

OFFICER REPORT FOR COMMITTEE

DATE: 17/07/2019

**P/18/0482/OA
BARGATE HOMES LTD**

**WARSASH
AGENT: WYG**

OUTLINE APPLICATION WITH ALL MATTERS RESERVED (EXCEPT FOR ACCESS) FOR THE CONSTRUCTION OF UP TO 100 RESIDENTIAL DWELLINGS, ACCESS FROM GREENAWAY LANE, LANDSCAPING, OPEN SPACE AND ASSOCIATED WORKS

LAND ADJACENT TO 125 GREENAWAY LANE, WARSASH, SOUTHAMPTON SO31 9HT

Report By

Jean Chambers - direct dial 01329 824355

1.0 Introduction

- 1.1 This application was first presented to the Planning Committee on 16 January 2019 where Members resolved to defer the application for the following reasons:
- (i). To establish whether access to the scheme could solely be achieved via land to the south: To seek further clarity from Hampshire County Council (HCC) as the Highway Authority regarding the impact of additional traffic on Greenaway Lane and the cumulative impact of development within Warsash and local roads. Request that a HCC Highway Authority officer attend the Planning Committee; and
 - (ii). To seek independent legal advice from a QC following the QC opinion that had been submitted by 'Save Warsash and the Western Wards'
- 1.2 Since being considered by the Planning Committee in January, an Appeal against the non-determination of this application has been submitted to the Planning Inspectorate. The Inspectorate notified the Council on 4 April 2019 that the appeal is valid and has advised that the appeal will proceed by way of an Informal Hearing.
- 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 The report presented to the Planning Committee on 16 January has been updated with the following:

- Planning Committee update Report 16 January
- Third party representations received since 16 January
- The 'Five Year Housing Land Supply Position' as reported to Members at the 24 April 2019 Planning Committee
- Update on the QC's opinion.
- Appropriate Assessment update including Natural England response and incorporation of details about nitrates
- Consideration of the environmental implications; Policy DSP40
- Hampshire County Council response to I-Transport technical note of 31 January 2019.
- Updated Planning Balance section of the report.

1.5 Members will note from the 'Five Year Housing Land Supply Position' reported at the 24 April Planning Committee that this Council currently has a housing land supply of 4.66 years (a shortfall of 186 dwellings within the 5 year period).

1.6 It should also be noted that the Planning Committee have resolved to grant outline planning permission for the following applications on nearby land':

P/17/0746/OA	Taylor Wimpey, outline application for up to 85 dwellings, land to the east of Brook Lane and South of Brookside Drive, Warsash
P/17/0845/OA	Foreman Homes, outline application for up to 180 dwellings land to the East of Brook Lane, Warsash
P/17/0752/OA	Bargate Homes, outline application for up to 140 dwellings, land east of Brook Lane, North of Warsash Road,
P/17/0998/OA	Land and Partners, outline application for up to 157 dwellings land to the East of Brook Lane and West of Lockswood Road
P/18/0107/OA	Hanslip, outline application for up to 30 dwellings, East and West of 79 Greenaway Lane, Warsash

The Planning Inspectorate granted outline planning permission for up to 85 dwellings, land to the east of Brook Lane and South of Brookside Drive, Warsash on 17 May 2018 (P/16/1049/OA), the reserved matters application pertaining to this site is currently under determination (P/19/0313/RM).

A second outline planning application is currently under consideration, reference P/19/0402/OA which relates to the same application site as being considered within this report. That application is not for formal consideration at this time.

2.0 Site Description

- 2.1 The application site is to the south of Greenaway Lane and comprises of 3.4 hectares of land, designated as countryside for planning purposes. There are glasshouses and buildings on the site which reflect the site's former horticultural use. The site is generally flat with the northern half of the site mostly consisting of open grassland. Trees and scrub in the south western corner of the site extend along the western and southern boundaries. The eastern boundary is lined with trees which are located within the adjoining site and are covered by a tree preservation order. There is a telecommunication aerial mast within the south-eastern corner of the site. The site is classified as predominantly Grade 3b agricultural land.
- 2.2 Residential properties are located on the northern side of Greenaway Lane, to the western boundary of the site and north-eastern corner of the site. Beyond the southern boundary is a nursery with fields and glasshouses. Commercial businesses are located beyond the eastern boundary as well as agricultural land.
- 2.3 Existing access to the main part of the site is off Greenaway Lane with an additional access track located further to the east which leads to the telecommunication mast. Greenaway Lane connects to Brook Lane located a short distance to the west.

3.0 Description of Proposal

- 3.1 Outline planning permission is sought for the construction of up to 100 dwellings with all matters reserved apart from the means of vehicular access to the site which would be off Greenaway Lane. The layout, appearance, scale and landscaping of the site are therefore reserved for future reserved matters applications and are not for consideration at this time.
- 3.2 An illustrative masterplan has been submitted which identifies the vehicular access point to the site, areas of public open space, the potential for enhanced landscaping and inclusion of ecological buffers. Pedestrian and cycle links are also indicated.
- 3.3 A number of technical reports accompanied the application.

4.0 Policies

- 4.1 The following policies apply to this application:

4.2 National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

4.3 **Adopted 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 the Western Wards & Whiteley

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

4.4 **Adopted Development Sites and Policies**

DSP1: Sustainable Development

DSP2: Environmental Impact

DSP3: Impact on Living Conditions

DSP4: Prejudice to adjacent land

DSP6: New Residential Development Outside of the Defined Urban Settlement

DSP13: Nature Conservation

DSP15: Recreational Disturbance on the Solent Special Protection Areas

DSP40: Housing Allocations

4.5 **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 There is no recent planning history.

