

**P/17/0895/OA**

**SARISBURY**

REILLY DEVELOPMENTS LTD

AGENT: BRYAN JEZEPH  
CONSULTANCY

ERECTION OF UP TO 42 DWELLINGS WITH ASSOCIATED PARKING, ACCESS, LANDSCAPING AND SURFACE WATER DRAINAGE (OUTLINE APPLICATION CONSIDERING ACCESS ONLY)

LAND OFF SOPWITH WAY SWANWICK SOUTHAMPTON HAMPSHIRE SO31 7AY

***Report By***

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***Introduction***

The Council's position on 5-year housing land supply was challenged by way of planning appeal at a site in Cranleigh Road Portchester (Ref: APP/A1720/W/16/3156344) in April last year with the appeal decision issued in August.

In deciding that planning appeal the Inspector concluded that the Council's housing requirements should be based upon Objectively Assessed Housing Need, not the housing requirements set out in Local Plan Parts 1 and 2. On this basis the Inspector concluded that the Council's housing land supply position was little more than 2 years.

Finding that Fareham Borough Council does not have a 5YHLS represents a significant material change in planning circumstances. The most significant implication of the Council's current position on 5YHLS is that the approach that the Council must take in determining applications for residential development will have to be altered until the Council can robustly demonstrate that it has a 5YHLS. The approach which will need to be undertaken was set out in detail in the report titled 'How proposals for residential development should be considered in the context of this Council's 5-year housing land supply position' presented to the Planning Committee on the 15th November 2017.

This report sets out all the relevant planning policies and considerations and applies the planning balance (often referred to as the 'tilted balance') as required by National Planning Policy Framework and established planning case law.

***Site Description***

The site is located within the countryside on the corner of Swanwick Lane and Sopwith Way. The site is 2.29 hectares in area and irregular in shape. The site is positioned on a slope with the gradient sloping from the north down to the south. The site is currently grassed and consists of paddocks together with a small barn and stables.

The north boundary of the site is adjacent to the edge of Swanwick Lakes Nature Reserve which is a Site of Interest for Nature Conservation. To the east of the site there are dwellings together with a small parcel of undeveloped land. To the south of the site there are properties in Swanwick Lane and to the west of the site there are properties within Sopwith Way.

***Description of Proposal***

The application is an outline application for up to 42 houses with access from Sopwith Way via the existing vehicular access. The layout, appearance, scale and landscaping are reserved and therefore not for consideration as part of this application. The application is accompanied by an indicative layout plan to demonstrate how 42 houses could be provided within the site.

## ***Policies***

The following policies apply to this application:

National Planning Policy Framework 2012

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

CS2 - Housing Provision

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS9 - Development in Western Wards and Whiteley

CS14 - Development Outside Settlements

CS15 - Sustainable Development and Climate Change

CS17 - High Quality Design

CS18 - Provision of Affordable Housing

CS20 - Infrastructure and Development Contributions

CS21 - Protection and Provision of Open Space

### **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

DSP15 - Recreational Disturbance on the Solent Special Protection Areas

DSP40 - Housing Allocations

## ***Representations***

Thirty-five objections have been received including objections from the Fareham Society and BurrIDGE and Swanwick Residents' Association.

The Fareham Society object on the grounds that the application is within the countryside and is therefore not acceptable in principle.

BurrIDGE and Swanwick Residents' Association object on the following grounds:

- the site is outside the urban settlement boundary;
- there is no justification or need for development in light of the Draft Plan;
- any developments proposed in addition to those formally planned for, should be restricted to brown field sites and within the settlement policy boundary;
- further development will generate additional traffic;
- the distances quoted in the application documents are 'as the crow flies' and therefore not realistic;
- the use of Glen Road as a pedestrian and cycle access is severely overstated;
- to suggest that the wide streets provide an attractive environment for cycling is also overstated;
- the new traffic calming measures have no cycling access through the pinch points and the chicane;
- light and noise pollution will disturb the wildlife of the reserve particularly along the 15m

buffer zone;

-polluted drainage may also have an impact on the Nature Reserve.

The following additional concerns were also raised:

#### Location

-the site is not in a sustainable location as occupiers of the proposed dwellings will have to drive to get to amenities in Park Gate, Sarisbury and Whiteley as there are none in Swanwick;

#### Housing Delivery

-The council should be progressing development at Welborne so that sites like this don't have to be developed;

#### Character

-The design, layout and density of the development would be out of character with the surrounding area.

-The hill brow location will be visible from a long distance.

-Impact on tranquillity and atmosphere of the nature reserve and the Hamble River valley.

#### Ecology

-Impact on the wildlife habitat within the Nature Reserve.

#### Impact on Neighbouring Properties

-The proposed development would have an adverse impact on dwellings in Sopwith Way and Swanwick Lane due to overlooking.

