upon the Strategic Gap as follows:

“The scale and location of the proposed development is such that it would result in significant coalescence between Fareham and Gosport, with only formal open spaces remaining in the space between these areas. This is anticipated to significantly reduce the integrity of the Strategic Gap in this location.

The site currently performs an important role with regard to the perception of the Gap, in terms of the sense of leaving Fareham and entering the Alver Valley countryside travelling south along Newgate Lane East, and this role will become more important with the delivery of the recently consented scheme to the south of the Site. The proposed creation of a new roundabout on Newgate Lane East is also anticipated to further urbanise this route and erode the perception of a pause between settlements.

The Council’s recently published Technical Review of its Strategic Gaps identifies a number of important views across the Site...in particular between the urban edges of Woodcot and the ribbon development along Newgate Lane, with the open character of the Site emphasising the open, shallow nature of the Alver Valley. Furthermore, the belt of mature oak trees on the

eastern boundary of the Site is identified as playing an important role in containing the urban character of Woodcot and separating it from its adjacent countryside.

The implications of the proposed development would be that these identified views across and along the Alver Valley would be lost, as would the sense of transition between the urban edge of Woodcot and adjacent agricultural countryside.

It is therefore concluded that the proposed development would fail to protect the integrity of the Strategic Gap and would result in the physical and visual coalescence of Fareham and Gosport.”

- 8.44 In addition to the considerations above, it is also important to have regard to the conclusions of the two Appeal Inspectors on Appeal A and Appeal B & C set out in Section 5.0 above, in terms of both landscape and Strategic Gap impacts. In all appeal decisions the Inspectors concurred that the developments of the sites would result in significant harm to the character and appearance of the area and impact on the integrity of the Strategic Gap.
- 8.45 Whilst Appeal A (South of the application site) was allowed due principally to the lack of a five-year housing land supply position, the Planning Inspector noted that ‘The development would, however, reduce the physical and visual separation between Peel Common and Bridgemary/Woodcot at roughly its most narrow point. ... due to the extent of narrowing at this already fairly narrow point between settlements, the effect of the appeals development on the physical and visual separation of settlements would be reasonably significant. In this respect it would conflict with Policy CS22 of the LP1’.
- 8.46 Appeals B & C would have resulted in a development of approximately 190 dwellings and would therefore be substantially smaller than the current application proposal of 375 dwellings, with the Inspector concluding that:
- “...the proposal would cause significant harm to the character and appearance of the area, having regard to the location, disposition, likely scale and landscape treatment, each would fail to minimise the adverse impact on the countryside”.*
- 8.47 The current application would introduce a large scale urban development on the eastern side of Newgate Lane East, significantly impacting on the integrity of the Strategic Gap in this location, resulting in the physical and visual coalescence of settlements, contrary to Policy CS22.

f) Highway Impacts

- 8.48 The proposed development would have a single vehicular access point from Newgate Lane East. A new four-arm 50m diameter roundabout at the junction of old Newgate Lane/Newgate Lane East would be provided. The other proposed access would be limited to emergency vehicles only and would link the application site to the permitted scheme to the south, with access to Brookers Lane, Gosport.
- 8.49 The application and its supporting technical highway assessments have been carefully considered by Hampshire County Council as the Highways Authority. A number of comments were made in respect of the current submission, for which the applicant needs to address a wide range of issues and to submit additional information. This additional information was not provided at the time the notification of the planning appeal was received.
- 8.50 A significant number of concerns have been raised by the Highway Authority in respect of potential traffic growth, particularly having regard to committed developments, such as Welborne Garden Village and forecasting traffic from the current planning application for Land South of Longfield Avenue (Newlands), Fareham.
- 8.51 Further information was sought in respect of the junctions at the site access roundabout, Peel Common roundabout, Newgate Lane/HMS Collingwood/Speedfields Park, Newgate Lane/Longfield Avenue roundabout, and the Brookers Lane Toucan Crossing. None of this additional information has been provided at the time of the notification of the appeal. Other concerns have also been raised regarding the wider highway network, including lack of details regarding disruption to be caused during the construction of the access roundabout and increased traffic emissions as a result of the introduction of the roundabout on Newgate Lane East.
- 8.52 The Highway Authority has raised objection to the planning application as it currently stands. It has concluded that the highway proposals are premature in the context of the emerging Local Plan, which is currently at a late stage in its preparation. On the basis of the information currently submitted, the Highway Authority considers that the applicant has failed to demonstrate the development would not result in an unacceptable impact on highway operation and safety and that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the development would therefore be contrary to Policy CS5 of the Council's adopted Core Strategy and paragraphs 110 and 111 of the NPPF.

g) Impact on Habitat Sites

- 8.53 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive habitat sites and mitigating the impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats are protected and where appropriate enhanced.
- 8.54 The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 percent 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.
- 8.55 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).
- 8.56 Regulation 63 of the Habitat 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 habitat sites 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 habitat sites. This is done following a process known as an Appropriate Assessment. The competent authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The competent authority is either the Local Planning Authority or the Planning Inspectorate, depending on who is determining the application. In this case, because an appeal has been lodged, it is the Planning Inspectorate.
- 8.57 When considering the proposed development there are likely significant effects on Habitat Sites, relating to increased nutrients entering The Solent and recreational disturbance. In addition, the site is identified in the Solent Waders and Brent Goose Strategy as a Secondary Support Area (Area F23) and Low Use Site (Area F15). The development of the site would result in the loss of this functionally linked habitat, which the applicant proposes to mitigate through a combination of on-site and off-site habitat creation. The likely significant effects are considered in turn below.

Nutrient Neutrality

- 8.58 The first likely significant effect on HS relates to deterioration in the water environment through increased nutrients (particularly nitrates) entering The

Solent. Natural England has highlighted that there is existing evidence of high levels of nutrients in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the HS.

- 8.59 Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England have provided a methodology for calculating nutrient budgets and options for mitigation should this be necessary. The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research, however for each input there is a degree of uncertainty. Natural England advise Local Planning Authorities to take a precautionary approach when addressing uncertainty and calculating nutrient budgets.
- 8.60 The applicant submitted a shadow Habitat Regulations Assessment (sHRA) which has been assessed by both the Council's Ecologist and Natural England. The sHRA undertakes a nitrogen budget calculation, based on the 2020 Natural England methodology entitled 'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region'. The calculation appears to demonstrate that the development of the site would result in a significant reduction in nutrient output (-66.779 kg TN/year) due to the change from agriculture to residential and open space.
- 8.61 Since the submission of the planning application, NE has issued (March 2022) a revised methodology and updated calculator. The latest methodology and calculator markedly change the nutrient loading of the development to now result in a significant increase in nitrogen output from the development of 191kg TN/year which would require mitigation.
- 8.62 Without appropriate mitigation being secured the development would result in a significant adverse impact on the integrity of the HS and would be contrary to Policies CS4 and DSP13 of the adopted Local Plan.

Recreational Disturbance

- 8.63 The second of the likely significant effects on HS, relates to disturbance on The Solent coastline and New Forest SPA, SAC and Ramsar sites through increased recreational use by visitors to these sites.
- 8.64 With regard to The Solent SPAs, Policy DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation upon

the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to The Solent Recreation Mitigation Strategy (SRMS). Had the Council been able to determine the application and had the proposal been found acceptable in all other regards, the applicant would have been invited to make a financial contribution to the SRMS. In the absence however of a legal agreement to secure such a contribution, or the submission of evidence to demonstrate that the 'in combination' effects of the development can be avoided or mitigated in another way, the proposal is contrary to Policy DSP15.

- 8.65 With regards the New Forest HS, research undertaken by Footprint Ecology has identified that planned increases in housing around the New Forest's designated sites will result in increased visitors to the sites, exacerbating recreational impacts upon them. It was found that the majority of visitors to the New Forest's 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). The western and southern side of the Borough of Fareham falls within this 13.8km radius, measured on the basis of 'how the crow flies'.
- 8.66 This Council's Interim Mitigation Solution to address this likely significant effect, 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 any impacts through improvements to open spaces within Fareham Borough and a small financial contribution to the New Forest National Park Authority. Had the Council been able to determine the application and had the proposal been found acceptable in all other regards, the applicant would have been invited to make a financial contribution through the Council's Interim Mitigation Solution. In the absence however of a legal agreement to secure such a contribution, or the submission of evidence to demonstrate that the 'in combination' effects of the development can be avoided or mitigated in another way, the proposal is contrary to Policies CS4 and DSP13.

Solent Wader and Brent Goose Sites

- 8.67 A significant proportion of the application site is covered by land identified as both secondary support areas and low use sites for Solent Waders and Brent Goose, as defined by the Solent Waders and Brent Goose Strategy (SWBGS). The Secondary Support Area (F23) covers 4.67ha of the site and the Low Use Area (F15) covers 9.92ha of the site.
- 8.68 To mitigate the loss of the Secondary Support Area (F23), an on-site Winter Bird Mitigation Area would be created, located on the western field between the housing development and Newgate Lane East. This field currently forms

part of the Low Use Area (F15). To mitigate the partial loss of the Low Use site, it is proposed that 5ha of land in Old Street, Stubbington would be created as a Winter Bird Mitigation Area to enhance the Network. Overall, the proposals would result in a reduction in the amount of land available as part of the Solent Waders and Brent Goose Network. The applicant considers that the measures proposed would mitigate this reduction in site area.

- 8.69 The impact on the SWBGS has been considered by both the Council's Ecologist and Natural England, and both consultees have raised concerns regarding the proposals and the impact on both the Secondary Support Area and Low Use Area.
- 8.70 The mitigation area for the Secondary Support Area is only 2ha in area. Whilst a reduction in site area can be acceptable, concern is raised that its location, along with the boundary planting required to mitigate the visual impact of the development, would prevent clear sight lines for certain bird species in turn discouraging them from using the site. Furthermore, the makeup of the site with a single large drainage basin (part of the SuDS strategy) is not a well-considered enhancement feature, as Solent Waders and Brent Geese prefer shallow scrapes.
- 8.71 To address the loss of the Low Use Area, the applicant proposes the use of an area of 5ha in Old Street, Stubbington. The site in Old Street was previously considered by Natural England as acceptable to address proposed developments at Land at Newgate Lane (North and South) (Appeals B & C) which were dismissed at appeal. The Old Street site is also agreed to be used as mitigation for the allowed appeal on Land East of Newgate Lane East (Appeal A). As the current application site is larger than the area of land proposed for development under Appeals B & C, additional mitigation land may well be needed to address the difference (approximately 2ha).
- 8.72 Additional clarification was provided by the applicant in response to the points raised by both consultees, but these did not overcome the concerns raised by the Council's Ecologist. No additional comments have been received by Natural England.
- 8.73 Officers conclude that without appropriate clarification to address the concerns raised regarding the mitigation for the impact of the development on the Solent Waders and Brent Goose network, the development would have a harmful impact on this functionally linked habitat, contrary to Policy DSP14 of the Local Plan.

h) Ecology and Protected Species

- 8.74 The application has been supported by an Ecological Impact Assessment and Biodiversity Net Gain Assessment and DEFRA Metric Calculation. No comments have been raised regarding the Biodiversity Net Gain, and Natural England is content to ensure that all mitigation and enhancement measures are secured by condition and agreed with the Council's Ecologist.
- 8.75 The Council's Ecologist has raised no concerns regarding Biodiversity Net Gain or impact on badgers and reptiles on the site. However, concerns regarding the impact on bats and nesting birds was raised, due to an insufficiently robust assessment of impacts. Additional surveys were requested but these have not been provided to date. Subsequently it is considered that the proposed development could result in an unacceptable impact on protected species and would therefore be contrary to Policy DSP13 of the Local Plan.

i) Other Matters

- 8.76 Advice has been received from Fareham Housing as to the local identified need for affordable housing in the area. Had Officers been minded to recommend that planning permission be granted, the applicant would have been invited to enter into a Section 106 legal agreement to secure an appropriate level of affordable housing provision on the site to meet that identified need in terms of dwelling, types, sizes and tenures.
- 8.77 Policy CS16 seeks to prevent the loss of the best and most versatile (BMV) agricultural land. The application site is identified as a mixture of Grade 3a and 3b Agricultural Land. Grade 3a is classified as the best and most versatile (BMV) agricultural land. The application has been supported by a Statement on Agricultural Land. Approximately 59% of the site is classified as Grade 3a, with the remaining being Grade 3b which is not considered best and most versatile. The proposal would be contrary to Policy CS16 and the permanent loss of BMV agricultural land weighs against granting planning permission in the balance of issues.

j) The Planning Balance

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

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

- 8.79 As set out in paragraph 8.13 above, the effect of paragraph 182 of the NPPF is that:

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

- 8.80 The effect of NPPF paragraph 182 means that if having carried out an Appropriate Assessment it is concluded that the proposal is likely to have an adverse effect on the integrity of a habitats site, then the application can be determined in accordance with Section 38(6) under the ‘straight’ balance. In this particular case the Officer recommendation would have been to refuse planning permission so it would not have been necessary for the authority to carry out an Appropriate Assessment. As the application is the subject of appeal, it will fall to the Inspector as the Competent Authority to undertake an Appropriate Assessment, in the event they are minded to grant planning permission.
- 8.81 The site is outside of the defined urban settlement boundary and the proposed development does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of the Local Plan Part 2: Development Sites and Policies.
- 8.82 The development would harm the landscape character, appearance and function of the countryside contrary to Policies CS14 and CS17. It would also physically and visually reduce the separation of settlements of Fareham, Gosport and Stubbington and in doing so significantly adversely affect the integrity of the Strategic Gap, contrary to Policy CS22. The proposal would result in the loss of best and most versatile agricultural land.
- 8.83 Hampshire County Council in its capacity as the highway authority has raised objection to the proposals as currently submitted and concluded they would be contrary to the NPPF as well as the Council’s adopted policies.
- 8.84 Officers have furthermore concluded that there would be likely significant effects upon Habitat Sites as a result of additional nutrients (nitrates) generated by the development entering The Solent, the loss of functionally linked habitat, and recreational disturbance to Habitat Sites following occupation. The proposal would fail to address the impact on the HS and would therefore be contrary to Policies CS4, DSP13 and DSP14.
- 8.85 Officers have carefully weighed the benefits which would be delivered by the proposals, namely the provision of up to 375 dwellings, including a policy

compliant proportion of affordable housing on the site. However, in the view of Officers', the harm identified in the preceding paragraphs and conflict with the development plan outweigh the benefits arising from the scheme.