6.0 *Representations*

6.1 There have been 43 representations of objection received including from the Campaign to Protect Rural England; of these, 5 people have submitted comments more than once. The main issues raised within the representations can be summarised as follows:

6.2 *Policy/principle*

- Question need for dwellings in Warsash and no evidence of 5YHLS shortage
- Question method for calculating the 5YHLS position
- Applying the 20% buffer (January 2019 report) is premature
- Welborne should be expedited
- Cumulative impact of development needs to be considered and will be severe
- The adverse impacts of granting permission will significantly and demonstrably outweigh the benefits
- New rulings by the European Court of Justice have new implications for such sites and FBC should suspend planning decisions for new residential developments in view of this
- Deviation from draft Development framework
- Countryside location
- Not sustainable development
- Assumptions have been made about the content of the as yet undrafted new Local Plan and its preferences for Greenaway Lane

6.3 **Location**

- Out of character with the area and loss of identity, heritage and culture
- Overdevelopment of the site/ too high a density
- Adverse impact on landscape character
- Loss of green space
- Overlooking
- Loss of outlook
- Design
- Layout of dwellings too close to neighbouring properties
- The physical interventions on an undeveloped field will hugely adversely detract from the character of Greenaway Lane.

6.4 **Highways**

- Hazardous access onto Greenaway Lane, no pavements, impact on cyclists, horse riders, walkers
- Hazardous impact exiting Greenaway Lane onto Brook Lane, inadequate visibility
- Cumulative impact on highway congestion
- Insufficient parking on site and in the area
- Lack of cycle paths in the area
- Increased damage to Greenaway Lane surface and risk of accidents
- Impact on parking at Warsash shops and Locks Heath centre
- The road network is grid locked

- Concern over the assessment of Highway matters; even one large vehicle causes havoc when trying to negotiate Greenaway Lane
- The type and width of the lane struggles with the current volume of traffic and would not cope with the huge increase
- Use of alternative access points
- Site should form part of the Master Plan to reduce the number of site accesses
- Closure of the Vero access track will not materialise
- How will the contribution towards the closure of the existing track to the Vero site be achieved when it is private.
- A third-party review of Highway matters and the officer report for Committee of 16 January 2019 considered that the officer report was slanted in favour of the Developer and that although HCC is satisfied that from a safety perspective the access is acceptable, this does not mean that the access is acceptable.
- Concern over the ability to control the enforcement of vegetation at the Greenaway Lane/Brook Lane Junction caused by overhanging vegetation to achieve visibility
- Will bollards (footpath 14) and improvements enable disability scooter access?
- Will people abandon their cars, catch a bus, cycle or walk?
- The "preferred" alternative access to the development to the south via the Land and Partners site is dismissed by officers
- The application should be deferred until connectivity can be secured. The reserved matters applications for both sites (current application and Land and Partners) should be considered together.

6.5 **Ecology and Trees**

- Loss of wildlife
- Loss of trees
- Impact on SPA, Ramsar and SAC
- HRA does not provide reasonable degree of certainty that the project will not be likely to have an effect on the SPA

6.6 **Impact on local services**

- Lack of infrastructure – schools, healthcare, doctors, shops, dentists
- Lack of public transport
- Impact on Service providers, gas electric, water, sewerage
- Impact on emergency services

6.7 **Other matters**

- Noise and light pollution
- Air quality cumulatively impact

- Flooding
- Archaeology
- Affordability of houses
- Discrepancies in submitted information
- The Whiteley to Warsash bus service W2 has been withdrawn
- Post Brexit need for food and agriculture, site should be used for agricultural purposes
- Request to rescind other resolutions to grant due to cumulative impact
- Flooding on the lane
- A legal opinion was received on the approach being adopted by FBC with respect to screening and appropriate assessments
- It would be unlawful for the Planning Committee to resolve to grant outline planning permission as a legal compliant appropriate assessment has not been undertaken.

6.8 **PETITION** (signed by 2,390 people)

Members attention is also drawn to the fact that a petition has been received in response to the 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 1,500 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, Lockwood, 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.'

6.9 **QC Opinion**

- 6.10 On 15 January 2019, the Council received a QC Opinion on behalf of 'Save Warsash and the Western Wards' on the legality of the approach being adopted by the Council with respect to screening and appropriate assessments under the Conservation of Habitats and Species Regulations 2017.
- 6.11 More specifically the QC's opinion advised that at that time it would not have been lawful for the Planning Committee to grant outline planning permission for this application based on the way in which the Appropriate Assessment had been undertaken.
- 6.12 Following the deferral of the planning application by the Planning Committee in January, Officers sought advice from a QC on behalf of Fareham Borough Council. Having considered the opinion submitted by Save Warsash and the Western Wards, the QC acting for Fareham Borough Council recommended some changes to this Council's Appropriate Assessment to ensure its legal robustness. The changes recommended by the QC instructed by Fareham Borough Council have been incorporated in this Council's Appropriate Assessment.

7.0 Consultations

EXTERNAL

7.1 HCC Highways

No objection is raised subject to the imposition of planning conditions and financial contributions to be secured through a Section 106 planning obligation.

Site Access, Parking and Servicing Arrangements - Access to the site is proposed in the form of a bell mouth junction with a proposed foot way of 2m width within the site and across a section of the site frontage to the west tapering down to 1.5m on the approach to the Greenaway Lane/Brook Lane junction. To achieve adequate visibility at the Greenaway Lane/Brook Lane junction, overhanging vegetation needs to be removed, as the vegetation sits within highway land, this can be achieved.