#### Highways

-Impact on traffic, particularly on Swanwick Lane

-The proposed housing fronting Swanwick Lane would result in parking on Swanwick Way;

-Lack of garages will result in unsightly overspill parking.

-The transport statement claims that the site is served by a bus, however the stop is just under 1km from the site.

-The transport statement contains inaccuracies

#### Infrastructure

-Impact on infrastructure including doctor's surgeries

-The Children's Services Department Report is clear that there are no catchment school places for any children from this site;

#### Other issues

-Increased noise and light pollution

-There must be discussion between local authorities to avoid regional saturation of houses.

-Submitting an outline application puts residents at a disadvantage as they are unable to comment on the design and appearance.

-Planning permission was refused for the strip of land to the south of Hazelbank which is also owned by the applicant for this application. If planning permission were granted for this application it would be contrary to the previous decision.

#### **Consultations**

## INTERNAL

### Ecology - Objection

The application is supported by an invertebrate assessment, however it is a desktop assessment of the adjacent Swanwick SINC and does not include the site itself. Further information regarding invertebrates is therefore required.

The application is supported by a bat survey report which proposes acceptable mitigation measures.

Where developments affect European protected species (EPS), permission can be granted unless:

1. the development is likely to result in a breach of the EU Directive underpinning the Habitats Regulations, and
2. is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

1. Is the development likely to result in a breach of the EU Directive?

The application is supported by a report of the bat survey work that has been carried out at the site. This report includes results and conclusions of the full survey work, an assessment of the impacts to bats and the measures to ensure that any impacts to bats are avoided or compensated for. The survey work identified that the existing barn is a low status common pipistrelle roost used by an individual bat. The development will result in the loss of this roost. If avoidance measures are not taken then the work has the potential to kill / injure individual bats. The development will therefore result in a breach of the EU Directive.

2. Is the development unlikely to be licensed?

An EPS licence can only be granted if the development proposal is able to meet three tests:

- a. the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))
- b. there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and
- c. the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).

In order to assess the development against the third test, sufficient details must be available to show how killing and injury of bats will be avoided and how the impacts to bats / bat roosts will be addressed. A strategy is provided that includes methods to be followed during the development to ensure bats are not disturbed, killed or injured, together with new roosting opportunities to be provided. These measures are supported and provided the first two tests can be met, the development is likely to be licensed.

Provided that the agreed mitigation proposals are implemented, there are no concerns in relation to roosting bats, provided that a condition is included which requires development to be carried out in accordance with the Bat Survey Report and for all replacement bat roost features to be retained in accordance with the approved details.

The ecology reports suggest that the hedgerow along the western boundary of the site will

provide north-south connectivity. The hedge on its own would not be functional and provide the necessary connectivity, due to the lack of any other suitable habitats and its proximity to private gardens. This wildlife corridor needs to be re-considered.

The Nature Reserve is important for Great Crested Newts, however the lower quality adjacent areas are also essential as they can accommodate dispersing Great Crested Newts and reduce the pressure on the Nature Reserve. The proposed buffer is not sufficient in its current form to both absorb the impacts of the development and accommodate reptiles and Great Crested Newts.

#### Tree Officer

No objection provided the recommendations in the accompanying tree report are followed.

#### Housing

The proposed number and tenure of affordable housing is acceptable. No objection.

#### Environmental Health (Contamination)

No objection subject to conditions requiring a site investigation and risk assessment with remedial measures provided if necessary.

#### Highways

Traffic impacts would not materially affect the surrounding highway network. No objection subject to conditions and securing funding for a TRO to prevent on street parking on Swanwick Lane and Sopwith Way.

#### Refuse and Recycling

No objection

#### EXTERNAL

#### HCC Education

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

In line with HCC's Children's Services Developers' Contributions Policy the development should contribute to provision of infrastructure at local schools due to the additional pressure that will be placed on school places. Due to the significant level of proposed housing in the local area investigations are under way as to the requirement for additional places at local schools. To mitigate the impact of this development on school places a contribution should be made.

The pupil yield is likely to be 13 primary age pupils based on 42 dwellings of two beds or more and a pupil yield of 0.3 of a primary age child per dwelling. In line with the policy a contribution of £14,539 per pupil place should be made. This totals £189,007.

#### HCC Flood and Water Management Team

No objection. Recommend that the maintenance of the surface water drainage proposals is

secured.

Hampshire and Isle of Wight Wildlife Trust

Objection based on the following reasons:

The development falls outside of the urban area and is contrary to policy DSP6. Policy CS4 of the Core Strategy requires development proposals to "provide for appropriate access to greenspace for informal recreation to avoid adverse impacts from recreation and other impacts on European and Ramsar sites and locally important sites." The development proposals only provide a limited amount of open space for recreational purposes.