8.86 If having carried out an Appropriate Assessment, the Inspector judges that the proposal would not adversely affect the integrity of the HS, then the application, given that the policies of the Local Plan must be considered out-of-date by virtue of the Housing Delivery Test results, must be determined in accordance with paragraph 11(d) of the NPPF. In this instance, Limb (i) of paragraph 11(d) would be met (there would be no clear policies in the NPPF that protect areas or assets of particular importance) and the application would fall to be determined under Limb (ii), applying the presumption in favour of sustainable development. This approach has become known as the 'tilted balance' in that it tilts the planning balance in favour of sustainable development and against the Development Plan.

8.87 In summary, in undertaking a detailed assessment of the proposals throughout this report, and assuming that the 'tilted balance' was applied to those assessments (Officers consider that in respect of NPPF paragraph 11(d):

- (i) There are no policies within the National Planning Policy Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed; and
- (ii) Any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

8.88 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should have been refused.

9.0 Recommendation

9.1 Members confirm that had they been able to determine the planning application they would have resolved to REFUSE PLANNING PERMISSION for the following reasons:

The development would be contrary to Policies CS2, CS4, CS5, CS6, CS14, CS16 CS17, CS18, CS20 and CS22 of the Adopted Fareham Borough Core Strategy 2011, Policies DSP6, DSP13, DSP14 and DSP15 of the Adopted Local Plan Part 2: Development Sites and Policies 2015 and paragraphs 110

and 111 of the National Planning Policy Framework 2021 and is unacceptable in that:

- a) The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The application site lies outside of the defined urban settlement boundary within the open countryside. The proposed development would result in a range of significant adverse landscape and visual effects, harmful to the landscape character, appearance and function of the countryside and failing to respect or respond positively to the key characteristics of the surrounding area;
- c) The proposed development would physically and visually reduce the separation between settlements significantly adversely affecting the integrity of the Strategic Gap;
- d) The proposal would have likely adverse effects on the integrity of Habitat Sites alone and in combination with other developments due to additional nutrients entering the water environment of The Solent and the absence of appropriate and appropriately secured mitigation;
- e) In the absence of appropriate and appropriately secured mitigation, the proposal would have likely adverse effects on the integrity of Habitat Sites alone and in combination with other developments due to additional recreational disturbance arising from residents of the development;
- f) The proposal would have likely adverse effects upon the integrity of Habitat Sites and the wider Solent Waders and Brent Goose network due to the unacceptable loss of functionally linked Special Protection Area habitat. Insufficient information has been provided to demonstrate that adequate mitigation for the loss of Secondary Support Area and Low Use Areas is being provided;
- g) The applicant has failed to provide sufficient evidence to demonstrate that the development would not result in unacceptable harm to protected species that may be present on site or affected by its development;
- h) The proposal would result in the loss of best and most versatile agricultural land;
- i) The applicant has failed to demonstrate the development would not result in an unacceptable impact on highway operation and safety, nor that the

development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would result in a severe impact on the road network;

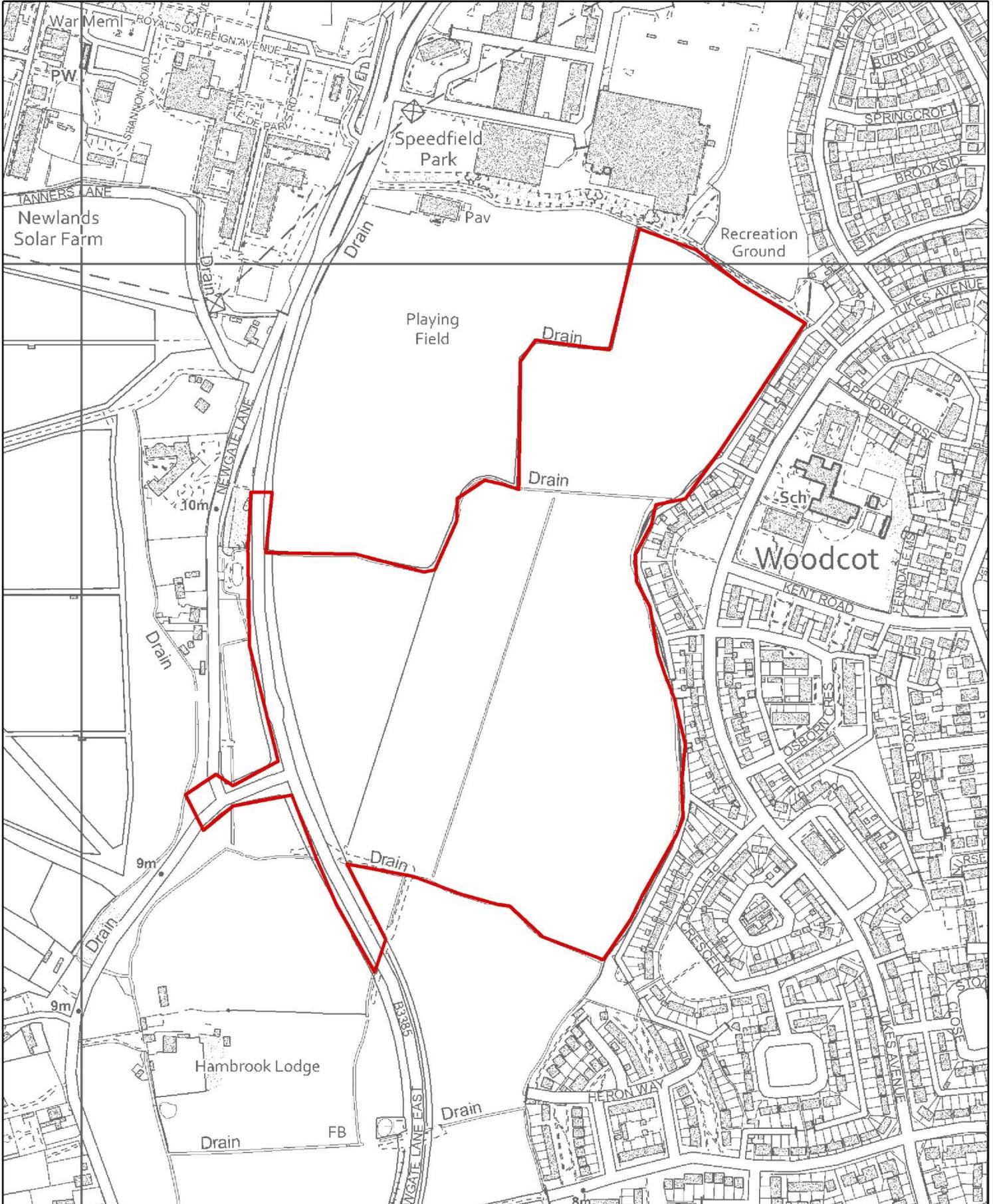
- j) Had it not been for the overriding reasons for refusal, the Council would have sought to secure the details of the SuDS strategy including the mechanisms for securing its long-term maintenance through an appropriate legal agreement;
- k) In the absence of a legal agreement to secure such, the proposal fails to secure on-site provision of affordable housing at a level in accordance with the requirements of the Local Plan;
- l) In the absence of a legal agreement to secure provision of the open space and facilities and their associated management and maintenance, the recreational needs of residents of the proposed development would not be met;
- m) In the absence of a legal agreement to secure the submission and implementation of a full Travel Plan, payment approval and monitoring fees and provision of a surety mechanism to ensure implementation of the Travel Plan, the proposed development would not make the necessary provision to ensure measures are in place to assist in reducing the dependency on the use of the private motorcar;
- n) In the absence of a legal agreement to secure such, the proposal would fail to provide a financial contribution towards education provision.

10.0 Notes for Information

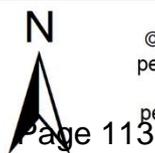
Application documents and all consultation responses and representations received as listed on the Council's website under the application reference number, together with all relevant national and local policies, guidance and standards and relevant legislation.

FAREHAM

BOROUGH COUNCIL



Land East of Newgate Lane East
Fareham
Scale 1:5,000



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Agenda Item 6(5)

OFFICER REPORT FOR COMMITTEE

DATE: 15/06/2022

P/21/1602/FP
CAMS COTE LTD

WARD: PORTCHESTER WEST
AGENT: VIVID DESIGN STUDIO LTD

DEMOLITION OF EXISTING DWELLING AND ERECTION OF A PAIR OF SEMI-DETACHED DWELLINGS ON THE FRONTAGE AND A DETACHED BUNGALOW TO THE REAR

61 PORTCHESTER ROAD, FAREHAM, PO16 8AL

Report By

Susannah Emery – direct dial 01329 824526

1.0 Introduction

1.1 This application is being presented to the Planning Committee due to the number of third-party representations received.

2.0 Site Description

2.1 The application site is located within the urban area to the south of Portchester Road just to the west of the junction with Beaulieu Avenue. The application site shares a boundary with properties on Romsey Avenue to the south.

2.2 The site is currently occupied by a detached two storey dwelling which has a large rear garden which extends in a reverse 'L' shape extending slightly to the rear of No.59 Portchester Road to the east.

3.0 Description of Proposal

3.1 Planning permission is sought for the demolition of the existing dwelling and the erection of a pair of semi-detached 4-bed two storey dwellings on the site frontage (Plots 1 & 2).

3.2 An access drive to the eastern side of these dwellings would serve a single detached 4-bed bungalow (Plot 3) at the rear with a detached garage.

3.3 Car parking for Plots 1 & 2 would be provided on the site frontage.

3.4 Bin storage and cycle parking would be provided on each plot with a bin collection point indicated adjacent to the highway.

3.5 The proposed dwellings would comply with the Nationally Described Internal Space Standards.

4.0 Policies

4.1 The following policies apply to this application:

Adopted Fareham Borough Core Strategy

CS2: Housing Provision

CS4: Green Infrastructure, Biodiversity and Geological Conservation

CS5: Transport Strategy and Infrastructure

CS6: The Development Strategy

CS11: Development in Portchester, Stubbington & Hill Head and Titchfield

CS15: Sustainable Development and Climate Change

CS16: Natural Resources and Renewable Energy

CS17: High Quality Design

CS18: Provision of Affordable Housing

Adopted Development Sites and Policies

DSP1: Sustainable Development

DSP2: Environmental Impact

DSP3: Impact on Living Conditions

DSP13: Nature Conservation

DSP15: Recreational Disturbance on the Solent Special Protection Areas

Other Documents:

Fareham Borough Design Guidance: Supplementary Planning Document
(excluding Welborne) December 2015

Residential Car Parking Standards 2009

5.0 Relevant Planning History

5.1 The following planning history is relevant:

P/20/1227/FP	Demolition of Existing Dwelling and Erection of 4 Dwellings
Refused	25 May 2021 Appeal lodged
P/91/1162/FP	Single Storey Rear Extension
Permission	17 January 1992

FBC 6824/1
Permission

Erection of Two Storey Side Extension
14 June 1988

6.0 Representations

6.1 Thirteen representations have been received raising the following concerns;

Principle of Development

- Overdevelopment
- Backland development would be out of character with the area
- This would not assist the housing shortfall
- Setting a precedent for further in-fill development
- The existing property should be retained and renovated

Impact to Character/appearance of the area

- The proposed dwellings would be out of keeping with the streetscene
- The colour of the materials is out of kilter with other properties
- The frontage landscaping would need to be managed

Impact to Neighbours

- The proposed bungalow would be too close to boundaries and would overlook adjacent gardens
- The position of Plots 1 & 2 would result in loss of light and outlook from neighbouring conservatory
- Increased noise from residents and vehicle movements
- A boundary wall between the access and the adjacent property is requested
- Concerns over future maintenance of boundaries
- Disruption, dust and noise during construction period
- Air pollution from additional vehicles
- Proposed tree planting in rear gardens may cause a nuisance

Ecology

- The site has been cleared of dense tree and vegetation coverage
- Impact to wildlife
- Nitrate budget assumes a previous urban use when it was woodland

- Compensatory woodland planting should be undertaken elsewhere

Highways

- Detrimental to highway safety
- Close Proximity of access to Beaulieu Road junction may cause confusion
- Site access should be centrally positioned
- Proximity of access to cycleway
- Detrimental to pedestrian safety on well used route to Cams school
- Additional source of conflict for drivers exiting properties on opposite side of the road
- Car headlights on the access would shine into neighbouring properties
- Potential for traffic waiting on Portchester Road to enter the site thereby causing delays
- A private road junction with no right hand turn or an In/Out arrangement would be preferable
- Underground car parking would keep vehicles out of sight
- The refuse bin collection point is too far from the dwellings
- Insufficient capacity within the bin collection point
- Bins should be stored on the plots
- Damage to pavement/cycle path surface
- Insufficient space for delivery vehicles which may park on road and obstruct visibility
- Insufficient car parking provision
- Parked vehicles would look unattractive within streetscene
- Overspill car parking on local roads

7.0 Consultations

EXTERNAL

Natural England

- 7.1 Your appropriate assessment, dated 19 May 2022, concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions.