The Highway Authority is satisfied that the proposed carriageway width is sufficient for accommodating the types of vehicles that regularly use Greenaway Lane to access the Vero site to the east. The visibility of private accesses to properties on the lane will not be affected by the proposed realignment of the carriageway.

Walking and cycling - Contributions will be secured towards sustainable travel improvements in respect of walking and cycling route to Swanwick Station. A 3m wide shared footway/cycleway will be provided through the development

site to connect onwards to Footpath 14 with safety bollards to prevent direct access from the site onto the lane. Additional signage of the route and improvements to the footpath should be secured via a financial contribution. The proposed pedestrian/cycle crossing improvement on Brook Lane can be addressed at a detailed design stage as part of the S278 works.

The Highway Authority have requested a contribution towards the closure of the existing access track to the Vero site, they have also confirmed that the proposed impact of the development including the larger vehicular traffic generated as a result of the Veros site is acceptable as submitted. They advise that a vehicular link to the south should be explored at the reserved matters stage.

In respect of the cumulative impact of development, recommend a financial contribution to offset the identified cumulative impact of development for improvements at:

A27/Barnes Lane junction,
Barnes Lane/Brook Lane junction
A27/Station Road roundabout.

The Framework Travel Plan is considered acceptable.

Following receipt of the I-Transport Technical note (31 January 2019), the Highway Authority have commented that the current layout proposed within the application is considered acceptable by the Highway Authority as per their response dated 2nd October 2018. Confirmed that the clarification note reflects the discussions and assessments undertaken by HCC with the applicant. For clarity, states that the £30,000 contribution has been secured towards the following and not solely for improvements to the routes to school and the railway station.

Sustainable travel contribution package of £30,000 to be used flexibly towards the following offsite improvements:

- *A TRO towards the closure of the access road leading to the Vero site on Greenaway Lane;*
- *Improvements to Footpath 14; and*
- *Improvements identified in the Walking and Cycling Audit undertaken as detailed in Figure 4.*

7.2 If any further comment is received from HCC in respect of the cumulative impact of development on the roads around Warsash, this will be reported to Members as an update.

7.3 **Natural England**

Since the January Planning Committee, Natural England have commented that further information is required to determine impacts on designated sites. As submitted, the application could have a potential significant effect on Solent and Southampton Water Special Protection Area and the Solent Maritime Special Area of Conservation. They request confirmation of the nutrient budget for the development. Recommends that the proposals achieve nutrient neutrality.

Officers have carried out a further Appropriate Assessment since the January Planning Committee and consulted Natural England on it. Natural England have made the following comments on the Appropriate Assessment (AA):

- Natural England agrees with the conclusions of the Habitats Regulations Assessment (HRA) and AA with respect to recreational disturbance on the Solent Special Protection Areas (SPAs). Natural England require the Bird Aware Solent contribution to be secured with any planning permission.
- Advises that a best practice Construction Environmental Management Plan is secured with any permission to ensure there is no potential for pollution to enter the groundwater during this phase of the development. Recommends the HRA is amended to address this detail.
- Noted that a SuDS system is proposed post-construction. Provided this is in accordance with best practice and the CIRIA SuDS Manual (C753), it is Natural England's view that this would be sufficient to address any potential risk from the development on the designated sites.
- The HRA should be amended to address detail in respect of environmental protection in the event of an unexpected pollution event or poor system performance.
- Advises that there is a likely significant effect on the European designated sites SPA, Special Areas of Conservation (SAC), potential Special Protection Area (pSPA) due to the increase in waste water from the new housing.
- Existing uncertainty about the deterioration of the water environment must be appropriately addressed. Natural England recommends that the proposals achieve nutrient neutrality.
- Air quality - Natural England has produced guidance on the impacts of road traffic emissions under the Habitats Regulations. It is noted that the site is greater than 200m from any European designated sites (SPA, SAC, pSPA). However, the assessment will need to consider if there are any emissions from development traffic on road links within 200m from European sites.
- Further assessment of road links is required.

7.4 **HCC Flood Water Management Team** - No objection subject to planning condition.

7.5 **HCC Archaeology** - no objection subject to planning condition.

7.6 **HCC Children's Services** - request for contribution towards education facilities.

- 7.7 **Southern Water** - no objection subject to planning condition.
- 7.8 **Crime Prevention Design Advisor** - provided advice in respect of crime prevention.

INTERNAL

- 7.9 **Ecology** - the survey results and mitigation are acceptable subject to the imposition of planning conditions. The Ecology officer recommends that due to the proximity of the site to the Solent and Southampton Water SPA, SAC and Ramsar, the likely significant effects as a result of increased recreational pressure can be mitigated through the Solent Recreation Mitigation Partnership payment which should be secured.
- 7.10 **Trees** - no objection subject to planning conditions.
- 7.11 **Recycling Coordinator** - no comment.
- 7.12 **Environmental Health** - no comment.
- 7.13 **Environmental Health (contamination)** – no objection subject to planning condition.
- 7.14 **Housing Officer** - advice has been provided in respect of the affordable housing mix to be secured which will be the subject of detailed negotiations.

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) Implication of Fareham's current 5-year housing land supply position;
- b) Residential development in the countryside;
- c) Nitrates Issue and the impact upon European Protected Sites
- d) Policy DSP40;
- e) Other matters;
- f) The Planning Balance

a) Implications of Fareham's current 5-year housing land supply position

- 8.2 A report and updates titled "Five-year housing land supply position" was reported to Member's at the 24 April Planning Committee. That report set out this Council's local housing need along with this Council's current housing land supply position. The report concluded that this Council has 4.66 years of

housing supply against the new 5YHLS requirement meaning there is a shortage of 186 dwellings.