The development proposals will result in significant increased usage of the adjacent Swanwick Lakes Nature Reserve. The capacity of the Reserve is limited and is already starting to exhibit evidence of increased activity. The Trust should not have to pick up the cost of increased pressure on sensitive habitats and species given their limited resources, particularly when insufficient on-site recreation space for new residents is provided. A contribution of £195,985 is sought to fund a programme of repairs to the site and to contribute towards funding a part time Assistant Reserve Officer. This contribution is based on the calculation of costs over a period of 80 years.

The buffer would have a number of dwellings backing onto it and is therefore vulnerable to fly tipping in the form of garden waste, which would be incompatible with the purpose of the buffer as providing mitigation for invertebrate species. Long term management of the buffer would be required in perpetuity should permission be granted. If the Trust were to be responsible for managing the buffer an additional cost of £3,000 pa would be required.

Natural England

Swanwick Lakes Nature Reserve has a limited capacity and there is already evidence to show that recreational pressure is impacting on the nature conservation value of the site. Appropriate mitigation and compensation is therefore essential to ensure HIWWT has the necessary resources to manage the impacts from additional visitors expected from the proposed development.

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

Key Issues:

- a) Implication of Fareham's current 5-year housing land supply position
- b) Residential development in the countryside
- c) - g) Policy DSP40
- h) Local infrastructure
- i) Affordable housing
- j) Flood Risk and Drainage
- k) Contamination
- l) Draft Local Plan
- m) Planning balance

### **A) IMPLICATIONS OF FAREHAM'S CURRENT 5 YEAR HOUSING LAND SUPPLY POSITION**

As set out in the Introduction to this report, the Cranleigh Road Planning Appeal Inspector concluded that the Council's housing requirements should be based upon Objectively Assessed Housing Need (OAHN), not the housing requirements set out in Local Plan Parts 1 and 2. Officers accept this position.

Officers have undertaken a review of current planning permissions and the residual allocations from the adopted local plan in order to provide robust evidence to inform the current 5YHLS position. Fareham Borough Council presently has 3.6 years of housing supply against its OAHN 5YHLS requirement.

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".

In determining planning applications there is a presumption in favour of the policies of the extant Development Plan, unless material considerations indicate otherwise. Material considerations include the planning policies set out in the NPPF, and this contains specific guidance in paragraphs 47, 49 and 14 for Councils unable to demonstrate a 5YHLS.

Paragraph 47 of the NPPF seeks to boost significantly the supply of housing, and provides the requirement for Councils to meet their OAHN, and to identify and annually review a 5YHLS including an appropriate buffer. Where a Local Planning Authority cannot do so, paragraph 49 of the NPPF clearly states that:

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites."

Paragraph 14 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". For decision-taking (unless material considerations indicate otherwise) this means:

Approving development proposals that accord with the development plan without delay; and Where the development plan is absent, silent or relevant policies are out of date, granting permission 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; or
- specific policies\* in this Framework indicate development should be restricted. (\*for example, policies relating to sites protected under the Birds and Habitats Directive and/or Sites of Special Scientific Interest; Green Belt, Local Green Spaces, Areas of Outstanding Natural Beauty, Heritage Coast and National Parks; designated heritage assets; and locations at risk of flooding or coastal erosion).

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

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

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

Policy CS14 of the Core Strategy states that:

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

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

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

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

"Where it can be demonstrated that the Council does not have a 5-year supply of land for housing against the requirements of the Core Strategy (excluding Welborne) additional housing sites, outside the urban area boundary, may be permitted where they meet all of the following criteria:

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

Each of these five bullet points are worked through in turn below c) - g) Policy DSP40

#### C) POLICY DSP40(i)

The first test of Policy DSP40 is that: "The proposal is relative in scale to the demonstrated 5-year housing land supply shortfall".

The present shortfall of dwellings needed to achieve a 5YHLS is in the region of 660. The proposal for up to 42 dwellings is relative in scale to the 5YHLS shortfall and therefore bullet point i) of Policy DSP40 is satisfied.

#### D) POLICY DSP40(ii)

The second test of Policy DSP40 is that: "The proposal is sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and can be well integrated with the neighbouring settlement". The aim of part ii of policy DSP40 is twofold: to ensure developments read as being visibly connected to the existing settlement and to ensure that they are functionally linked to the existing settlement and that future residents can easily access amenities.

In terms of being visibly connected to existing settlements, the site would be approximately



450m from the settlement policy boundary of Lower Swanwick (to the west) and approximately 700m from the settlement policy boundary of Swanwick (to the east.) The development would therefore not be visually connected to either of the existing urban settlements.