Highways (HCC)

- 7.2 It is the Highway Authority's view that the width and alignment of the existing access could satisfactorily accommodate the additional vehicle movements

that might be generated by the proposed development without adversely affecting the safety or convenience of users of the adjacent highway.

- 7.3 The access is a minimum of 4.5m wide for at least the first 6.0m into the site and therefore allows entering vehicles to move clear of the highway if a vehicle is also attempting to exit the site.
- 7.4 The parking standards for the site are laid down by Fareham Borough Council (FBC) as the local parking authority, in accordance with their Residential Car and Cycle Parking Standards Supplementary Planning Document (SPD) as adopted in November 2009. In terms of parking layout, this is generally acceptable with adequately sized spaces and aisle widths for turning. However, it would be requested that the single space for the rear plot is afforded an additional 0.3m step out strip in order to open doors and enter/exit the vehicle.
- 7.5 Under Building Regulations 2000 Part II, paragraph B5: Access and facilities for the fire and rescue service, Section 11: Vehicle Access is the pertinent fire appliance to get within 45 metres of all points within the dwelling but should not be required to reverse further than 20 metres; for distances greater than this appropriate turning facilities are required. In order to comply with the 45 metre distance a fire appliance would need to enter the site to a distance in excess of the maximum reversing distance. The applicant could prevent such an objection by the provision of an appropriate turning facility to accommodate fire appliances or confirm that alternative method of firefighting would be employed.
- 7.6 The bin collection point location is acceptable for operatives, however confirmation should be given from the local refuse collection team that the size is adequate for three dwellings as any overspill could result in obstruction to the access and other highway users.
- 7.7 After reviewing the proposals, the Highway Authority is satisfied that there is no direct or indirect impact upon the operation or safety of the local highway network and would therefore raise no objection.

INTERNAL

Ecology

- 7.8 The site was previously covered by trees and areas of scrub and it is of concern that habitat clearance has been carried out prior to an ecology survey being undertaken. However, it is understood that the site was purchased by the applicant in its current state. The Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey report by Arbtech confirms that the

building on site has negligible potential for roosting bats. This report however lacks any detailed measures which could be implemented to increase the biodiversity of the site. The suggestions for installing habitat boxes and new native planting are vague and not specific to the site. Therefore, if you were minded to grant permission, a Biodiversity Enhancement Strategy will be required to detail the specific measures to be implemented such as bat and bird features integrated into the design of the new buildings and native planting throughout the development.

8.0 *Planning Considerations*

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

- a) Principle of Development;
- b) Site History
- c) Impact on Character and Appearance of the Area
- d) Impact to Living Conditions of Neighbouring Properties
- e) Highways
- f) Ecology
- g) The Impact upon Habitat Sites

a) Principle of Development

8.2 Policies CS2 (Housing Provision) and CS6 (The Development Strategy) of the adopted Fareham Borough Core Strategy place priority on reusing previously developed land within the defined urban settlement boundaries to provide housing. The National Planning Policy Framework (NPPF) excludes private residential gardens from being defined as previously developed land but sets out there should be a strong presumption in favour of sustainable development. It is recognised that garden sites can assist in meeting housing needs provided that the proposed development is acceptable in all other respects. The site is located within the defined settlement boundary such that the principle of re-development of the land is acceptable subject to all other material considerations.

b) Site History

8.3 Planning permission was refused in May 2021 for a development of four dwellings on the application site; a pair of semi-detached 4-bed two storey properties on the frontage and two further detached 3-bed chalet bungalows at the rear. The planning application was refused for the following reasons;

The proposed development is contrary to Policies CS4 and CS17 of the adopted Fareham Borough Core Strategy and Policies DSP13 and DSP15 of the Fareham Borough Local Plan Part 2: Development Sites Policy and the Fareham Borough Design Guidance (excluding Welborne) SPD and is unacceptable in that:

- i) by virtue of the subdivision of the plot and the proposed increase in the extent of built form and the number of dwellings to be accommodated on the site the proposal would give rise to an intrusive and cramped form of development which would fail to respond positively to and be respectful of the key characteristics of the area including its landscape, scale, form and spaciousness.*
- ii) On the basis of the information available it has not been satisfactorily demonstrated that the proposal would not have likely adverse effects on the integrity of European Protected Sites in combination with other developments due to the additional generation of nutrients entering the water environment and the lack of appropriate and appropriately secured mitigation;*
- iii) In the absence of a legal agreement to secure such, the proposal would fail to provide satisfactory mitigation of the 'in combination' effects that the proposed increase in residential units on the site would cause through increased recreational disturbance on the Solent Coastal Special Protection Areas (SPA's).*

8.4 An appeal has been lodged against the refusal of the Council to grant planning permission. The applicant has indicated that this appeal would be withdrawn if the current application is granted planning permission.

c) Impact on Character and Appearance of the Area

8.5 Policy CS17 (High Quality Design) of the Fareham Borough Council Core Strategy states that development should respond positively to and be respectful of the key characteristics of the area including landscape, scale, form, spaciousness and use of external materials.

8.6 The Councils adopted Design Guidance SPD states that proposals for new houses in rear gardens should ensure both the new plot and the remaining plot are similar in size to nearby properties. The Council would generally seek a minimum garden length of 11m however the SPD states that in order to preserve the character of an area, larger gardens will be required in more spacious areas.

- 8.7 In determining the previous application for four dwellings Officers were concerned that the resultant minimal plot sizes (11m length) would not be comparable to those within the surrounding area, particularly along the Portchester Road frontage and that they would only satisfy minimum standards. It was also considered that the backland development would be visually intrusive within the area of undeveloped land extending from the rear of the properties on Portchester Road to the south and the properties on Romsey Avenue. By virtue of the number of dwellings proposed and the extent of site coverage with built form it was concluded that the proposal represented overdevelopment of the site which would be detrimental to the character and appearance of the area.
- 8.8 The current application for three dwellings increases the proposed plot sizes providing the frontage properties (Plot 1 & 2) with 15-19m length rear gardens. The single detached bungalow (Plot 3) proposed at the rear of the site would be centrally positioned with ample space all around the property and a private rear garden measuring between 12-17m in length and approx. 15m in width. The height of the bungalow would be limited to a maximum of 4.7m with much of the roofline sitting at a lower level. It is therefore considered by Officers that it would be difficult to continue to pursue an argument that the development would be cramped or represent overdevelopment. Whilst the proposal would result in the introduction of backland development into an area where it is currently not evident, the design and positioning of the dwelling on Plot 3 would serve to reduce its visibility. It is considered that the proximity of the proposed bungalow to the dwellings to the east on Beaulieu Avenue would ensue that it would not appear as an isolated or alien structure within a backland setting, fitting quite comfortably into the surrounding pattern of development. Any future applications for similar piecemeal development within the rear gardens of properties to the west would need to be considered on their own merits.
- 8.9 There are no concerns in relation to the appearance of Plots 1 & 2 within the streetscene. The existing property has previously been extended and spans much of the plot. The height, scale and bulk of the proposed semi-detached dwellings would be comparable to the existing building. The neighbouring property to the west (No.59) is two storey, whilst the neighbouring property to the east (No.63) is a chalet bungalow. The separation distance between the property to the east and the building on the frontage of the application site would be increased by the positioning of the access drive alongside this boundary. The design of the frontage building incorporates a reduced eaves height to ensure that the transition in heights would be acceptable within the streetscene. Approval of the proposed materials would be subject to a planning condition however there is no uniform approach to design or use of

materials evident along Portchester Road. Whilst car parking would be provided on the frontage, space remains for landscaping to soften the appearance of this hard surfacing together with a low level boundary wall.

d) Impact to Living Conditions of Neighbouring Properties

- 8.10 It is not considered that the proposal would have any unacceptable adverse impact on the living conditions of neighbouring properties by virtue of loss of privacy. The oblique views over the adjacent garden areas of the neighbouring gardens from the first floor rear facing windows within Plots 1 & 2 would be no different to the views at present from the existing dwelling. The first-floor windows proposed within the east elevation of Plot 1 and the west elevation of Plot 2 would be conditioned to be obscure glazed and fixed shut to 1.7m above internal floor level to prevent loss of privacy to neighbouring properties.
- 8.11 The dwelling on Plot 3 is single storey bungalow and the site levels are relatively flat. It is proposed that existing and additional 1.8m close boarded fencing would be erected to enclose the site and to protect the privacy within adjacent garden areas. The neighbouring properties to the south on Romsey Avenue would be in excess of 40m from the proposed bungalow.
- 8.12 Amended plans have been sought by Officers to ensure that the position of the dwelling on Plot 2 would not have an unacceptable impact on the neighbouring property to the West (No.59). This property has a rear conservatory which sits on the party boundary. The proposal as originally submitted showed the two storey element of the proposed dwelling on Plot 2 extending in excess of 3m beyond the rear conservatory with only 1m separation. The proposal has been amended to reduce the two storey bulk of the dwelling at the rear and move this away from the boundary towards the centre of the site. The two storey element of the proposed dwelling would not breach a 45 degree line taken from the rear corner of the neighbour's rear conservatory.
- 8.13 It is not considered that the use of the proposed access by a single dwelling would result in excessive noise and disturbance to the occupants of the neighbouring property to the east (No.63). It is proposed that the existing 1.8m close boarded fence be retained and there would be a narrow margin between the drive and the fence. It is also not considered that vehicle headlights on the drive would have a significant adverse impact on the living conditions of the occupants of neighbouring properties on the opposite side of Portchester Road.

8.14 Officers do not consider that the additional noise arising from the occupants of the proposed dwellings or the fumes generated by vehicles would result in sufficient harm to the living conditions of the adjacent properties to withhold planning permission on this basis.

e) Highways

8.15 The County Highways Officer has raised no objection to the proposed vehicular access arrangements on to Portchester Road. The existing access is considered to be of sufficient width to enable two vehicles to pass within the site entrance thus prevent vehicles from waiting on Portchester Road. It is not considered that the proposal would be detrimental to highway safety or to pedestrians/cyclists using the footpath and cycle way along Portchester Road. There are many driveways which emerge on to the pavement and cycle path along the length of the road. It is not considered that the proposal would generate significant vehicle movements and the provision of a bellmouth junction on to Portchester Road to serve only three dwellings is not considered necessary. Visibility splays of 2.4m x 120m can be achieved on the site access.

8.16 The proposal makes adequate provision on-site for car parking in accordance with the Council's adopted Residential Car & Cycle Parking SPD. A minimum of three car parking spaces would be provided per 4-bed dwelling. Plot 3 would have a garage in addition to this and all properties would be provided with secure cycle parking. A bin collection point is indicated adjacent to the highway with bin storage shown within the rear gardens. The proposed bin collection point is of ample size to accommodate three bins on each collection day.

8.17 The applicant's agent is of the view that the turning head to Plot 3 would enable a fire engine to turn on-site to exit in a forward gear. This would need to be demonstrated in order to satisfy the Building Regulations however in the event that this is not possible then the installation of a sprinkler system would be a satisfactory alternative and would then become a requirement under the Building Regulations.

f) Ecology

8.18 The rear garden has unfortunately been cleared of all vegetation prior to the submission of the planning application but it is understood this clearance was undertaken by a previous owner in excess of two years ago. The current condition of the site, identified at survey, has been accepted as the baseline condition in terms of demonstrating a biodiversity net gain.

