

OFFICER REPORT FOR COMMITTEE

DATE: 12/02/2020

P/19/0925/FP

MR T LAWRENCE & MS A DEWEY

PORTCHESTER EAST

AGENT: A D P ARCHITECTS LTD

**DETACHED DWELLING WITH PARKING & ACCESS FROM HOSPITAL LANE
AND ASSOCIATED LANDSCAPING & DRAINAGE WORKS**

TURRET HOUSE, HOSPITAL LANE, PORTCHESTER

Report By

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1.0 Introduction

- 1.1 The application site comprises land owned by Councillors Walker and Bell. As a result this application is reported to the Planning Committee for a decision as opposed to being determined under Officer delegated powers.
- 1.2 The application has received a total of seven letters of representation comprising a mixture of objection and support for the proposals.

2.0 Site Description

- 2.1 The application site comprises a paddock located just north of the private access track leading to Turret House. That track, which also forms part of the red-edged application site, leads westwards from the end of Hospital Lane with a timber post and rail fence along much of its southern edge. The track measures approximately 300 metres in length. Where the track abuts the paddock the fence turns into a block and brick wall and a set of metal entrance gates and brick piers are positioned at this point.
- 2.2 Southwards, beyond the fence and wall which lines the track, is a public footpath which runs along the length of the harbour shoreline. Portsmouth Harbour is a designated site under international law - a Special Protection Area (SPA) and Ramsar site. The harbour is also part of the Solent and Dorset Coast Special Protection Area (SPA) and a Site of Special Scientific Interest (SSSI).
- 2.3 The paddock, the site of the new dwelling and its garden, is approximately 0.35 ha in size and is bound by trees and vegetation on its northern, southern and eastern boundaries. The most notable mature trees are along the northern boundary between the application site and the Council owned Roman Grove allotments. In the north-western corner of the paddock stands a stable building positioned along the boundary wall to Turret House.

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

3.0 *Description of Proposal*

- 3.1 Full planning permission is sought for a detached dwelling with parking, access from Hospital Lane and associated landscaping and drainage works.
- 3.2 The application proposes a three-bedroom single storey dwelling on raised ground towards the northern site boundary. The submitted site plan indicates that an area of ground approximately 19 metres x 30 metres would be raised resulting in the finished floor level of the dwelling standing around 1.6 - 1.8 metres higher than existing ground levels. The applicant's submission explains that the raising of the land on which the dwelling is proposed to be built is due to the potential risk of flooding.
- 3.3 The dwelling is described by the applicant as having a low contemporary form. The submitted drawings show the dwelling as having a flat sedum roof between 4.2 and 5.4 metres above existing ground level with the tallest parapet feature standing approximately 5.9 metres above existing ground level. The proposed materials consist of a mixture of stonework, grey metal fascias and soffits and timber effect cladding.
- 3.4 The existing stable building is intended to be converted for storage purposes incidental to the new dwelling. The site plan also shows three parking spaces, an external platform lift, raised path for emergency escape in the event of flooding and a ground frame solar PV system.

4.0 Policies

4.1 The following policies apply to this application:

Approved Fareham Borough Core Strategy

CS2 - Housing Provision

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS14 - Development Outside Settlements

CS15 - Sustainable Development and Climate Change

CS16 - Natural Resources and Renewable Energy

CS17 - High Quality Design

CS18 - Provision of Affordable Housing

CS20 - Infrastructure and Development Contributions

Adopted Development Sites and Policies

DSP1 - Sustainable Development

DSP2 - Environmental Impact

DSP3 - Impact on living conditions

DSP5 – Protecting and Enhancing the Historic Environment

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

DSP13 - Nature Conservation

DSP15 - Recreational Disturbance on the Solent Special Protection Areas

DSP40 - Housing Allocations

Other Documents

Residential Car and Cycle Parking Standards Supplementary Planning Document (November 2009)

Design Guidance Supplementary Planning Document excluding Welborne (Dec 2015)

5.0 Relevant Planning History

5.1 No relevant planning history.

6.0 Representations

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

- Modern design not in keeping with area.
- Greenfield site.

- Will set a precedent if allowed.
- Site on edge of conservation area.
- Building on flood plain.
- Access is via a single track road, Hospital Lane, which has retained a rural character and is not suitable for construction traffic.
- Safety of pedestrians using Hospital Lane.

6.2 Four representations of support have been received, one of those from the Portchester Civic Society on the proviso that “the legal position to build a house on this paddock is satisfied”. The following points are also made:

- Well planned/thought out project involving a quality architect.
- Traffic is minimal.
- Tree surveys and flood surveys have been completed.
- Problems with sat nav directing vehicles down Hospital Lane by mistake.