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

b) Residential Development in the Countryside

- 8.4 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.

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 CS9 of the Core Strategy supports development in the Western Wards within the settlement boundaries. The site is outside of the settlement boundary.

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).

- 8.5 The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6, CS9 and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.

c) Nitrates Issue and the impact upon European Protected Sites

- 8.6 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.

- 8.7 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.
- 8.8 In light of their importance, areas within the Solent have been specially designated under UK/ European law. Amongst the most significant designations are Special Protection Areas (SPA) and Special Areas of Conservation (SAC). These are often referred to as 'European Protected Sites'(EPS).
- 8.9 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 European 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 European 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.
- 8.10 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 European Protected Sites.
- 8.11 Natural England has further advised that the effects of emissions from increased traffic along roads within 200 metres of EPS also has the potential to cause a likely significant effect.
- 8.12 The applicant submitted a Report to inform a Habitat Regulations Assessment (HRA) dated March 2019 for consideration in the forthcoming planning appeal. It will be for the Planning Inspector to undertake the Appropriate Assessment.
- 8.13 Officers have considered the current situation in order to be in a position to advise Members on the case that the Council should present to the Planning Inspector. The submitted report to inform the HRA recognises the potential to result in a likely significant effect on the SAC, SPA and Ramsar. The report includes a calculation of the nitrogen budget using Natural England's Draft 2018 Methodology.

- 8.14 The calculation that the appellant has undertaken is based on an average household size of 2.3 persons (the latest Natural England guidance (June 2019) recommends an average household size figure of 2.4 persons is used). The appellant's calculation goes on to measure the total nitrogen load from the current land use, using a mix of horticulture and mixed agriculture land types and then calculates the nitrogen load from future land uses (the proposed development). The appellant's calculation demonstrates that there will be a net increase in Total Nitrogen output from the site when it is fully occupied.
- 8.15 At this stage officers have not received evidence to substantiate all of the appellant's inputs that have been used to calculate the existing total nitrogen load. Notwithstanding this, the appellant's submission shows that the total nitrogen output will increase above the existing use of the site and no mitigation measures have been put forward. The proposed development would not therefore be nutrient neutral.
- 8.16 In these circumstances the Habitats Regulations provide that planning permission can only be granted if the proposal meets the following tests:
- there are no alternative solutions to the proposed development;
 - there are imperative reasons of overriding public interest; and
 - there are suitable compensatory measures secured
- 8.17 On the evidence presently available, Officers are not satisfied that any of these tests are satisfied. Officers would have recommended that planning permission should have been refused on the grounds of the uncertain but likely adverse effects of waste water from this development, in combination with other developments, on the site integrity of the SPA and SAC and other similarly protected areas around the Solent.
- 8.18 With regard to the consideration of Air Quality effects upon the designated sites, the submitted report considers there to be no potential to result in a likely significant effect. Natural England have produced guidance on the impact of road traffic emissions under the Habitat Regulations. An assessment needs to be undertaken to consider if there are any emissions from the development traffic on road links within 200m from European sites, in combination with other projects. On the basis of the information presently submitted, it is uncertain whether there would be a likely significant effect upon European Protected sites resulting from increased road traffic emissions.
- 8.19 In addition to the impacts set out above, it is recognised that increasing the number of houses close to the Special Protection Areas could result in increased disturbance to over-wintering birds and have a likely significant effect. The Solent Recreation Mitigation Strategy has been developed to

address this potential impact. Subject to the appropriate financial contribution being secured, Officers believe this likely significant effect can be satisfactorily mitigated.

8.20 In summary, officers consider the proposal to be contrary to Core Strategy Policy CS4 and Local Plan Part 2 policy DSP13. There would be a likely adverse effect on the integrity of the designated sites due to the impact on ecology and biodiversity from increased wastewater. In respect of impacts from road traffic emissions, at this stage there is insufficient evidence to demonstrate that the development would not have a likely significant effect in isolation or when considered in combination with other projects.

d) Policy DSP40

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

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

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

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

Policy DSP40 (i)

8.23 The proposal for up to 100 dwellings is relative in scale to the 5YHLS shortfall and therefore bullet a) of Policy DSP40 is satisfied.

Policy DSP40 (ii)

8.24 The urban settlement boundary is located within relatively close proximity to the north, east and south of the site. The site is near leisure and community facilities, schools and shops. Officers consider that the proposal can be well integrated into the neighbouring settlement including other nearby development

proposals that have resolutions to grant outline planning permission. The proposal would therefore be in accordance with point ii of Policy DSP40.