- 8.19 The application is supported by a Preliminary Ecological Appraisal (PEA) and the existing dwelling has been subject to a Preliminary Bat Roost Assessment (PBRA). The existing dwelling was assessed to have negligible suitability to support roosting bats and therefore no further survey work is required. The site consists of bare ground with sparse scrub and ruderal patches which have limited value to support common reptile species. Clearance of the vegetation on site is likely to have caused any reptiles to disperse from the site. As such, the site has negligible habitat value to support reptiles. No other suitable habitat for protected species was identified.
- 8.20 As requested by the Council's Ecologist the submission of a Biodiversity Enhancement Strategy will be secured by planning condition to detail the specific measures to be implemented such as bat and bird features integrated into the design of the new buildings and native planting throughout the development. The proposals will need to demonstrate a biodiversity net gain as required by paragraph 174 of the National Planning Policy Framework.

g) The Impact upon Habitat Sites

- 8.21 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive European sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats are protected and where appropriate enhanced.
- 8.22 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.
- 8.23 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).
- 8.24 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 sites 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 sites. This is done following a process known as

an Appropriate Assessment. The Competent Authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The Competent Authority is the Local Planning Authority.

- 8.25 The Council has completed an Appropriate Assessment to assess the likely significant effects of the development on the HS. The key considerations for the assessment of the likely significant effects are set out below.
- 8.26 Firstly, 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. The applicants have made the appropriate financial contribution towards The Solent Recreational Mitigation Partnership Strategy (SRMP).
- 8.27 Secondly 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 that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the HS.
- 8.28 A nitrogen budget has been calculated in accordance with Natural England's '*National Generic Nutrient Neutrality Methodology*' (Feb 2022) ('the NE Advice') and the updated calculator (20 April 2022) which confirms that the development will generate 1.59 kg/TN/year. 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 residential urban land as it forms part of the residential curtilage of the existing dwelling. 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.
- 8.29 The applicant has purchased 2kg of nitrate mitigation 'credits' from a wetland scheme at Whitewool Farm and provided the Council with the completed allocation agreement to confirm. Through the operation of a legal agreement between the landowners (William and James Butler), the tenant (Butler Farms) and Fareham Borough Council dated 3rd November 2021, the purchase of the credits will result in a corresponding reduction in nitrogen

entering the Solent marine environment.

- 8.30 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. The difference between the credits and the output will result in a small annual net reduction of nitrogen entering The Solent. Natural England has been consulted on the Council's Appropriate Assessment and agrees with its findings. It is therefore considered that the development accords with the Habitat Regulations and complies with Policies CS4 and DSP13 and DSP15 of the adopted Local Plan.

Summary

- 8.32 In summary it is considered that the previous reasons for refusal have been addressed by the reduction in the number of units and the substitution of two chalet bungalows at the rear of the plot with a single storey bungalow. It is not considered that the proposal would have any unacceptable adverse impact on the character or appearance of the surrounding area, the living conditions of neighbouring residential properties, highway safety, or ecology. It is not considered that the proposal would have an adverse effect on the integrity of the HS as appropriate mitigation has been secured. The proposal accords with the relevant local plan policies and is recommended for approval.

9.0 Recommendation

- 9.1 GRANT PLANNING PERMISSION, subject to the following Conditions:

1. The development shall begin within 3 years from the date of this decision notice.

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) Site Location Plan (1:1250) – drwg No. 10
 - b) Block Plan – drwg No. 11 Rev A
 - c) Proposed Site Plan – drwg No. 12 Rev A
 - d) Proposed Floor Plans (Plot 1 & 2) – drwg No. 13 Rev A
 - e) Proposed Plans & Elevations (Plot 3) – drwg No. 14
 - f) Proposed Streetscenes – drwg No. 15 Rev A
 - g) Proposed Access Plan – drwg No. 16 Rev A
 - h) Proposed Roof Plans & Elevations (Plot – drwg No.17

i) Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey (Arbtech, Jan 2021)

j) Nitrate Neutrality Report

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

3. No development hereby permitted shall proceed beyond damp proof course level until details of all proposed external facing materials have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

REASON: To secure the satisfactory appearance of the development.

4. No development hereby permitted shall proceed beyond damp proof course level until details of the finished treatment and drainage of all areas to be hard surfaced have been submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be carried out in accordance with the approved details and the hard surfaced areas subsequently retained as constructed.

REASON: To secure the satisfactory appearance of the development

5. 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.

6. The first floor windows proposed to be inserted into the east and west side elevations of Plots 1 & 2 of the approved development 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.

REASON: To prevent overlooking and to protect the privacy of the occupiers of the adjacent properties.

7. No dwelling, hereby approved, shall be first occupied until the approved parking and turning areas 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.

8. None of the dwellings hereby permitted shall be first occupied until the bicycle storage relating to them, as shown on the approved plan (drwg No. 12 Rev A), 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.

9. None of the development hereby permitted shall be occupied until the bin collection point (drwg No. 12 Rev A) has been provided in accordance with the approved plans. The designated area shall thereafter be kept available and retained at all times for the purpose of bin collection.

REASON: To prevent an obstruction of the highway.

10. No development shall take place beyond damp proof course (dpc) level until details of how and where Electric Vehicle (EV) charging points will be provided at the following level:

- a) 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 points 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.

11. Development shall proceed in accordance with the precautionary measures set out in Section 4.0 (Conclusions, Impacts and Recommendations) of the Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey (Arbtech, Jan 2021).

REASON: To ensure that protected species are not harmed.

12. Prior to the commencement of development a detailed scheme of biodiversity enhancements to be incorporated into the development shall be submitted for written approval to the Local Planning Authority. Development shall subsequently proceed in accordance with the approved details.
REASON: to enhance biodiversity in accordance with NPPF and the Natural Environment and Rural Communities Act 2006.
13. 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
14. The landscaping scheme, submitted under Condition 13, 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.
15. Notwithstanding the provisions of Classes A, B, and C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no extensions, no additions or alterations to the roof of the dwelling on Plot 3 shall be carried out unless first agreed in writing with the Local Planning Authority following the submission of a planning application.
REASON: To protect the character and appearance of the locality; To ensure the retention of adequate garden area; To ensure adequate car parking provision; To protect the privacy of neighbouring properties.
16. 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.

17. 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 Portchester Road to ensure that it is 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.

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

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

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



61 Portchester Road
Fareham
Scale 1:1250



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OFFICER REPORT FOR COMMITTEE

DATE: 15/06/2022

P/22/0338/FP
MR A LAWRENCE

PORTCHESTER EAST
AGENT: NOVA PLANNING LIMITED

NEW DETACHED DWELLING (SELF BUILD)

TURRET HOUSE, HOSPITAL LANE, PORTCHESTER

Report By

Richard Wright – direct dial 01329 824758

1.0 Introduction

1.1 The application site comprises land owned by Councillors Mr and Mrs Walker. As a result this application is reported to the Planning Committee for a decision rather than being determined under Officers' delegated powers.

1.2 The application has received a total of five letters of representation (including one from multiple parties), comprising a mixture of objection and support for the proposals.

2.0 Site Description

2.1 The application site comprises a paddock located just north of the private access track leading to Turret House. That track, which also forms part of the red-edged application site, leads westwards from the end of Hospital Lane with a timber post and rail fence along much of its southern edge. The track measures approximately 300 metres in length. Where the track abuts the paddock, the fence turns into a block and brick wall and a set of metal entrance gates and brick piers are positioned at this point.

2.2 Southwards, beyond the fence and wall which lines the track, is a footpath used by the public, which runs along the length of the harbour shoreline. Portsmouth Harbour is a designated site under international law - a Special Protection Area (SPA) and Ramsar site. The harbour is also part of the Solent and Dorset Coast Special Protection Area (SPA) and a Site of Special Scientific Interest (SSSI).

2.3 The paddock, the site of the new dwelling and its garden, is approximately 0.35 ha in size and is bound by trees and vegetation on its northern, southern and eastern boundaries. The most notable mature trees are along the northern boundary between the application site and the Council owned Roman Grove allotments. In the north-western corner of the paddock stands a stable building positioned along the boundary wall to Turret House.

- 2.4 The site is located within a stretch of largely undeveloped coastline which, for planning purposes having regard to the adopted local plan, lies within the countryside and outside of the urban settlement boundaries.
- 2.5 To the west of the application site lies Turret House surrounded by a boundary wall, to the west of which is Kenwood Road play area. To the immediate east of the site is another paddock beyond which lies the western edge of the Portchester Castle Street Conservation Area. Between there and the urban area around Castle Street lies an area of open land important to the character and setting of the Conservation Area and Portchester Castle itself which lies a short distance further eastward.
- 2.6 The Environment Agency (EA) flood maps show the majority of the site is located in Flood Zone 3. A small area of the northern part of the site is in Flood Zone 2 and the northernmost part in Flood Zone 1.

3.0 *Description of Proposal*

- 3.1 Full planning permission is sought for a detached dwelling with parking, access from Hospital Lane and associated landscaping and drainage works.
- 3.2 The application proposes a three-bedroom single storey dwelling on raised ground towards the northern site boundary. The submitted site plan indicates that the dwelling would be raised out of the ground with the finished floor level (4.9m AOD) standing around 1.6 - 1.8 metres higher than existing ground levels. The applicant's submission explains that the raising of the land on which the dwelling is proposed to be built is due to the potential risk of flooding.
- 3.3 The dwelling is described by the applicant as having a low contemporary form. The submitted drawings show the dwelling as having a flat sedum roof between 4.6 and 5.0 metres above existing ground level with the tallest parapet feature standing approximately 5.45 metres above existing ground level. The proposed materials consist of a mixture of stonework, grey metal fascias and soffits and timber effect cladding.
- 3.4 The existing stable building is intended to be converted for storage purposes incidental to the new dwelling. The site plan also shows three parking spaces, a raised path for emergency escape in the event of flooding and a ground frame solar Photovoltaic system.

4.0 *Policies*

- 4.1 The following policies apply to this application:

Approved Fareham Borough Core Strategy

CS2 - Housing Provision
CS4 - Green Infrastructure, Biodiversity and Geological Conservation
CS5 - Transport Strategy and Infrastructure
CS6 - The Development Strategy
CS14 - Development Outside Settlements
CS15 - Sustainable Development and Climate Change
CS16 - Natural Resources and Renewable Energy
CS17 - High Quality Design
CS18 - Provision of Affordable Housing
CS20 - Infrastructure and Development Contributions

Adopted Development Sites and Policies

DSP1 - Sustainable Development
DSP2 - Environmental Impact
DSP3 - Impact on living conditions
DSP5 – Protecting and Enhancing the Historic Environment
DSP6 - New residential development outside of the defined urban settlement boundaries
DSP13 - Nature Conservation
DSP15 - Recreational Disturbance on the Solent Special Protection Areas

Other Documents

Residential Car and Cycle Parking Standards Supplementary Planning Document (November 2009)
Design Guidance Supplementary Planning Document excluding Welborne (Dec 2015)

5.0 *Relevant Planning History*

5.1 P/19/0925/FP
DETACHED DWELLING WITH PARKING & ACCESS FROM HOSPITAL LANE AND ASSOCIATED LANDSCAPING & DRAINAGE WORKS
REFUSED 13/02/2020
APPEAL DISMISSED 02/11/2020

6.0 *Representations*

6.1 Three representations of objection have been received, including one from the Portchester Society and one written on behalf of the residents of four houses on Hospital Lane. The letters raise the following material planning considerations:

- Contrary to local and national planning policy
- Previously dismissed appeal

- 2020 application rejected for very sound reasons
- Would urbanise an otherwise undeveloped site
- Contrary to policies designed to protect countryside
- Non-compliance with Policy DSP40
- Impact on heritage assets
- Infilling within a historically sensitive area
- Contemporary design out of keeping with prevailing character of the area which is of more traditional forms of dwellings
- Open land between the castle and Kenwood Road is important to the character and setting of the conservation area
- Flood zone
- Will set a precedent if allowed
- Surrounding sensitive land classed as SSSI and Ramsar site

6.2 Two letters of support have been received commenting as follows:

- Well designed
- Located away from shore for minimal impact

7.0 Consultations

EXTERNAL

Historic England

7.1 No comment. Historic England suggest that the Council seeks the views of their own specialist conservation and archaeological advisers.

Highways

7.2 No objection. The site is accessed via Hospital Lane, an adopted unclassified road subject to a 30mph speed limit. As Hospital Lane runs parallel to the coastline it becomes an adopted footpath that leads directly to the development site. As there is no proposed change of vehicular access onto the public highway, the Highways Authority's standing advice should be referred to.

Environment Agency

7.3 No objection. We are now satisfied that the information submitted demonstrates that the development and proposed mitigation measures will be sufficient in reducing the risk of flooding to future occupants for the lifetime of the property, subject to a condition securing finished floor levels shall be set no lower than 4.9m AOD and mitigation measures fully implemented, retained and maintained thereafter throughout the lifetime of the development.

NB The advice provided by the Environment Agency is solely in relation to the technical aspects of the applicant's proposal, to design the dwelling against the effects of flooding which includes raising the site levels and the internal finished floor level. The Environment Agency does not comment on any sequential test matters, this being a matter to be determined by Fareham Borough Council.