In terms of being functionally linked to the existing urban settlements and therefore close to amenities, the closest local services and facilities such as doctors, shops and cafes are to be found in Swanwick to the east, approximately 1.7km from the site. The proposed development therefore fails to accord with part ii of policy DSP40 in terms of being well related to the existing urban settlement boundaries and well integrated with the neighbouring settlement.

#### E) POLICY DSP40(iii)

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

As referred to above, the site lies outside of the defined urban settlement area within the countryside where Policy CS14 of the adopted Fareham Borough Core Strategy states built development will be strictly controlled to protect it from development which would "adversely affect its landscape character, appearance and function".

The Fareham Landscape Assessment (2017) (hereafter referred to as FLCA), identifies a number of character areas and describes their defining characteristics. The site falls within the 'Swanwick and Burr ridge Fringes' character area. This area forms the hinterland to the settlements of Swanwick and Burr ridge and is characterised by a distinctive pattern of small-scale fields, typically occupied by pasture or horticultural land uses. The character of the land in this area is described in the FLCA as being generally intact and unspoilt with degradation limited and localised. The development of the paddock would therefore be out of keeping with the rural character of the area.

The design and access statement relies heavily on the fact that there are houses to the south, east and west of the site and uses this as a justification for the proposed development. It is acknowledged that there is development in the vicinity, however it takes the form of ribbon development with dwellings to the immediate east of the site set within extremely large plots set against a background of farmland and open countryside. The proposed development however would consist of development of a much higher density.

The indicative layout is provided for illustrative purposes only, however it demonstrates that the proposed number of dwellings is at a level that would require the whole of the site to be developed as opposed to just frontage development along Swanwick Lane and Sopwith Way.

The land within the site falls from the north down to the south and as a result the development within the site would be visible beyond that fronting Swanwick Lane and Sopwith Way. The indicative layout also demonstrates that there would not be sufficient space remaining for the provision of woodland planting, as recommended by the FLCA to help the development integrate with the surrounding landscape.

The proposed development of the site would be at odds with the unspoilt nature of the Swanwick and Burr ridge Fringes Character Area as a whole. Furthermore, the indicative layout demonstrates that the number of dwellings proposed would result in a density that would contrast with the spacious development along Sopwith Way and Swanwick Lane and have a demonstrably harmful effect on the overall character of the area.

The proposed development would therefore be contrary to Policy DSP40(iii).

#### F) Policy DSP40(iv)

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

The application has been submitted on behalf of Reilly Development Ltd with Vivid Homes identified as the housing association that would manage the proposed affordable homes. The applicant has confirmed that they would be willing to accept a condition requiring the reserved matters application to be submitted within 12 months with a further condition requiring development to commence within 12 months of the determination of the reserved matters application. The proposed development would therefore be in accordance with the fourth criteria of Policy DSP40.

#### G) Policy DSP40(v)

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

#### Environmental Implications

Policy DSP13 also states that "Development may be permitted where it can be demonstrated that:

- i. Designated sites and sites of nature conservation value are protected and where appropriate enhanced;
- ii. Protected and priority species populations and their associated habitats, breeding areas, foraging areas are protected and, where appropriate, enhanced;
- iii. Where appropriate, opportunities to provide a net gain in biodiversity have been explored and biodiversity enhancements incorporated; and
- iv. The proposal would not prejudice or result in the fragmentation of the biodiversity network.

Proposals resulting in detrimental impacts to the above shall only be granted where the planning authority is satisfied that:

- i. Impacts are outweighed by the need for and benefits of the development; and
- ii. Adverse impacts can be minimised and provision is made for mitigation and where necessary compensation for those impacts is provided."

The application is supported by an extended phase 1 habitat survey, bat, newt, breeding bird and dormouse surveys, a butterfly report and an invertebrate assessment. The indicative layout also demonstrates that a 15m buffer zone could be incorporated along the northern edge of the site between the proposed development and the adjacent Swanwick Lakes Nature Reserve. The purpose of the buffer would be to absorb edge effects from the development such as fly-tipping, light spill, soil compaction and hydrological changes which would otherwise degrade the adjacent designated site and to provide a receptor site and mitigation land for Great Crested Newts within the site.

#### Impact on habitat and species within the site

The Council's ecologist has reviewed the ecological reports and surveys submitted with the application and has raised several concerns. The buffer zone is proposed as mitigation and enhancement land for reptiles, bats and breeding birds in addition to great crested newts. Given that the primary purpose of the buffer is to absorb impacts from the adjacent

development, if the buffer is to also serve as mitigation habitat for the aforementioned species, further detail is required to confirm that it will firstly support capacity for all of the above mentioned species and secondly, that it will be appropriately managed to ensure that this capacity is not depleted as a result of impacts from the adjacent development.