Policy DSP40 (iii)

- 8.25 The site is within an area of countryside but is not designated as a strategic gap. Policy CS14 of the Core Strategy confirms that built development will be strictly controlled to protect it from development which would adversely affect its landscape character, appearance and function.
- 8.26 The area is identified within the Fareham Landscape Assessment 2017 (LLCA 2.2A) as relatively visually contained from views from surrounding areas. This area is classed as being of a lower sensitivity mainly because the character and quality of the landscape has been adversely affected by urban influences. This area is therefore more tolerant of change and there is scope for development to bring about positive opportunities.
- 8.27 If the development were to go ahead, the main people who would be potentially affected by visual changes would be residents near the site. It is therefore acknowledged that the development of this site would introduce a change in character and outlook particularly from nearby properties and the Greenaway Lane frontage of the site. This change would primarily have a localised visual impact and the visual impact from longer distance views would be limited.
- 8.28 The illustrative masterplan shows how the overall layout and form of the development might be laid out. Whilst acknowledging that this plan is for illustrative purposes only as the layout and design of the site would be the subject of a reserved matters application, Officers consider that this aspect will need to be the subject of careful consideration at the reserved matters stage to ensure that the proposal complies with adopted policy. The layout would need to incorporate areas of accessible public open space, consideration of play provision and ecological mitigation and would need to accommodate a pedestrian and cycle link as well as the opportunity to have vehicular connectivity to land to the south. This is to ensure appropriate green infrastructure in compliance with Policy CS4 and comprehensive development in accordance with Policy DSP4.
- 8.29 Officers consider that subject to more detailed considerations at the reserved matters stage, the development of up to 100 dwellings could be acceptable on this site in accordance with point iii) of Policy DSP40.

Policy DSP40 (iv)

- 8.30 In terms of delivery, the agent has advised that the site can deliver 20 dwellings in 2020/21 and 40 dwellings in 2021/22 and 2022/23. The proposal would therefore be in accordance with point iv of policy DSP40.

Policy DSP40(v)

- 8.31 The final test of Policy DSP40: The proposal would not have any unacceptable environmental, amenity or traffic implications is discussed below:

Ecology

- 8.32 An Ecological Appraisal and surveys in respect of reptiles, bats, badgers, overwintering birds and dormouse have been submitted. The Council's Ecologist and Natural England are satisfied with how the proposals deals with species on site and potential disturbance of birds at the coastline, subject to the imposition of planning condition and appropriate mitigation.
- 8.33 As set out in the 'Nitrates Issue and the impact upon European Protected Sites' section of this report, there would be a likely adverse effect on the integrity of the designated sites due to the impact on ecology and biodiversity from increased wastewater. In respect of impacts from road traffic emissions, at this stage there is insufficient evidence to demonstrate that the development would not have a likely significant effect in isolation or when considered in combination with other projects. In addition to Core Strategy Policy CS4 and Local Plan Part 2 policy DSP13, the proposal would also be contrary to Policy DSP40 (v).

Agricultural land

- 8.34 Policy CS16 seeks to prevent the loss of the best and most versatile agricultural land. The NPPF does not place a bar on the development of the best and most versatile agricultural land. The site is classified as Grade 3b which is outside of the 'best and most versatile' agricultural land category.

Amenity

- 8.35 Matters of scale, appearance and layout are reserved for consideration at the future reserved matters application stage. It is at that stage that the detailed consideration of these issues would need to comply with policy CS17 and the adopted design guidance SPD to ensure appropriate amenity standards. Officers are satisfied that there is sufficient flexibility and control in the description of up to 100 units that this can be satisfactorily addressed to ensure that the proposal would be policy compliant.

Highways

- 8.36 The Highway Authority comments are set out in the consultation section of this report and conclude that from a highway safety perspective, the proposal would be acceptable subject to the imposition of planning conditions and financial contributions.

- 8.37 Following the deferral of this application at the Planning Committee on 16 January, officers wrote to the planning agent to establish whether access to the scheme could solely be achieved via land to the south. There has been no additional information submitted in respect of this specific issue. The implications of achieving access via land to the south is discussed later in this section of the report.
- 8.38 Since the deferral of the application, the applicant has submitted a Technical Note to provide information and clarification relating to Highway matters. This re-iterates that HCC as Highway Authority have no objection to the application subject to planning conditions and a Section 106 legal agreement. The technical note discusses the advice previously received from this Council's Transport Planner and HCC's Highway response and summarises the various technical considerations.
- 8.39 The Highway Authority sought further clarification on the traffic survey data; the developer's transport consultant undertook video footage and compared this with flows presented in the Transport Assessment. The Highway Authority are satisfied with the submitted information.
- 8.40 In response to the Planning Committee request for further clarity from the Highway Authority regarding the impact of additional traffic on Greenaway Lane and the cumulative impact of development within Warsash and local roads, the Highway Authority consider that their consultation responses have been comprehensive.
- 8.41 A number of representations have raised concern over the impact of the development on the safety of users of Greenaway Lane and at the Greenaway Lane/Brook Lane junction. Reference to the draft local plan has also been made which discusses the preferred approach to ensure that the inherent character of Greenaway Lane is retained. The draft Local Plan carries limited weight currently.
- 8.42 The Highway Authority is satisfied that a safe means of access can be provided; this is a significant material planning consideration. Officers have carefully considered whether the impact on Greenaway Lane in terms of physical alterations are such that it would make the development otherwise unacceptable. The proposed bell mouth junction is located approximately 60 metres east of Brook Lane. The physical alterations would include the access to facilitate the development, a pavement on the southern side of Greenaway Lane which would extend towards Brook Lane and pedestrian crossing points, and a minor realignment of the carriageway. There would also be signage and bollards which would relate to pedestrian and cycle connectivity. It should be noted that the detailed highway works would be the subject of a S278 agreement with the Highway Authority. Officers have concluded that the

physical 'interventions' are not of a level that would adversely detract from the character of Greenaway Lane or justify refusal of outline planning permission.