Natural England

- 7.4 Further information required to determine impacts on designated sites.

HCC Archaeology

- 7.5 No objection.

INTERNAL

Ecology

- 7.6 No objection.

The submitted Preliminary Ecological Appraisal Survey report confirms that the site is an improved grassland with hedge/tree lined boundaries. I am confident that the avoidance and precautionary measures included within this report will adequately ensure the protection of protected species such as nesting birds, reptiles, etc. should they be present.

The proposals will result in the removal of 4no. individual trees and one group of trees. However, I acknowledge that the submitted Planting Proposals (drawing no. CS-663.01) will result in the planting of a number of trees (majority of which are ornamental) and native hedgerows. This is acceptable. The site is located immediately to the north (beyond the existing road) of Portsmouth Harbour SPA, Ramsar and SSSI and Solent and Dorset Coast SPA. Furthermore, Solent Waders and Brent Goose Strategy Site P92 is located 70m to west of the site. A Construction Environmental Management Plan (CEMP) has been submitted which includes measures to ensure the prevention of pollution incidents (dust, surface water runoff, etc.) and noise disturbance to overwintering birds (i.e. sensitive timing of noisy works). These measures are satisfactory and by implementing them, any likely significant effects as a result of construction phase activities will be mitigated.

The proposals will result in an increase in the nitrate output into the Special Protection Areas. Provided that a suitable mitigation package is submitted and the necessary financial contribution is secured to address the increase in recreational disturbance on the National Site Network (formerly known as European designated sites or Natural 2000 sites), then impacts on these sites are considered to be unlikely.

If you were minded to grant permission, I suggest that the avoidance, mitigation and enhancement measures included within the Preliminary Ecological Appraisal Survey report and Construction and Ecological Management Plan by Arbtech (updated January 2022) are secured via a planning condition.

Conservation

- 7.7 The current application is for “*The erection of a single, self-build residential dwelling, including associated access, car parking and cycle storage, together with associated works*”. A previous application (P/19/0925/FP) for a dwelling of similar scale was previously refused with one of the grounds for refusal being the potential impact on the setting and context of the Conservation Area. This refusal was subsequently appealed (APP/A1720/W/20/3250150) with the refusal being upheld by the Planning Inspectorate.
- 7.8 In the appeal decision the Planning Inspector said that the public benefit of a single dwelling in this location did not outweigh the less-than-substantial harm caused to the character and setting of the adjacent Conservation Area. In the appeal decision the Planning Inspector said that the “*less than substantial harm be weighed against the public benefits of a proposed development. However, the very modest contribution made by the appeal proposal towards addressing the Council’s shortfall in housing supply does not amount to such a public benefit and there are no other benefits, for example in terms of enhancing or making a significant positive contribution towards the protection of the heritage assets in question.*”
- 7.9 Looking at the revised plans that have been submitted by the applicant, although the proposed dwelling has been moved slightly to the north and west, the potential impact to the setting and character of the Conservation Area remains largely the same and does not negate the previous reason for refusal. The cumulative effect of the dwelling house, solar array and landscaping on the character of the area and overall setting of the Conservation Area is still considered to be less-than-substantial harm and does not outweigh the previous reason for refusal.
- 7.10 The Portchester Conservation Area appraisal notes that Hospital Lane still retains its rural character with very limited built development. As outlined above the application site, along with the allotments and cemetery to the north, forms a soft verdant boundary to the western side of the Conservation Area with very little built form, Turret House and its associated boundary wall being the only examples. The Conservation Area appraisal also notes that the wider setting comprises Portsmouth Harbour and Portchester Castle in the exposed location.

- 7.11 The open space surrounding the settlement contains areas of land of great importance to the setting of the village and the castle, including the allotments and Roman Grove Cemetery to the north of the application site, and are designated as countryside in the local plan. The Conservation Area appraisal states that further development on this open land would harm the character and setting of the Conservation Area and the wider setting of the castle. Whilst the site of the proposed building is not currently within the designated Conservation Area boundary, it does have a similar open character with significant open views. There are also glimpses of Portchester Castle from the coastal path which form an important part of the wider setting of the Conservation Area.
- 7.12 Section 8.28 of the Portchester Castle Conservation Area Appraisal states that *“To the west of the castle Hospital Lane marks the start of a large area of open land that is rural in character, with hedgerows and other planting. This land is important in defining the older settlement and contributes to the wider setting of the castle”*. Any development in this location would upset the rural rhythm of the area and detract from the overall character of the Conservation Area.
- 7.13 The introduction of a residential dwelling in this sensitive rural and coastal location, close to the designated Conservation Area and the Scheduled Ancient Monument of Portchester Castle, would not provide any public heritage benefit. This could also set a precedent for further development which could adversely affect the long-term character and setting of the locality. The revised proposal would still be visually intrusive and would not accord the established character and the wider setting of the designated Conservation Area and the open verdant character of this locality. Whilst it is appreciated that each proposal is judged on its own merits the introduction of residential development in this sensitive area could also set a precedent and encourage further proposals for development in this sensitive area.
- 7.14 In relation to NPPF Paragraph 196, the current revised proposal would still be considered to cause less than substantial harm and should therefore be weighed against any public benefit. Consistent with the comments on the previous application and the subsequent appeal, a single dwelling in this location would not be considered to provide any significant heritage or public benefit. Consequently, the current application still cannot be supported in Historic Environment policy terms.

Trees

- 7.12 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) The approach to decision making
- b) Previous application and dismissed appeal
- c) Residential development in the countryside
- d) Character and appearance
- e) Heritage assets
- f) Flood risk
- g) The impact on habitat sites
- h) The Planning Balance

a) The approach to decision making

8.2 A report titled "Five year housing land supply position" was reported to the Planning Committee at the meeting held on 25th May 2022. That report sets out this Council's local housing need along with the Council's current housing land supply position. The report concludes that the Council has 5.08 years housing supply against its five year housing land supply (5YHLS) requirement.

8.3 The starting point for making a decision on this planning application is section 38(6) of the Planning and Compulsory Purchase Act 2004:

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

8.4 In determining planning applications there is a presumption in favour of the policies of the extant Development Plan unless material considerations indicate otherwise. Material considerations include the planning policies set out in the National Planning Policy Framework (NPPF).

8.5 Paragraph 60 of the NPPF seeks to significantly boost the supply of housing.

8.6 Paragraph 74 of the NPPF states that local planning authorities should identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement including a buffer. Where a local planning authority cannot do so, and when faced with applications involving the provision of housing, the policies of the local plan which are most important for determining the application are considered out-of-date.

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

“For decision-taking this means:

c) Approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 8 below), granting planning permission unless:

- i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed (see footnote 7 below); or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

8.8 Footnote 7 to Paragraph 11 reads:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”

8.9 Footnote 8 to paragraph 11 reads:

“This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery

Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three years."

- 8.10 This planning application proposes a new house outside the defined urban settlement boundaries. Whilst the Council can demonstrate a five year housing land supply, the Housing Delivery Test results published on 14th January 2022 confirmed that the 62% of the Council's housing requirement had been delivered. This means the delivery of housing in the last three years (2018 to 2021) was substantially below (less than 75%) the housing requirement over the previous three years. Footnote 8 to NPPF paragraph 11 is clear that in such circumstances those policies which are most important for determining the application are to be considered out-of-date meaning that the presumption in favour of sustainable development in paragraph 11(d) is engaged.
- 8.11 Taking the first limb of NPPF paragraph 11(d), as this report sets out, in this instance there are specific policies in the NPPF which protect areas of assets of particular importance namely habitat sites which are specifically mentioned in footnote 7. Therefore a judgement will need to be reached as to whether policies in the Framework would have provided a clear reason for refusing the development. Where this is found to be the case, the development should be refused.
- 8.12 The second limb of NPPF paragraph 11(d), namely whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole (the so called 'tilted balance') will only apply if it is judged that there are no clear reasons for refusing the development having applied the test at Limb 1.
- 8.13 Members will be mindful of Paragraph 182 of the NPPF which states that:
- "The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."*
- 8.14 The wording of this paragraph clarifies that the presumption in favour of sustainable development set out in Paragraph 11 does not apply unless an appropriate assessment has concluded that the proposal would not adversely affect the integrity of the habitats site subject to mitigation.

8.15 The following sections of the report assesses the application proposals against this Council's adopted local planning policies and considers whether it complies with those policies or not. Following this Officers undertake the Planning Balance to weigh up the material considerations in this case.

b) Previous application and dismissed appeal

8.16 A very similar planning application was previously refused by the Planning Committee in February 2020 (application reference P/19/0925/FP). The reasons for refusal were as follows:

“The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS15 & CS17 of the Adopted Fareham Borough Core Strategy 2011 and Policies DSP5, DSP6, DSP13 & DSP40 of the Adopted Local Plan Part 2: Development Site and Policies Plan and is unacceptable in that:

a) The provision of a dwelling in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;

b) The proposed dwelling fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the character and appearance of the countryside;

c) The application site is not sustainably located adjacent to, well related to or well integrated with the existing urban settlement boundaries;

d) The proposal fails to provide a sequential test to demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding;

e) The proposed dwelling would intrude into the area of open land west of Hospital Lane resulting in less than substantial harm to the significance of the setting of the Grade I Listed Scheduled Ancient Monument Portchester Castle and the Portchester Castle Street Conservation Area.

f) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the additional generation of nutrients entering the water environment.”

8.17 The subsequent appeal was dismissed in November 2020 (reference APP/A1720/W/20/3250150) with the Planning Inspector concluding:

“The site would be an unsuitable location for the proposed development with regard to the character and appearance of the area and flood risk, and would cause unacceptable harm to designated heritage assets. The development would conflict with the development plan as a whole, and there are no other considerations which alter or outweigh this finding. Thus, for the reasons set out above, I conclude that the appeal should be dismissed” (paragraph 44).

8.18 The detailed comments from the Inspector on each of the different planning considerations are set out below throughout the rest of this report. The Inspector’s findings are an important material planning consideration in determining this new application.

8.19 The current application retains the same overall design approach for the new dwelling as for the dismissed appeal scheme. The roof of the dwelling is slightly lower than previously and the siting of the house within the plot is further to the west than before. A landscaping scheme proposes new tree, shrub and hedgerow planting mainly focussed around the southern and eastern site boundaries. New supporting information is provided as part of the application.

c) Residential Development in the Countryside and Strategic Gap

8.20 Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the urban areas. Policy CS6 (The Development Strategy) goes on to say that development will be permitted within the settlement boundaries. The application site lies within an area which is outside of the defined urban settlement boundary.

8.21 Policy CS14 of the Core Strategy states that:

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

- 8.22 Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map). However, new residential development will be permitted in instances where either it has been demonstrated that there is an essential need for a rural worker to live there permanently, it involves a conversion of an existing non-residential building or it comprises one or two new dwellings which infill a continuous built-up residential frontage. Officers can confirm that none of these exceptions apply to the application proposal.
- 8.23 The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6 and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.
- 8.24 That the proposed development in this location is contrary to the above policies was not a matter that was contested by the Appellant in the previous planning appeal. The Inspector agreed with the Council that it would not comply with any of the exceptions the above policies outline. The Inspector also agreed with the Council in terms of the location of the development being harmful to the character and appearance of the area (this is discussed further below). The Planning Inspector did not agree that the site was in an unsuitable location for development insofar as this relates to access to services and facilities by means other than private motor vehicle. This is despite it being found that the walk to the nearest bus stop would lie at the upper end of what most people would consider acceptable and the main shopping area and railway station lie well beyond. The Inspector's reasoning was that the distance travelled would be little different to that of occupants of dwellings located within the Portchester settlement boundary itself.

d) Character and appearance

- 8.25 Policy CS17 of the adopted Fareham Borough Core Strategy sets out that:

"In particular development will be designed to: respond positively to and be respectful of the key characteristics of the area, including heritage assets, landscape, scale, form, spaciousness and use of external materials".

- 8.26 Core Strategy Policy CS14 meanwhile seeks to protect the landscape character, appearance and function of the countryside as explained earlier in this report. It also expects that:

"In coastal locations, development should not have an adverse impact

on the special character of the coast when viewed from the land or water”.

- 8.27 The previous appeal Inspector attached great value to the character and appearance of the landscape. He made the following observations about the site and its surroundings:

“6. The site is a paddock attached to Turret House, which stands close to the edge of the peninsula on which Portchester is located. It currently stands alone, well separated from the suburban housing estates located to the north and west, and from the historic core of the settlement which is located to the east. Indeed, with the noted exception of Portchester Castle to the east, most of the edge of the peninsula, including land both immediately to the east and west of Turret House, consists of public or other open space. As allotments and a cemetery otherwise lie to the north, the immediate landward setting of Turret House consists of predominantly open space.

7. A driveway is located on the west side of the paddock, which partly serves as access to a stable building. The latter is incorporated within the site, but otherwise forms part of the cluster of development around Turret House. As such the paddock itself exists as a distinct open space.