Great Crested Newts and bats are considered to utilise territory within the application site. Great Crested Newts and bats both receive protection under UK law via the Wildlife and Countryside Act 1981 (as amended) and under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (commonly referred to as the Habitats Regulations). Where developments affect European protected species (EPS), permission can be granted unless:

- the development is likely to result in a breach of the EU Directive underpinning the Habitats Regulations, and
- the development is unlikely to be granted an EPS licence from Natural England to allow the development to proceed under a derogation from the law.

- Is the development likely to result in a breach of the EU Directive?

The Great Crested Newts Mitigation Strategy and the Bat Survey include measures to ensure that any impacts to Great Crested Newts and Bats are avoided or compensated for.

If avoidance measures were not taken then the work has the potential to kill / injure individual Great Crested Newts and bats.

- Is the development unlikely to be licensed?

An EPS licence can only be granted if the development proposal is able to meet three tests:

1. the consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e))
2. there must be 'no satisfactory alternative' (Regulation 53(9)(a)); and
3. the action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9)(b)).

Test no. 1: The proposed development would contribute towards the council's 5-year housing land supply which is of significant social importance, particularly given the council's current position on housing supply. Test no. 1 can therefore be satisfied.

Test no. 2: There are several other sites currently being considered for housing, therefore there are 'satisfactory alternatives' and test no. 2 cannot be satisfied.

Test no. 3: In order to assess the development against the third test, sufficient details must be available to show how killing / injury of Great Crested Newts and bats will be avoided and how the loss of habitat for Great Crested Newts and bats will be compensated. Strategies have been provided that include methods to be followed during the development to ensure Great Crested Newts and bats are not killed or injured, together with alternative habitat to be provided within undeveloped areas of the site (the buffer and western boundary.)

The ecologist supports the principles of both strategies and is confident that the third test would be met in respect of bats, however the applicant has not provided sufficient evidence to demonstrate that the proposed buffer along the north of the site would provide adequate compensatory habitat for Great Crested Newts, therefore test no. 3 cannot be satisfied and

an EPS licence from Natural England would not be granted.

Planning Permission cannot be granted for development that would result in a breach of the EU Directive underpinning the Habitats Regulations unless it is likely to be granted an EPS licence from Natural England. It is therefore recommended that Planning Permission is refused.

The application is supported by an invertebrate assessment however it is only desk based and while it includes the Swanwick Nature Reserve, it does not include the site, therefore it is not known whether the site provides important habitat for invertebrates and what the implications of the development on invertebrates would be.

The ecology reports state that the existing hedgerow along the western boundary of the site will provide north-south connectivity through the site, however the ecologist has raised concerns firstly because of the absence of other suitable habitats along the hedge and secondly on the basis that the hedge referred to in the reports is actually an ivy clad fence which does not offer the same benefits in terms of habitat. To ensure adequate north-south connectivity is provided through the site, this corridor needs to be re-designed.

There are a number of outstanding ecological issues that require further information, therefore it's currently not possible to confirm that the development would be in accordance with Policy DSP13 or part v of DSP40.

#### Impact on Swanwick Lakes Nature Reserve

The Swanwick Lakes Nature Reserve directly north of the site is a Site of Importance for Nature Conservation and is managed by the Hampshire and Isle of Wight Wildlife Trust (HIWWT).

Policy CS4 states that development will be permitted where appropriate access to greenspace for informal recreation is provided to avoid adverse impacts from recreation on locally important sites. Policy DSP13 also requires development to protect sites of nature conservation.

The indicative layout incorporates two features designed to protect the Nature Reserve: a buffer and an area of greenspace. The primary purpose of the proposed 15m deep buffer along the northern boundary of the site, would be to absorb the impact of the proposed development for example fly-tipping, light spill, soil compaction and hydrological changes and therefore protect the Nature Reserve. The buffer would be maintained by a management company who would also be responsible for the roads and areas of public soft landscaping within the site. (The provision of a management company could be secured by section 106.) The proposed green space within the centre of the site is designed to be used for informal recreation.

The HIWWT have acknowledged the incorporation of the buffer, but have objected to the application on the grounds that the proposed greenspace is not large enough to fully mitigate the impact on the Reserve. To mitigate the impacts of the increased numbers visiting the Reserve, the Trust has requested a contribution of £195,985. The applicant has acknowledged the concerns raised by the HIWWT and has agreed to provide a payment of £20,000 to the HIWWT to facilitate improvements to the Reserve.

It is acknowledged that the proposed development is likely to result in increased numbers of people visiting the Nature Reserve on a more regular basis, however it is considered that the incorporation of the proposed buffer along the northern boundary would provide adequate protection from the development and the financial contribution could be effectively

used by the HIWWT to further mitigate the impact on additional numbers of visitors to the Reserve. The incorporation of a greenspace in the centre of the site is also considered to satisfy the requirements of Policy CS4.