- 8.43 It is acknowledged that an alternative access to the south of the site would be preferred which would limit the number of vehicles that would enter and exit the proposed Greenaway Lane access. However, this current application needs to be considered as submitted. The applicant's agent has advised that the potential access to the south is on third party land. If a link could be facilitated there would be a "time ransom" and the developer would have to wait for a road link to be built through the site to the south (Land and Partners site).
- 8.44 Following the deferral of the application in January 2019, the applicant has not provided further comment in respect of the alternative access to the south. However, the developer is willing to "downgrade" the Greenaway Lane access to emergency/pedestrian/cycles if an access to the south is secured without a timing and financial ransom to them.
- 8.45 As part of the proposed legal agreement in relation to the Land and Partners site, Officers are seeking to secure a vehicular connectivity link which could facilitate a vehicular route between the two sites. Bargate Homes could then provide a similar link on its land. It is noted that any change to the access routes in terms of trip generation and dispersal of traffic would need to be supported by updated highway technical reports at the reserved matters stage.
- 8.46 This issue is somewhat complex due to the timing and consideration of the separate applications. Officers anticipate that the reserved matters applications for both sites will be submitted but ultimately cannot control this or the resultant actual timing of the delivery of each site.
- 8.47 Policy DSP4 of the adopted plan relates to 'prejudice to adjacent land' and piecemeal development and supports connectivity to adjoining land. The developer's position on a financial ransom is noted but ultimately this is a matter for dialogue between the developer and the various land owners. Officers consider it is important to ensure that vehicular connectivity is secured via a Section 106 planning obligation.
- 8.48 In summary, Members are advised that whilst it is entirely reasonable to seek to secure the vehicular connectivity to the south and a downgrading of the Greenaway Lane access should the latter be achievable, fundamentally this current application needs to be considered as submitted with the access off Greenaway Lane. Based on the Highway Authority advice and noting the discussion above, officers consider that the proposal does comply with point (v) of DSP40, policy CS5 of the Core Strategy and DSP4 of the Local Plan part 2.

- 8.49 In respect of the Highway Authority request for a contribution towards the closure of the access track off Greenaway Lane that serves the Veros site, Officers note that the Highway Authority is satisfied that the proposed access and related traffic implications for this current application are acceptable as submitted without the closure of the track. It is noted that the access to the Veros site is in private ownership and currently serves premises other than the Veros site. The contribution request is on the basis that the closure of the track can be explored through a Traffic Regulation Order process if there are no valid objections. Members are advised that it would be appropriate to secure a financial contribution towards the closure of the access track if this can be achieved, however, this cannot be guaranteed.
- 8.50 In summary, through the imposition of planning conditions and the completion of a planning obligation pursuant to Section 106 of the Town and Country Act 1990, Officers are satisfied that the proposal would not have any unacceptable amenity or traffic implications in compliance with criteria (v) of DSP40.
- 8.51 With regard to environmental considerations (DSP40 (v), having given regard to the matters set out within the 'Nitrates Issue and the impact upon European Protected Sites' section of this report, officers consider the proposal contrary to the environmental criteria (v) of DSP 40.

e) Other matters

Affordable Housing

- 8.52 The proposal includes the provision of 40% affordable housing. Subject to appropriate size, mix and tenure being agreed to meet the identified local need to comply with Policy CS18, officers consider this acceptable and appropriate to secure via a Section 106 legal agreement.

Open Space, Play Provision, Green Infrastructure, Connectivity and Nature Conservation

- 8.53 On site open space is proposed and is shown illustratively on the submitted plans. As part of a Section 106 legal agreement, it is considered appropriate to secure a plan to accompany the agreement to ensure that a swathe of open space links through to land to the south. This is to secure green infrastructure and vehicular, pedestrian and cycle connectivity.
- 8.54 In respect of play provision and in accordance with the Council's adopted Planning Obligation SPD, the proposed number of units would require the provision of a Locally Equipped Area of Plan (LEAP). It is noted that resolutions to grant planning permission have already sought to secure play provision on land to the south of Greenaway Lane.

8.55 Due to the development proposals coming forwarding at different times, it will be necessary to secure play provision on this application site. In the circumstance that play provision is delivered earlier on other land to the south of Greenaway Lane, a financial contribution towards the provision and maintenance of this equipment should be secured.

8.56 The above could be secured via a Section 106 legal agreement.

Effect upon Local Infrastructure

8.57 Concerns have been raised over the effect of the number of dwellings on schools, doctors and other services in the area. Hampshire County Council have identified a need to increase the number of primary school places within the areas to meet needs generated by the development. A financial contribution can be secured through the Section 106 legal agreement.

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 provides to decide how they deliver their services. A refusal on these grounds would not be substantiated.

8.59 With regard to concern over drainage and flood risk, the Lead Flood Authority are content with the submitted information. During the course of the application, the Highway Authority requested further information to assess the potential impact of water draining off the proposed development into the carriageway. Sufficient information has demonstrated a fall away from Greenaway Lane to ensure that any surface water drainage occurs internally back into the site, rather than out onto the carriageway. The drainage design will be addressed further at the detailed design stage.

Draft Local Plan

8.60 Members will be aware that the Draft Local Plan which addresses the Borough's development requirements up until 2036 was subject to consultation between 25th October 2017 and 8th December 2017. The site of this planning application was proposed to be allocated for housing within the draft local plan

8.61 With regard to concern over the cumulative effect of development and whether it would be so significant that to grant planning permission would undermine the plan-making process, a number of background documents and assessments support the proposed allocation of the site in terms of its deliverability and sustainability which are of relevance.

Other third-party concerns

8.62 With regard to concern over noise, air and light pollution, the Environmental Health officer has not raised concern in this regard.

f) 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

"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".

8.64 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.