8. Given the enclosure of both the site, and broader parcel of land within which Turret House is located, the extent to which its character is appreciable from outside it varies. Its openness, or rather the absence of any substantial development upon it, is nonetheless apparent in views over the site from the costal (sic) path to the southeast and southwest, and from within Portsmouth Harbour. It is also clear in views from the cemetery and allotments to the north. Viewed within its broader setting, the openness of the site currently complements the prevailing openness of land along the peninsula edge.”

- 8.28 As before, this current application proposes a dwelling with an elevated floor level constructed within the paddock. The dwelling would be single storey and flat roofed however its raised floor level would make it more prominent than otherwise. The dwelling has been reduced in height compared to before but not significantly. The dwelling has also been moved slightly further west within the plot.

- 8.29 Commenting on the impact the previous proposed dwelling would have on the character and appearance of the area, the Inspector said:

“10. Given the visibility of the dwelling, the site would no longer be perceived as an open space. The openness of the peninsula edge would thus be appreciably eroded. The effect would be accentuated by the fact that the proposed dwelling would entail consolidation of a block of development distinctly separate from the built-up areas around it. In this context the development would appear intrusive and have a suburbanising effect.”

- 8.30 The Inspector commented previously on the inability for the existing brambles along the south and east sides of the site to screen the building given its raised position. He noted as follows:

“13. Insofar as details have been provided of proposed landscaping, the intention is not to fully enclose, nor to fully screen the building. Indeed, this would run contrary to the proposed building design, which is intended to maximise the potential for views across Portsmouth Harbour. In this regard it is likely that the raised southeast corner of the building, which would house a very large window serving the main living space, would be particularly prominent in views from the southeast, including the coastal path. As such, the introduction of new landscaping would not mean that the building was hardly noticeable. Furthermore, given the high potential for light spillage through the large windows, this would be true both day and night.”

- 8.31 Officers have considered the new application and taken into account the comments by the Planning Inspector above which, as explained earlier, is an important material planning consideration. The slight reduction in height of the dwelling and its shift further westwards would not make a significant difference overall to the impact on the character and appearance of the area. As before, because the dwelling is raised above existing ground level, and despite being set back in the plot away from the southern site boundary, the upper parts of the dwelling would be visible from the public footpath which runs along the harbour shoreline and from the water itself. As the Inspector pointed out, the dwelling would also be seen from the cemetery and allotments to the north.

- 8.32 The current application proposes new planting in an attempt to screen or soften the visual impact of the new dwelling. Clearly, if a landscaping scheme could have addressed the Inspector’s previous concerns as to the impact on the character and appearance of the area, it was within their gift to suggest a planning condition be imposed. However, the comments above indicate that the Inspector was not persuaded that such a scheme to enclose the site and screen the building would be feasible given the building’s design and

waterfront location. Even planting of a semi-mature nature when planted would take years to establish itself meaning at the very least, adverse short-term visual and landscape effects. It is unlikely that future occupants would wish to allow boundary planting, especially along the southern boundary, to mature to a height where it fully or substantially screened views of the dwelling.

8.33 In summary, the proposal is considered harmful to the character and appearance of the area contrary to Policies CS14 & CS17.

e) **Heritage assets**

8.34 The plot on which the proposed dwelling would stand lies approximately 30 metres from the south-western edge of Portchester Castle Street Conservation Area. The plot is around 325 metres south-west of Portchester Castle itself which is a Grade I Listed building and Scheduled Ancient Monument (SAM). The conservation area and castle are therefore important designated heritage assets.

8.35 The Inspector dealing with the previous appeal described the castle as follows:

“29. Insofar as it relates to the appeal, the special interest and significance of Portchester Castle lies in the age, and the relative intactness of its fabric, which substantially consists of Roman and Medieval material. It also resides in its prominent, and historically strategic position that the castle occupies within Portsmouth Harbour. This remains apparent, close at hand, and in long views both from and across Portsmouth Harbour, despite the growth of the settlement of Portchester itself. This is assisted by the retention of open space along the peninsula edge, which both reflects its historic openness, and provides a spatial and visual buffer from other development. As such the openness of the peninsula edge plays an important positive role in enabling the Castle’s special interest and significance to be experienced and appreciated.”

8.36 Meanwhile he made the following comments about the setting of the conservation area:

“30. The Conservation Area incorporates Portchester Castle, and the historic core of Portchester. Insofar as it relates to the appeal, the significance of the Conservation Area lies in the castle, the layout and relationship of the settlement to the castle, and the age, composition and relationship of the buildings and spaces it contains. Given the

castle's contribution to the significance of the Conservation Area, there is necessarily some overlap of the settings of each. Indeed, whilst the Conservation Area includes some open space along the peninsula edge, open space beyond it again plays an important positive role in setting both the castle and the historic settlement within their historically open contexts."

8.37 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty that local planning authorities shall, in considering whether to grant planning permission for development which affects a listed building or its setting, have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

8.38 Section 72 of the Act meanwhile sets out a similar statutory duty with respect to any buildings or other land in a conservation area that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

8.39 Paragraph 199 of the NPPF sets out that:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."

8.40 NPPF paragraph 200 continues that:

"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification."

8.41 NPPF paragraph 202 adds that:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

8.42 Policy DSP5 of the adopted Fareham Borough Local Plan Part 2 is the main development plan policy relating to protecting and enhancing the historic environment. Taking the pertinent points relevant to this proposal, it says that:

“...In considering the impacts of proposals that affect the Borough’s designated heritage assets, the Council will give great weight to their conservation (including those that are most at risk through neglect, decay, or other threats). Harm or loss will require clear and convincing justification in accordance with national guidance. Substantial harm or loss to a heritage asset will only be permitted in exceptional circumstances.

Listed buildings will be conserved by...

a)...

b)...

c) ensuring that development does not harm, and if desirable, enhances their settings.

Development affecting a conservation area will be permitted where it preserves or enhances its character, setting and appearance, and

a) takes account of the relevant Conservation Area Character Appraisal and Management Strategy;

b) does not involve the loss of important features of an individual building that contribute to character and appearance of the conservation area and/or its setting;

c) its form, bulk, scale, height, massing, alignment, proportion, material, building form and use are appropriate, including having regard to the surrounding buildings, spaces and views;...

The Council will conserve Scheduled Monuments, and archaeological sites that are demonstrably of national significance, by supporting proposals that sustain and where appropriate enhance their heritage significance. Proposals that unacceptably harm their heritage significance, including their setting, will not be permitted...”

8.43 The Portchester Castle Street Conservation Area Appraisal and Management Strategy (January 2014) is an important material planning consideration. Whilst the site of the proposed dwelling does not lie within the conservation area, the effect of the development on the setting of the conservation area and Portchester Castle as designated heritage assets is material. The conservation area appraisal refers to the land between the proposed plot and Hospital Lane as “open land surrounding the settlement” (plan on page 26).

8.44 At page 16 the appraisal and management strategy says:

“The conservation area contains large areas of land that are of great importance to the setting of the village and the castle. These areas are designated as countryside in the Fareham Borough Local Plan and are outside the urban area. Further development on this open land would harm the character of the conservation area and the setting of the castle.”

8.45 It continues that:

“To the west of the castle Hospital Lane marks the start of a large area of open land that is rural in character, with hedgerows and other planting. This land is important in defining the older settlement and contributes to the wider setting of the castle.”

8.46 *“The open land, gardens and allotments which provide a setting for the castle and the historic settlement”* are identified as key features to conserve and enhance (page 23).

8.47 When considering the effect on heritage assets in relation to the previous dismissed appeal scheme the Inspector found that the appeal development would erode and further suburbanise the broader open setting of Portchester Castle. Its setting, he noted, would be neither preserved nor conserved contrary to the expectations of the Act and NPPF as set out above. The Inspector went on to find that the development would also harm the setting of the Conservation Area which would not be preserved, again contrary to the NPPF. The harm would be less than substantial in scale but he attached considerable importance and weight to the harm caused to the significance of Portchester Castle as a listed building, great weight to the harm to the significance of the castle as a SAM and great weight to the harm caused to the significance of the Conservation Area.

8.48 In response to a consultation request relating to the current application, the Council’s Conservation Planner has raised concerns over the effect the proposed dwelling would have on the character and setting of the Conservation Area and castle. The Conservation Planner’s view is that the introduction of a new dwelling in this sensitive coastal location, close to the designated Conservation Area and SAM would still be visually intrusive and would not accord with the established character and the wider setting of these heritage assets. Whilst the proposed dwelling has been moved slightly, the impact on the setting of the heritage assets remains largely the same as the previous scheme dismissed by the Inspector at appeal. The current proposal would still be considered to cause less than substantial harm to the significance of those heritage assets and in accordance with NPPF paragraph 199 great weight should be given to the asset’s conservation.

8.49 NPPF paragraph 202 requires that less than substantial harm be weighed against the public benefits of a proposed development. Officers do not consider the very modest contribution towards addressing the Council's shortfall in housing supply to amount to such a public benefit and there are no other benefits, for example in terms of enhancing or making a significant positive contribution towards the protection of the heritage assets in question.

8.50 For the above reasons the proposal is found to be contrary to local plan policy DSP5.

f) Flood risk

8.51 Paragraph 161 of the NPPF sets out a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate changes – so as to avoid, where possible, flood risk to people and property.

8.52 Paragraph 162 of the NPPF reads:

“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”

8.53 The government's Planning Practice Guidance (PPG) sets out how the sequential, risk-based approach to the location of development should work in practice. This application of the sequential approach is known as the sequential test. It states that this general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.

8.54 Reason for refusal (d) on the previous refused scheme read as follows:

d) The proposal fails to provide a sequential test to demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding;

- 8.55 As the reason for refusal suggests, no sequential test was provided with the previous application. The government's Planning Practice Guidance (PPG) explains that it is for local planning authorities to consider the extent to which sequential test considerations have been satisfied, taking into account the particular circumstances in any given case.
- 8.56 As with the current application, the Environment Agency (EA) raised no objection to the previous application. However, the advice provided by the Environment Agency is solely in relation to the technical aspects of the applicant's proposal, to design the dwelling against the effects of flooding which includes raising the site levels and the internal finished floor level. The Environment Agency does not comment on any sequential test matters, this being a matter to be determined by Fareham Borough Council.
- 8.57 Proposals such as raising floor levels to manage and mitigate the potential impact of flooding should only be considered when it has been successfully demonstrated that it is not possible to locate development in better locations elsewhere, away from sites at risk of flooding.
- 8.58 At the planning appeal the Council argued that the proposed development was contrary to the NPPF which clearly states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The applicant had failed to provide a sequential test to satisfy this matter.
- 8.59 The Inspector agreed with the Council and found as follows:

"25. The appellants sought advice from the Environment Agency with regard to design, and has also sought to address criteria set out in paragraph 163 [now 167] of the Framework which relate to management/mitigation of risk in areas at risk of flooding. The sequential test nonetheless forms the starting point for consideration of site suitability as a means of avoiding risk in the first instance. A development where risk is avoided is inherently safer than a development where risk requires mitigation or management.

26. In view of the above, and in the absence of any evidence, I cannot conclude that there are no reasonably available sites within the Council area which are both at lower risk of flooding, and capable of accommodating a single dwelling. Consequently, the development fails the sequential test, and thus paragraph 158 [now 162] of the Framework indicates that the development should not be permitted.

- 8.60 The applicant has submitted a sequential test with the new application. The document suggests that the development proposals would provide additional residential accommodation in order to meet the anticipated housing shortfall within the Council's five-year housing land supply. As already set out in this report, the Council is currently able to demonstrate a housing land supply of 5.08 years which will deliver 3,298 homes over the five year period 1st April 2022 – 31st March 2027. The Fareham Local Plan 2037, which further sets out how the Council will meet its housing requirement to identify a sufficient supply of land for housing, is due to be adopted in Autumn/Winter 2022.
- 8.61 Regardless of the Council's housing supply position, the requirement to follow the sequential approach set out above remains. In short, NPPF paragraph 162 requires that *"...Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding..."*.
- 8.62 The sequential test submitted with the application explains that the majority of the application site (71%) is located within Flood Zone 3 (High probability), 14% of the northern part of the site is within Flood Zone 2 (Medium probability) and the remainder (15%) in the northern areas is within Flood Zone 1 (Low probability). The area of the site where the dwelling is proposed is situated within Flood Zones 2 and 3 with the potential to affect the site and access to and from the site.
- 8.63 The Council's published Local Sites Strategic Flood Risk Assessment 2021 states that, at present, 9% of the Borough's land area is designated as within Flood Zones 2 & 3. The vast majority of the Borough therefore (91%) falls within Flood Zone 1, the lowest classification of flood risk. There is clearly therefore a large amount of land within the Borough in a lower classification of flood risk than the application site.
- 8.64 Despite this, the sequential test produced by the applicant concludes that *"no sites could be identified which offered a comparable scale of development at a lower overall flood risk"*. Having studied the document carefully, Officers believe the approach taken in carrying out the test to be flawed for a number of reasons meaning its findings cannot be relied upon to demonstrate compliance with NPPF paragraph 162.
- 8.65 The applicant's sequential test includes an assessment of a number of potential alternative sites which have been found following a search. Guidance on finding potential alternative sites is given in the Environment Agency guidance titled "Flood risk assessment: the sequential test for applicants" which represents the most up to date advice of its kind (updated 2017). It suggests starting with adopted or draft local plan sites that have

already been allocated for development. It then suggests looking at sites that haven't been allocated in the local plan but that have been granted planning permission for a development that's the same or similar to the development being proposed. Finally, it suggests checking for any 'windfall sites'.