While the council's ecologist has raised concerns regarding the impact of the development on protected species because of the loss of habitat currently provided within the site, no concerns have been raised regarding the impact of the proposed development on the Nature Reserve because of expected increased footfall.

#### Impact on SPA and Ramsar sites

The site is within the 5.6km buffer which is identified as the distance at which new residents will have an in-combination recreational impact on the birds designated within the Solent and Southampton water SPA and Ramsar sites. The proposed development therefore requires a contribution of £181 per unit to ensure on-site mitigation measures detailed within the Solent disturbance mitigation strategy can be delivered. The applicant has confirmed that they would be willing to enter into a Section 106 agreement to secure the contribution should the application be recommended for permission.

#### Amenity Implications

The application is for outline consent with the layout reserved, therefore the layout provided is for indicative purposes only. The illustrative layout does however demonstrate that 42 dwellings could be sited in a manner which meets the Council's requirements in respect of light and privacy as set out in the recently adopted Fareham Borough Council Design Guidance (excluding Welborne) SPD.

Concerns have been raised regarding the impact on dwellings to the west of the site (on the opposite side of Sopwith Way) and on dwellings to the south of the site (on the opposite side of Swanwick Lane.) The application is for outline permission with access being the only detailed matter, therefore the location of the proposed dwellings is at this stage only indicative. Should Planning Permission be granted the layout would be subject to consideration at the reserved matter stage and dwellings would have to meet the minimum separation distances recommended in the Residential Design Guidance SPD.

#### Traffic Implications

The proposed development would be accessed from Sopwith Way via the existing vehicular access. The highways engineer has confirmed that the junction with Swanwick Lane would be able to cater for the additional traffic that would be generated by the proposed development. Overall the proposed development would not have an adverse effect on the safety of the highway and would be in accordance with Policy CS5, provided elements such as the design of the junction onto Sopwith Way are secured by condition.

#### H) LOCAL INFRASTRUCTURE

Several residents raise concerns about the effect 42 further homes would have upon schools, doctors and other services in the area. Officers acknowledge the strength of local concern on these issues.

With regard to schools, Hampshire County Council have identified a need to increase the number of primary school places available within the area. As this authority collects the Community Infrastructure Levy (CIL) and education facilities are listed on this Council's 'Regulation 123' list, contributions towards education cannot be secured through a Section 106 planning obligation at the present time.

The Council has recently consulted on proposed changes to the 'Regulation 123' list to enable contributions towards education to be included in Section 106 agreements. A report to the Council's Executive was published on Monday 12th February on this matter and will be considered by the Executive at the meeting scheduled to take place on Tuesday 20th February. Officers will provide Members of the Planning Committee with an update accordingly prior to them considering this particular application.

In respect of the impact upon doctors/ medical services, the difficulty in obtaining appointments is an issue that is raised regularly in respect of new housing proposals. It is ultimately for the health providers to decide how they deliver health services. Officers do not believe a refusal on these grounds would be sustainable.

#### I) AFFORDABLE HOUSING

The application proposes 42 dwellings of which 40% (16.8) would be affordable housing. The application proposes 16 affordable houses with the 0.8 provided as a financial contribution within a s106 financial contribution.

The proposed affordable dwellings would include 7 no. 2 bedroom dwellings and 9 no. 3 bedroom dwellings. It is proposed that 8 units would be available for affordable rent with 8 units available for shared ownership. The affordable houses would be split between 2 locations within the site and would be managed by Vivid Homes.

The proposed number, size and tenure of affordable housing addresses the needs of those on the housing waiting list and the Housing Manager has raised no objection. The proposal also complies with the requirements of Policy CS18.

#### J) FLOOD RISK AND DRAINAGE

The application is supported by a flood risk assessment and drainage statement. Hampshire County Council as the Lead Local Flood Authority has confirmed that the general principles for the surface water drainage proposals are acceptable subject to securing their long-term maintenance.

#### K) CONTAMINATION

The application is supported by a desk top report and a ground investigation report which propose remedial measures. Environmental Health have reviewed the submitted information and have raised no objection subject to conditions requiring further testing prior to development commencing and for any approved remedial measures to be implemented prior to any of the dwellings being occupied.

#### L) DRAFT LOCAL PLAN

Members will also be aware that the Draft Local Plan which addresses the Borough's development requirements up until 2036, was subject to consultation between 25th October 2017 and 8th December 2017. In due course this plan will replace Local Plan Part 1 (Core Strategy) and Local Plan Part 2 (Development Sites & Policies).

The site of this planning application was considered as part of the Council's "call for sites" process as part of the review of the local plan. It is not proposed to be allocated for housing within the draft local plan. A number of background documents and assessments explain the site selection process which are of relevance. The Housing Site Selection Background Paper describes the site as being "developable but not preferred". It states that "the site has a reasonable/good SA outcome. However, it is isolated from the main urban area and

not as accessible when compared to other developable sites". However, at this stage in the plan preparation process, the draft plan carries limited weight in the assessment and determination of this planning application.