8.65 Paragraph 59 of the NPPF seeks to significantly boost the supply of housing. Paragraph 73 of the NPPF states that Local Planning Authorities should identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement including a buffer. Where a Local Planning Authority cannot do so, and when faced with applications involving the provision of housing, the policies of the local plan which are most important for determining the applications are considered out-of-date.

8.66 Paragraph 11 of the NPPF 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:

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

Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:

The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or

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."

8.67 Paragraph 177 of the NPPF 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 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”.

- 8.68 The following sections of the report assesses the application proposals against this Council’s adopted Local Plan policies and considers whether it complies with those policies or not to weigh up the material considerations in this case. As advised earlier in this report, as the application is now the subject of a Planning Appeal, the Council are not determining this application. In order to be in a position to invite Members to confirm the decision they would have made if they had been able to determine the planning application, it is necessary to consider the policy and legislative implications in order to attach appropriate weight to the material planning considerations.
- 8.69 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.
- 8.70 Officers have carefully assessed the proposals against Policy DSP40: Housing Allocations which is engaged as this Council cannot demonstrate a 5YHLS. Officers have also given due regard to the updated 5YHLS position report presented to the Planning Committee in April 2019.
- 8.71 In weighing up the material considerations and conflict between policies; the development of a greenfield site weighted against Policy DSP40, Officers have concluded that the proposal is relative in scale to the demonstrated 5YHLS shortfall, well related to the existing urban settlement boundaries such that it can be integrated with those settlements whilst at the same time being sensitively designed to reflect the area’s existing character and minimising any adverse impact on the Countryside.
- 8.72 It is acknowledged that the proposal would have an urbanising impact through the introduction of housing and related infrastructure onto a site which is at present largely undeveloped. However, that impact would be localised. Officers consider that the change in the character of the site and the resulting visual effect would not cause any substantial harm.
- 8.73 Officers are satisfied that there are no outstanding amenity issues which cannot otherwise be addressed through planning conditions. There would be no materially harmful impact on highway safety.

- 8.74 Given the position set out in paragraph 177 of the NPPF the 'presumption in favour of development' as set out in paragraph 11 does not apply in this case. Officer advice is that without the 'presumption in favour of development' there is a sufficiently robust adopted policy basis in which to weigh up the material planning considerations with specific regard to Policy DSP40 which ordinarily would carry significant weight in the determination of this application.
- 8.75 Since this application was reported to the Planning Committee in January 2019, Natural England have advised that waste water from proposed housing would have a likely significant effect upon European Protected Sites.
- 8.76 In this case, the applicant has undertaken a calculation which indicates that the wastewater total nitrogen load arising from the proposed development would not achieve nutrient neutrality. No acceptable mitigation has been put forward by the applicant, therefore it is not possible to ascertain that the proposal will not result in adverse effects on the designated sites.
- 8.77 The Habitat Regulations provide that planning permission can only be granted if a proposal meets the following tests:
- There are no alternative solutions to the proposed development;
 - There are imperative reasons of overriding public interest; and
 - There are suitable compensatory measures secured (for example a replacement habitat).
- In the view of Officers, none of these tests can be satisfied at this time.
- 8.78 This issue is a significant material planning consideration due to the uncertainty but likely adverse effects of waste water from this development in combination with other developments on the designated European sites.
- 8.79 In respect of impacts from road traffic emissions, Officers are not satisfied on the basis of the submitted information that there is no potential to result in a likely significant effect on the designated sites.
- 8.80 In summary, the proposal is considered to conflict with criteria (v) environmental impact of Policy DSP40, Policy DSP13 and Policy CS4 of the adopted Core Strategy.
- 8.81 Affordable housing as 40% of the units, along with the delivery of onsite open space, and play provision can be secured through a planning obligation.
- 8.82 In balancing the objectives of adopted policy which seeks to restrict development within the countryside alongside the shortage in housing supply, Officers acknowledge that the proposal could deliver up to 100 dwellings, including affordable housing, in the short term. The contribution the proposed scheme would make towards boosting the Borough's housing supply is a substantial material consideration, in the light of this Council's current 5YHLS.

- 8.83 The conflict with development plan policy CS14 would ordinarily result in this proposal being considered unacceptable. Ordinarily CS14 would be the principal policy such that a scheme in the countryside should be refused. However, in light of the Council's lack of a five-year housing land supply, development plan policy DSP40 is engaged. Whilst the Council is unable to demonstrate a 5YHLS, more weight should be afforded to policy DSP40 than CS14. Having considered the scheme against the criterion of DSP40, the proposal is considered to satisfy all the criteria within DSP40 except in relation to the impact of the development in respect of environmental ecological matters as set out within this report.
- 8.84 Officers are satisfied that amenity issues and the highway implications are acceptable and can be addressed through the design of the scheme, planning conditions and a section 106 planning obligation. The section 106 planning obligation could also secure an education contribution, highway contribution and connectivity.
- 8.85 Having carefully considered all material planning matters, Officers consider that the likely significant effects upon the European Protected Sites must be given substantial weight, and as such outweigh the benefits which arise from the proposal. Members are invited to confirm that had they had the opportunity to determine the planning application, they would have REFUSED it for the following reason:

9.0 Recommendation

The application is contrary to the National Planning Policy Framework, Core Strategy Policy CS4, Green Infrastructure, Biodiversity and Geological Conservation, Policy DSP13 Nature Conservation of Local Plan Part 2 and Policy DSP40 (v) and is unacceptable in that:

- 9.1 The proposal would have likely significant effects upon designated European Protected Sites in combination with other developments due to the adverse effects of increased waste water.
- 9.2 There is uncertainty in respect of the impact of increased emissions from traffic associated with this development in combination with other developments upon designated European Protected Sites
- 9.3 The Planning Inspectorate should further be advised that had the impacts upon the European sites been satisfactory mitigated and had planning permission been granted, the Local Planning Authority would have first sought a Section 106 planning obligation to secure the following:

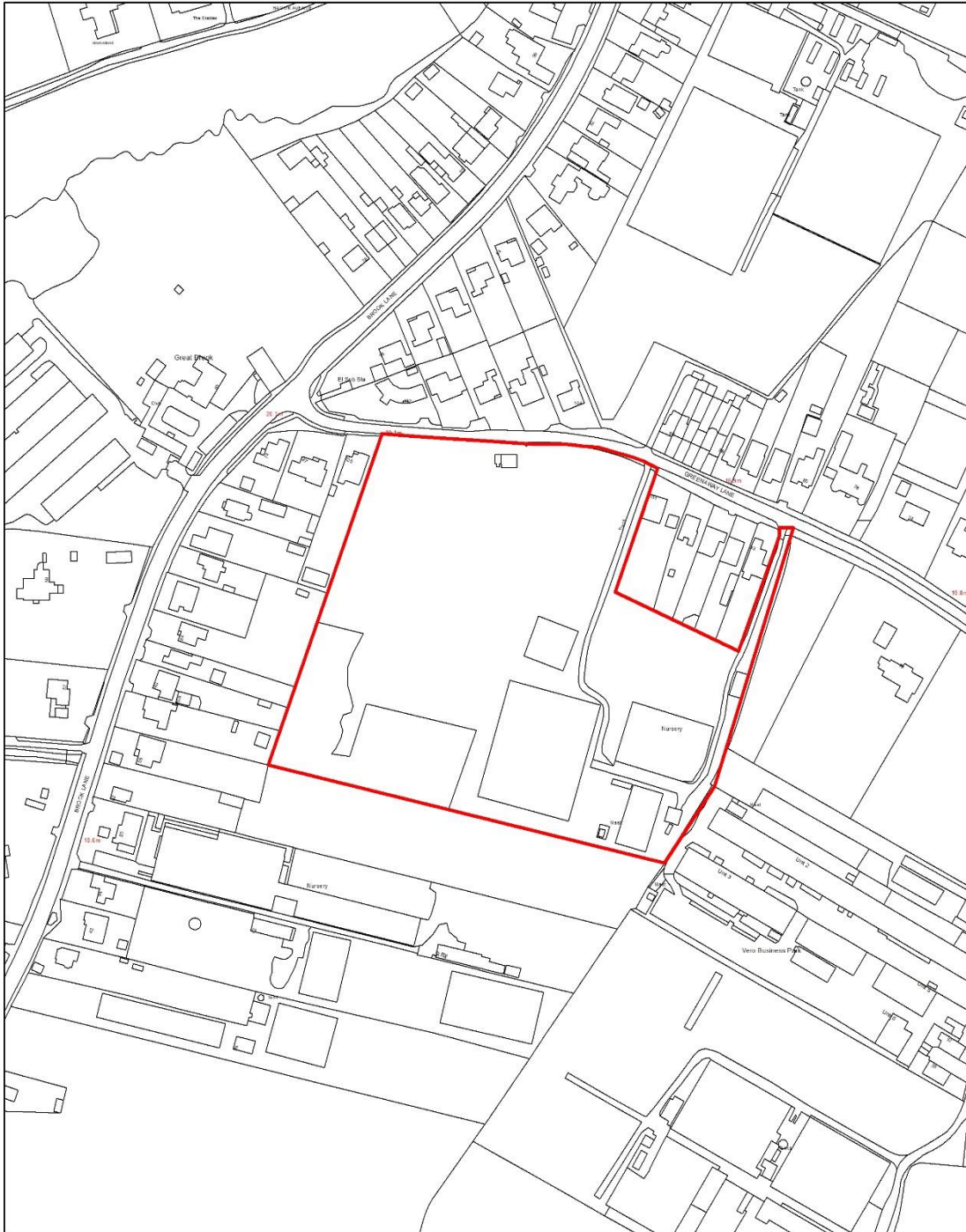
- a) Provision and transfer of the areas of open space to Fareham Borough Council, including associated financial contributions for its future maintenance;
- b) A financial contribution towards the delivery of a play area and associated maintenance;
- c) A financial contribution towards the Solent Recreation Mitigation Partnership (SRMP);
- d) 40% of the proposed units as on-site affordable housing including the Local Housing Affordability cap; the type, size, mix and tenure to be agreed to the satisfaction of officers;
- e) Vehicular, pedestrian and cycle connectivity access to adjoining land for members of the public through the site in perpetuity and a financial contribution towards the maintenance and associated lighting of the pedestrian and cycle link;
- f) A downgrade of the proposed Greenaway Lane access if an alternative access route to the south of the site can be secured subject to there being sufficient specification and capacity and agreement of the Highway Authority.
- g) A financial contribution towards education provision;
- h) A financial contribution towards highway impacts at the following junctions' A27/Barnes Lane Barnes Lane/Brook Lane, A27/Station Road roundabout
- i) A Travel Plan and related monitoring cost and bond.
- j) A sustainable travel contribution to be used towards offsite improvements

10.0 Background Papers

P/18/0482/OA

FAREHAM

BOROUGH COUNCIL



Land Adjacent to 125 Greenaway Lane
Scale 1:2500



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