- 8.66 The applicant's search provides an assessment of the Council's Strategic Housing and Employment Land Availability Assessment (SHELAA) (December 2019), Brownfield Land Register and a commercial land search. As an aside it should be noted that the most recent SHELAA produced by the Council is dated April 2021.
- 8.67 With the Environment Agency guidance above in mind, the applicant's searches do not make it clear that existing and draft housing allocations have been considered. There is no list of permissions that have been granted for similar development sites to show how they have been considered as part of the assessment to determine whether they are reasonably available. There is also no explanation as to why larger sites have not been included where there is potential for disaggregation or where such sites are specifically promoted as self-build housing plots.
- 8.68 Overall, the applicant's search adopts very narrow interpretation of what is meant in NPPF paragraph 162 by "reasonably available" which Officers do not agree is appropriate. This approach has led to numerous alternative sites which have been identified within the search being dismissed without appropriate justification and any alternative sites with a purported higher yield also being discounted, despite the size of those sites being within the appropriate search parameter.
- 8.69 The applicant's sequential test dismisses alternative sites that are shown to be at a greater risk from pluvial or groundwater flooding than the application site. This is despite the fact that the vast majority of the alternative sites being assessed are located within Flood Risk Zone 1. The applicant's suggestion is that the application site, which lies within Flood Risk Zone 3 (High probability of flooding), is preferable to a number of sites in Flood Risk Zone 1 (Low probability of flooding). Following this approach, the applicant has dismissed some sites lying within Flood Risk Zone 1 which have been granted planning permission for new housing.
- 8.70 Whilst Officers appreciate that all potential sources of potential flooding need to be considered, Officers consider the applicant has incorrectly interpreted the NPPF guidance on considering all forms of flooding and has unreasonably dismissed other potential alternative sites at a lower risk of flooding.

8.71 In summary, whilst the applicant now recognises the need for a sequential test to be submitted with this new application, the approach to carrying out the test is flawed. The application fails to demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding contrary to NPPF paragraph 162. For this same reason the proposal conflicts with Core Strategy Policy CS15 which states that sustainable development will be promoted and secured by avoiding unacceptable levels of flood risk.

g) Impact on habitat sites

8.72 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive habitat sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats are protected and where appropriate enhanced.

8.73 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.

8.74 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) (previously 'European Protected Site').

8.75 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 habitat sites 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 habitat sites. This is done following a process known as an Appropriate Assessment. The competent authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The competent authority is either the local planning authority or the Planning Inspectorate, depending on who is determining the application.

- 8.76 When considering the proposed development on this site there are two main likely significant effects on HS.

Nutrient neutrality

- 8.77 The first likely significant effect on HS relates to deterioration in the water environment through increased nitrogen. Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the HS.
- 8.78 Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England have provided a methodology for calculating nutrient budgets and options for mitigation should this be necessary. The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research, however for each input there is a degree of uncertainty. Natural England advise local planning authorities to take a precautionary approach when addressing uncertainty and calculating nutrient budgets.
- 8.79 In the case of this application, the Planning Statement submitted by the applicant explains that the foul drainage proposals are the same as the previous application. In that case it was proposed to create a new sewer connection for both the proposed dwelling and Turret House, which currently drains to a septic tank, to achieve nitrate neutrality. In their assessment the applicant has demonstrated that by removing the septic tank at Turret House there would be a reduction in the amount of nitrogen being discharged to the water environment, even when allowing for the connection of the existing dwelling and the proposed new house to the public sewer. Natural England have been consulted on the proposals and have responded to request further information despite previously having no objection to this approach provided the removal of the septic tank and connection of both properties to the mains sewer can be secured with the necessary parties, for example by way of a legal agreement. Had the application been found to be acceptable in all other regards, the applicant would have been invited to enter into such a legal agreement under Section 106 of the Town & Country Planning Act 1990.
- 8.80 In summary, Officers are satisfied on the basis of the submitted information, that Habitat Sites would not be adversely affected by increased wastewater resulting from the development. This is on the basis of the existing septic tank at Turret House being removed and both the existing house and proposed

new house being connected to the public sewer. Had Officers been minded to recommend planning permission be granted, it would have been necessary to undertake an Appropriate Assessment and formally consult Natural England upon it. Mitigation such as that proposed by the applicant would ultimately be secured by way of a legal agreement with the relevant parties. In the absence of a legal agreement in place to secure this mitigation, the proposal would be contrary to Policy CS4 Core Strategy and Policy DSP13 of the Local Plan Part 2: Development Sites & Policies.

Recreational disturbance

- 8.81 The second of these likely significant effects on HS concerns disturbance on The Solent coastline through increased recreational use by visitors to the sites.
- 8.82 Policy DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to The Solent Recreation Mitigation Strategy (SRMS). Again, had Officers been minded to recommend planning permission be granted, the applicant would have been invited to make a financial contribution through the SRMS. In the absence however of a legal agreement to secure such a contribution, or the submission of evidence to demonstrate that the 'in combination' effects of the development can be avoided or mitigated in another way, the proposal is held to be contrary to Policy DSP15.

h) The planning balance

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

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

- 8.84 As set out in paragraph 8.13 above, the effect of Paragraph 182 of the NPPF is that:

"The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or

projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.

- 8.85 The effect of NPPF paragraph 182 means that if having carried out an Appropriate Assessment it is concluded that the proposal is likely to have an adverse effect on the integrity of a habitats sites, then the application can be determined in accordance with paragraph 38(6) under the ‘straight’ balance.
- 8.86 In this instance Officers have identified two likely significant effects upon Habitat Sites as a result of a failure to secure the proposed nitrate mitigation and recreational disturbance mitigation payment through a legal agreement. If the application had been found acceptable in all other regards and had Officers been minded to recommend permission be granted, the applicant would have been invited to address this by entering into a Section 106 legal agreement. In the absence of such an agreement, the proposal would fail to appropriately secure this mitigation and would be contrary to Policies CS4, DSP13 & DSP15.
- 8.87 As there are other overriding reasons for refusal, Officers have not undertaken an Appropriate Assessment. This means that, by virtue of NPPF paragraph 182, the presumption of favour does not apply. It is acknowledged that these issues could be overcome by providing the legal means to secure the required mitigation.
- 8.88 If an Appropriate Assessment was undertaken and concluded that the proposal would not adversely affect the integrity of the habitat sites, then the application would need to be determined in accordance with NPPF paragraph 11(d). This is because the Council’s Housing Delivery Test result of 62% means that the policies of the adopted Local Plan relevant to housing must be considered out of date.
- 8.89 Limb i) of NPPF paragraph 11 d requires that planning permission be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. This report has set out that, in terms of the impact on the setting of heritage assets, the proposed development would result in less than substantial harm to the significance of both Portchester Castle and the conservation area contrary to NPPF paragraph 199. The proposal also fails to demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding contrary to NPPF paragraph 162. These policies provide clear reasons for refusing the development proposed. The presumption in favour of sustainable development is therefore not engaged.

8.90 Considering then the proposed development as required through the approach set out at Section 38(6) of the 2004 Act, the site is outside of the defined urban settlement boundary and the proposed development does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan. The development would have a harmful effect on the character and appearance of the countryside and in doing so would be contrary to Policies CS14 & CS17 of the Core Strategy. The proposal has been found to result in less than substantial harm to designated heritage assets, a matter which should still be given great weight in the decision making process as set out in NPPF paragraph 199 and which is contrary to Policy DSP5 of the LPP2. In accordance with NPPF paragraph 202, there are no public benefits to outweigh the harm identified to the heritage assets. In addition, the proposal does not demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding contrary to Policy CS15 of the Core Strategy and contrary to NPPF paragraph 162.

8.91 Officers have given due regard to the benefits of the proposal, however it is not considered that granting planning permission for a single house would outweigh the harm identified above. The site is not in an undesirable use at present to mean that there would be any benefit in that use ceasing to make way for the new dwelling. There is also no suggestion that the development is required as 'enabling development' of any kind. The applicant's assertion that the application site is previously developed land by virtue of being part of a curtilage is noted. Even accepting that the application site is previously developed land, it is essentially devoid of permanent structures. Officers do not consider that either national or local planning policies encourage the development of such sites especially where other harm is caused to national or local planning policies. The previous appeal Inspector commented as follows on this matter:

"36...Even if I was to agree that the site is PDL, the site is not within a settlement for development plan purposes, and nor would it fulfil any more than the general need for housing. Moreover, its definition as PDL has no fundamental bearing on its character, appearance or susceptibility to flooding, or the harm that would be caused in these regards. Consequently, the site is not otherwise 'suitable' for the development proposed. Use of PDL does not therefore attract weight as a consideration in favour of the development."

8.92 In light of this assessment, and taking into account all other material planning considerations, Officers recommend that planning permission should not be granted for this application. A recommendation for refusal is set out below at paragraph 9.1.

9.0 Recommendation

9.1 REFUSE PERMISSION for the following reasons:

The development is contrary to Policies CS2, CS4, CS6, CS14, CS15 & CS17 of the Adopted Fareham Borough Core Strategy 2011, Policies DSP5, DSP6, DSP13 & DSP15 of the Adopted Local Plan Part 2: Development Site and Policies Plan and paragraphs 162 & 199 of the National Planning Policy Framework and is unacceptable in that:

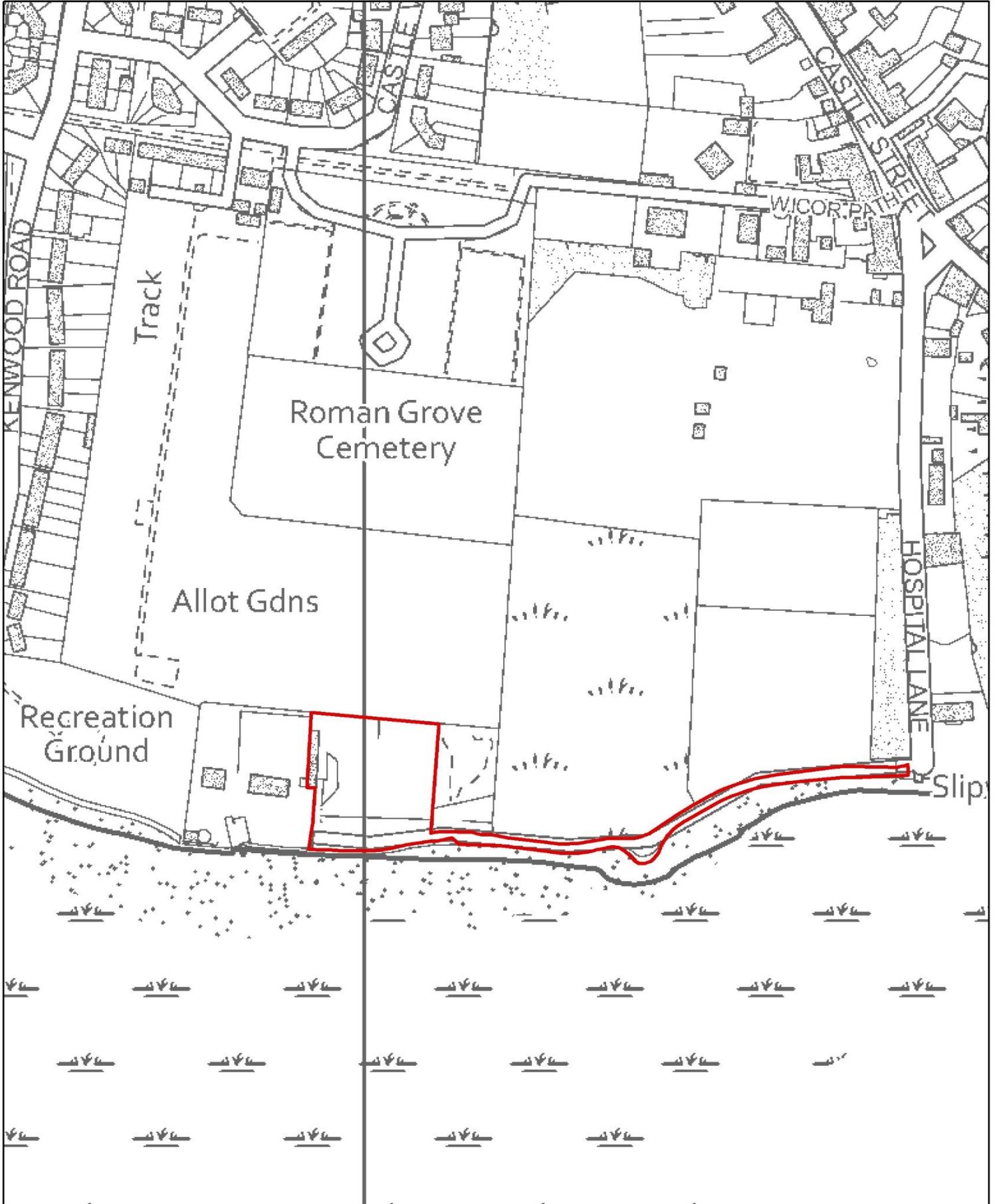
- a) The provision of a dwelling in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The proposed dwelling fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the landscape character, appearance and function of the countryside;
- c) The proposal fails to demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding;
- d) The proposed dwelling would intrude into the area of open land west of Hospital Lane resulting in less than substantial harm to the significance of the setting of the Grade I Listed Scheduled Ancient Monument Portchester Castle and the Portchester Castle Street Conservation Area.
- e) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the additional generation of nutrients entering the water environment and recreational disturbance.