## M) PLANNING BALANCE

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

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

Paragraph 14 of the NPPF clarifies the presumption in favour of sustainable development in that where the development plan is absent, silent or relevant policies are out-of-date, 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; or
- specific policies indicate development should be restricted (for example, policies relating to sites protected under the Birds and Habitats Directive and/or Sites of Special Scientific Interest; Green Belt, Local Green Spaces, Areas of Outstanding Natural Beauty, Heritage Coast and National Parks; designated heritage assets; and locations at risk of flooding or coastal erosion).

The approach detailed within the preceding paragraph, has become known as the "tilted balance" in that it tilts the planning balance in favour of sustainable development and against the Development Plan.

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

Officers have carefully assessed the proposals against Policy DSP40: Housing Allocations which is engaged as this Council cannot demonstrate a 5YHLS against objectively assessed housing need.

In weighing up the material considerations Officers have concluded that, whilst the proposal is relative in scale to the demonstrated 5YHLS shortfall (fulfilling the first test of Policy DSP40) the development would be poorly integrated with the existing urban area (thereby failing the second test of the policy).

The third test of Policy DSP40 relates to the impact on the character of the surrounding countryside. In this regard, the proposal is considered to have a significant adverse effect materially harmful to the landscape character, appearance and function of the countryside.

The fifth test of Policy DSP40 requires the proposal to not have any unacceptable environmental, amenity or traffic implications. As explained earlier in this report, there is insufficient information available to understand whether the site provides habitat for invertebrates and if so what the impact of the development on invertebrates within the site would be. In addition, the proposed wildlife corridor along the western boundary would not provide adequate north-south connectivity and there is insufficient evidence to demonstrate that the proposed buffer could provide adequate compensatory habitat for Great Crested Newts, therefore it is unlikely that an EPS licence from Natural England would be granted. As well as failing to meet the requirements of this fifth test of Policy DSP40 therefore, the proposal is also considered contrary to Policies CS14 & CS17 of the adopted Core Strategy.

Turning to other issues, Officers acknowledge that the proposal would provide affordable housing at a policy compliant level of 40% of the units, along with the delivery of onsite open space. Those matters could be secured through an appropriately drafted planning obligation made under Section 106 of the Act as could outstanding issues relating to securing a contribution towards: improving educational facilities in the area; the funding of a Traffic Regulation Order to prevent on street parking on Swanwick Lane; the maintenance of roads and open space within the site and ecological matters including details of the management of the proposed Buffer with the Swanwick Lakes Nature Reserve.

In balancing the objectives of adopted policy which seeks to restrict development within the countryside against the shortage in housing supply, Officers acknowledge that the proposal could deliver up to 42 dwellings including affordable housing to contribute to the 5-year housing land supply shortage in the Borough. This would provide a significant and material boost/contribution to meeting housing needs within the Borough.

Notwithstanding the contribution the proposed development would provide towards the Borough's 5-year housing land supply, Officers consider that the impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole. Officers therefore recommend that the planning application should be refused.

### ***REFUSE***

The development would be contrary to Policies CS2, CS4, CS5, CS6, CS9, CS14, CS16, CS17, CS18, CS20 and CS21 of the Adopted Fareham Borough Core Strategy 2011 and Policies DSP6, DSP13, DSP14, DSP15 and DSP40 of the adopted Local Plan Part 2: Development Sites and Policies Plan;

And, Paragraph 109 of the National Planning Policy Framework;  
and is unacceptable in that:

(a) The provision of dwellings in this location would be contrary to adopted local plan policies which seek to prevent additional residential development in the countryside which does not require a countryside location. Furthermore, the development would not be sustainably located adjacent to or well integrated with neighbouring settlements;

(b) The density of the proposed development would fail to respond positively to and be respectful of the key characteristics of the area, particularly its predominantly undeveloped nature, which would be out of character with the prevailing pattern of development in the area;

(c) Insufficient information has been provided to demonstrate that the proposal would not have an unacceptable effect on invertebrates in the site or that adequate compensatory habitat would be provided for great crested newts or that the development would provide adequate north-south connectivity for wildlife;

(d) had it not been for the overriding reasons for refusal the Council would have sought details of the SuDS strategy including the mechanism for securing its long-term maintenance;

(e) had it not been for the overriding reasons for refusal the Council would have sought to secure the on-site provision of affordable housing at a level in accordance with the requirements of the local plan;

(f) had it not been for the overriding reasons for refusal the Council would have sought ecological mitigation, compensation and enhancement measures to ensure that all



protected species are taken into account during and after construction. These would include alternative provision for habitats, including networks and connectivity and future management and maintenance arrangements;