10.0 Background Papers

P/22/0338/FP; P/19/0925/FP

FAREHAM

BOROUGH COUNCIL



Turret House, Hospital Lane
Portchester
Scale 1:2,500



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**Report to
Planning Committee**

Date 07/06/2022
Report of Director of Planning and Regeneration
Subject PLANNING APPEALS

SUMMARY

The following report provides details of all current planning appeals, in particular the procedures under which the appeal will be considered and details of any planning appeal decisions received since the previous Planning Committee meeting.

RECOMMENDATION

That the Committee note the content of the report.

CURRENT PLANNING APPEALS

The following details set out all current planning related appeals and the procedures under which they will be dealt with

WRITTEN REPRESENTATIONS & HOUSEHOLDER

Fareham Borough Council Reference: [P/20/1227/FP](#)

Appeal site address: 61 Portchester Road Fareham PO16 8AL
Ward: Portchester West
The appellant: Mr Richard Lundbeck
Description of proposal: Demolition of Existing Dwelling and Erection of 4 Dwellings
Council decision: REFUSE
Decision maker: Officer Delegated Powers
Date appeal lodged: 10/05/2022
Reason for Appeal: Appeal against refusal of planning permission

Fareham Borough Council Reference: [P/20/1453/FP](#)

Appeal site address: Land to West of Anchor House Wicor Path Portchester Fareham PO16 9QT
Ward: Portchester East
The appellant: Mr Richard Lundbeck
Description of proposal: Construction of a detached three-bedroomed house (Resubmission of planning application P/19/0705/FP).
Council decision: REFUSE
Decision maker: Officer Delegated Powers
Date appeal lodged: 19/05/2022
Reason for Appeal: Appeal against refusal of planning permission

Fareham Borough Council Reference: [P/21/0118/PC](#)

Appeal site address: 17 Queens Road Fareham PO16 0NW
Ward: Fareham East
The appellant: Mr Jacob Hoare
Description of proposal: Part 3, Class O Change of Use: Office (B1) Use to Residential (C3)
Council decision: PRIOR APPROVAL REFUSED
Decision maker: Officer Delegated Powers
Date appeal lodged: 03/02/2022
Reason for Appeal: Appeal against refusal of planning permission

Fareham Borough Council Reference: [P/21/0982/OA](#)

Appeal site address: Columbo Nursery New Road Swanwick Southampton SO31 7HE
Ward: Sarisbury
The appellant: Landwise Ltd
Description of proposal: Outline application for two detached, self-build dwellings with all issues reserved
Council decision: REFUSE
Decision maker: Officer Delegated Powers
Date appeal lodged: 25/05/2022
Reason for Appeal: Appeal against refusal of planning permission

Fareham Borough Council Reference: [P/21/1369/FP](#)

Appeal site address: 47 Garstons Close Fareham PO14 4EP
Ward: Titchfield
The appellant: Mr & Mrs Sehwat
Description of proposal: Construction of 2 bedroom dwelling with associated parking
Council decision: REFUSE
Decision maker: Officer Delegated Powers
Date appeal lodged: 18/05/2022
Reason for Appeal: Appeal against refusal of planning permission

Fareham Borough Council Reference: [P/21/1812/DA](#)

Appeal site address: Land at 31 Rossan Avenue Warsash Southampton SO31 9JQ
Ward: Warsash
The appellant: Mr James Hitchcock
Description of proposal: Changes to ground levels in rear garden
Date appeal lodged: 05/11/2021
Reason for Appeal: Against serving of planning enforcement notice

Fareham Borough Council Reference: [P/22/0434/DA](#)

Appeal site address: 15 Castle View Road Fareham PO16 9LA
Ward: Portchester East
The appellant: Mr Jarrod Singh
Description of proposal: Single storey rear extension
Date appeal lodged: 29/03/2022
Reason for Appeal: Against serving of planning enforcement notice

INFORMAL HEARING

Fareham Borough Council Reference: [P/19/0894/OA](#)

Appeal site address: Land East of North Wallington Fareham
Ward: Fareham East
The appellant: Foreman Homes Ltd
Description of proposal: Outline planning application with all matters reserved (except for access) for residential development of up to 29 dwellings, associated landscaping and access off North Wallington Road
Date appeal lodged: 31/05/2022
Reason for Appeal: No formal decision within determination period
Date scheduled for Informal Hearing to start and duration: 23/08/2022 for 1 day

Fareham Borough Council Reference: [P/21/1614/DA](#)

Appeal site address: Newlands Farm Stroud Green Lane Fareham PO14 2HT
Ward: Stubbington
The appellant: Mr Ashley Barlow
Description of proposal: Landscaping business not operating in accordance with the approved plans
Date appeal lodged: 29/09/2021
Reason for Appeal: Against serving of planning enforcement notice

Fareham Borough Council Reference: [P/21/1707/OA](#)

Appeal site address: Land to the East of Cartwright Drive Fareham

Ward: Titchfield

The appellant: Foreman Homes Ltd

Description of proposal: Outline application for the erection of 49 dwellings and associated landscaping and parking. Access from Cartwright Drive and associated works.

Date appeal lodged: 06/05/2022

Reason for Appeal: No formal decision within determination period

Date scheduled for Informal Hearing to start and duration: 16/08/2022 for 1 day

DECIDED PLANNING APPEALS

Fareham Borough Council Reference: [P/19/0419/DA](#)

Appeal site address: 137 Newgate Lane Fareham PO14 1BA
Ward: Stubbington
The appellant: Mr Patrick Cash
Description of proposal: Unlawful development of two structures
Reason for Appeal: Against serving of planning enforcement notice
Appeal decision: DISMISSED
Appeal decision date: 03/05/2022

Fareham Borough Council Reference: [P/20/0103/FP](#)

Appeal site address: Hollam Farm 74 Bridge Street Titchfield Fareham PO14 3QL
Ward: Titchfield
The appellant: Colin Bell, Helen Bell, Adrian Bell & Rachel Kirby
Description of proposal: Demolition of Existing Buildings and the Erection of Two Dwellings and Garages & Ecological Enhancement of Hollam Farm Fields
Council decision: REFUSE
Decision maker: Officer Delegated Powers
Reason for Appeal: Appeal against refusal of planning permission
Appeal decision: DISMISSED
Appeal decision date: 10/05/2022

Fareham Borough Council Reference: [P/20/0506/OA](#)

Appeal site address: Land at Eversdown Farm Quarantine Kennels 285 Botley Road BurrIDGE SO31 1ZJ
Ward: Sarisbury
The appellant: Workham European Property Ltd
Description of proposal: Demolition of agricultural buildings and erection of up to 38 dwellings with associated landscaping and access.
Council decision: REFUSE
Decision maker: Committee
Reason for Appeal: Appeal against refusal of planning permission
Appeal decision: ALLOWED
Appeal decision date: 06/06/2022

Fareham Borough Council Reference: [P/20/1166/CU](#)

Appeal site address: Land to the South of Funtley Road Fareham
Ward: Fareham North
The appellant: Reside Developments Limited and
Description of proposal: Change of use of land from equestrian/paddock to community park following demolition of existing buildings
Council decision: NONE
Decision maker: Non Determined
Reason for Appeal: No formal decision within determination period
Appeal decision: ALLOWED
Appeal decision date: 31/05/2022

Fareham Borough Council Reference: [P/20/1168/OA](#)

Appeal site address: Land to the South of Funtley Road Fareham

Ward: Fareham North

The appellant: Reside Developments Limited and Atherfold Investments Ltd

Description of proposal: Outline application to provide up to 125 one, two, three and four-bedroom dwellings including 6 Self or Custom build plots, Community Building or Local Shop (Use Class E & F.2) with associated infrastructure, new community park, landscaping and access, following demolition of existing buildings.

Council decision: NONE

Reason for Appeal: No formal decision within determination period

Appeal decision: ALLOWED

Appeal decision date: 31/05/2022

Fareham Borough Council Reference: [P/20/1228/VC](#)

Appeal site address: 65 Old Street Fareham PO14 3HQ

Ward: Hill Head

The appellant: Ms Lily Beveridge

Description of proposal: Removal of Condition 3 of planning permission- P/16/0301/FP for the construction of 14 stable barn with horse walker and 60 x 30 manege, new toilet /store building and gravel/tarmac hardstanding

Council decision: REFUSE

Decision maker: Committee

Reason for Appeal: Appeal against refusal of planning permission

Appeal decision: ALLOWED

Appeal decision date: 11/05/2022

Fareham Borough Council Reference: [P/21/1298/FP](#)

Appeal site address: 37 Brook Lane Warsash Southampton SO31 9FF

Ward: Warsash

The appellant: Nick Baker

Description of proposal: Erection of first floor side extension

Council decision: REFUSE

Decision maker: Officer Delegated Powers

Reason for Appeal: Appeal against refusal of planning permission

Appeal decision: ALLOWED

Appeal decision date: 09/05/2022

Further information about Planning Appeals

Introduction

Under the English planning system, only the applicant has a right of appeal. There is currently no right of appeal for third parties. Planning decisions can only be challenged by third parties through the Courts. The Courts can examine whether the decision was lawfully made- the Courts' role is not to consider whether they agree with the decision itself.

When are planning appeals lodged?

A very small proportion of all planning decisions made by this Council end up being considered through the planning appeal system. When planning applications are refused, Government advice is that applicants should firstly contact the Council to see if their proposal can be modified to address the Council's concerns.

The most common type of planning appeal is against the refusal of a planning application. Planning appeals can also be made against specific conditions that have been imposed on a planning permission or where a Council has not made a decision within prescribed time periods.

Who decides planning appeals?

Planning appeals are handled and decided by the Planning Inspectorate. The Planning Inspectorate is an executive agency of the Ministry of Housing, Communities and Local Government.

Nearly all appeals are decided by Planning Inspectors from the Planning Inspectorate and in each case the Inspectors are solely responsible for their decisions. A very small percentage are decided by the Secretary of State - these tend to be the very largest or most contentious schemes.

The different types of appeal procedures

There are different types of procedures for different types of planning appeals, often depending on the complexity of the issues. The Planning Inspectorate decide which type of procedure will be used for any given appeal.

There is an 'expedited procedure' for Householder appeals, with most other appeals being determined through the written representations' procedure. Larger scale and/ or more controversial planning appeals may be dealt with by way of an Informal Hearing or by a Public Local Inquiry.

With all planning appeals, the Planning Inspector will visit the site and will notify the outcome of the planning appeal by way of a written decision. A summary of the three main procedures are set out below:

Appeal by Written Representations

Under this procedure, the Planning Inspector will decide the appeal on the basis of the written material provided by all interested parties and following a visit to the appeal site.

The key aspect of this procedure is that submissions made by the Council, the applicant or interested parties, can only be made in writing for the Planning Inspector to consider.

Appeal by Informal Hearing

The hearing is an inquisitorial process led by the Planning Inspector who identifies the issues for discussion based on the evidence received and any representations made. The hearing may include a discussion at the site.

Interested parties including residents, amenity groups and councillors can normally attend and take part in the discussion. Most hearings last a day, but more complex cases may continue over several days.

Appeal by Public Local Inquiry

Public Local inquiries are the most formal procedure and are used for complex cases where legal issues may need to be considered, or evidence needs to be taken under oath.

An Inquiry is open to the public and provides for the investigation into, and formal testing of, evidence, usually through the questioning ("cross examination") of expert witnesses and other witnesses. Parties may be formally represented by advocates.

Interested parties including residents, amenity groups and councillors can normally attend and speak if they would like to do so.

The length of an inquiry depends on the complexity of the case and can range between a day and several weeks.

Further reading

You can find out more details about the planning appeal process on the [Planning Portal](#)

A [detailed procedural guide on planning appeals](#) can be viewed on the Government website.

You can look at planning appeal decisions made by the Planning Inspectorate across England [via their website](#)