(g) 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;

(h) in the absence of a legal agreement securing provision of open space and facilities and their associated management and maintenance, the recreational needs of residents of the proposed development would not be met;

(i) in the absence of a legal agreement to secure such, the proposal fails to mitigate against the adverse effects of the development on the safety and operation of the strategic and local highway network in the form of a financial contribution towards a Traffic Regulation Order;

Note for information:

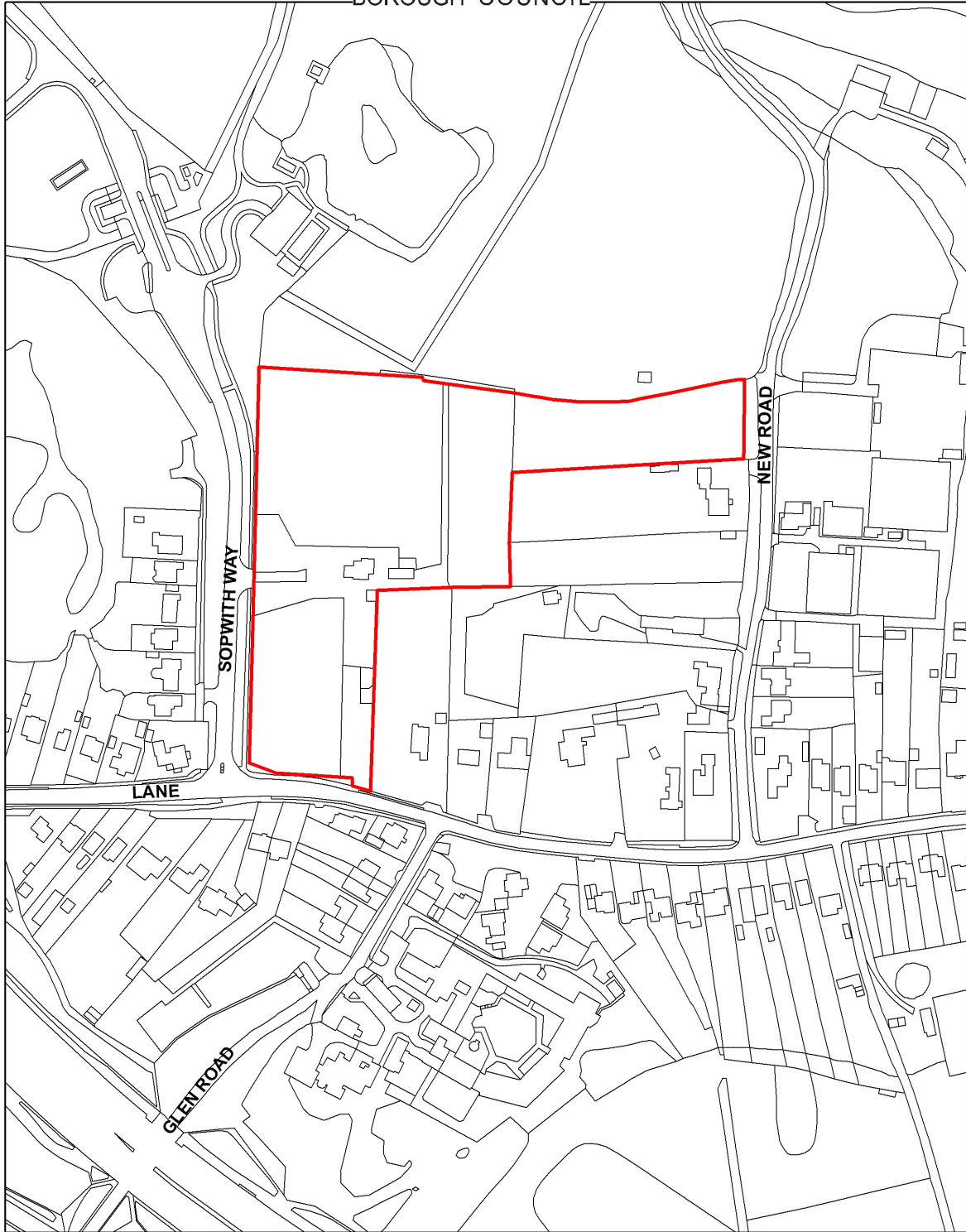
Had it not been for the overriding reasons for refusal to the proposal, the Local Planning Authority would have sought to address point d) above through the imposition of a suitably worded planning condition and points e) - i) above by inviting the applicant to enter into a legal agreement with Fareham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

***Background Papers***

P/17/0895/OA

# FAREHAM

BOROUGH COUNCIL



Land off Sopwith Way  
Scale 1:2500



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