7.0 Consultations

EXTERNAL

Historic England

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

Highways

7.2 No objection. The proposed development will generate additional traffic along Hospital Lane which is predominately single width along its length. The increase of one dwelling accessing via this route is not considered to be detrimental to highway safety. Hospital Lane serves a minimal quantum of dwellings and the nature of the road tends to low speeds. It should be noted that passing places are infrequent and of minimal standard. Notwithstanding this, the event of two vehicles meeting is considered to be an unlikely event and required reversing to passing points will not cause any safety concerns or undue highway impact.

After reviewing the proposals, the Highway Authority is satisfied that there is no direct or indirect impact upon the operation or safety of the local highway network.

Environment Agency

7.3 No objection subject to conditions relating to the void beneath the proposed dwelling and ensuring compliance with the submitted flood risk assessment.

Natural England

- 7.4 No objection. In the case of this application, the applicant proposes to create a new public sewer connection for both the proposed dwelling and the existing adjacent dwelling at Turret House, which is currently served by a septic tank. The applicant has submitted information stating that the existing septic tank at Turret House currently discharges basically treated effluent to the ground within the site. In their assessment the applicant has demonstrated that by removing the septic tank at Turret House there would be a reduction in the amount of nitrogen being discharged to the water environment, even when allowing for the connection of the existing dwelling and the proposed new house to the public sewer. Natural England have been consulted on the proposals and have responded to say that in light of this information they are satisfied that this approach will ensure the proposed development achieves nutrient neutrality. This is provided the removal of the septic tank and connection of both properties to the mains sewer can be secured with the necessary parties, for example by way of a legal agreement.

HCC Archaeology

- 7.5 No objection.

INTERNAL

Ecology

- 7.6 No objection in respect of protected species on the application site. There is a requirement for the Council to undertake a habitat regulations assessment; as such the applicant is required to submit a nitrogen budget for the development and a Construction Environmental Management Plan (CEMP) is required [both documents have subsequently been provided by the applicant].

Contaminated Land

- 7.7 No objection.

Conservation

- 7.8 The site is located close to, but outside of the designated conservation area, adjacent to Turret House which is a substantial dwelling of distinctive design accessed via a long private driveway adjacent to the coastal footpath.
- 7.9 The conservation area appraisal notes that Hospital Lane has retained its rural character with limited development. The appraisal also notes that the wider setting comprises Portsmouth Harbour and Portchester Castle in the exposed location. The open space surrounding the settlement contains areas of land of great importance to the setting of the village and the castle and are designated as countryside in the local plan. It is significant to note that the

conservation area appraisal states that further development on this open land would harm the character of the conservation area and the setting of the castle. Whilst the site of the proposed building is not within the designated conservation area, it does have a similar open character and significant open views and there are glimpses of the castle from the coastal path which forms part of the wider setting of the conservation area.

- 7.10 The introduction of a residential dwelling in this sensitive rural and coastal location, close to the designated conservation area and Portchester Castle, would not provide any public heritage benefit and could adversely affect the long-term character and setting of the locality. The proposal would be intrusive and would not accord the established character and the wider setting of the designated conservation area and the open character of this locality. Whilst it is appreciated that each proposal is judged on its own merits the introduction of residential development in this sensitive area could encourage further proposals for development in this sensitive area.
- 7.11 In relation to NPPF Paragraph 196, this proposal would be considered to cause less than substantial harm and should therefore be weighed against any public benefit. In this case a single dwelling in this location would not be considered to provide any significant heritage or public benefit.

Trees

- 7.12 No objection.

8.0 Planning Considerations

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

- a) Implication of Fareham's current 5-year housing land supply position;
- b) The site's status as previously developed land;
- c) The principle of development in the countryside;
- d) Policy DSP40(i) & (iv);
- e) Policy DSP40(ii);
- f) Policy DSP40(iii) – including design and visual impact;
- g) Policy DSP40(v) – including highways, ecology and flood risk;
- h) Effect on heritage assets;
- i) The planning balance.

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

- 8.2 A report titled "Five year housing land supply position" was reported for Members' information on the agenda for the Planning Committee meeting

held on Wednesday 24th April last year. The report concluded that at the time this Council had 4.66 years of housing supply against its five year housing land supply (5YHLS) requirement.

- 8.3 During the latter part of 2019 several appeal decisions were received in which Planning Inspector's considered the Council's 5YHLS position, including the appeal by Miller Homes on land at Winnham Farm (appeal reference APP/A1720/W/19/3230015). In that appeal decision the Inspector was of the view that the Council's claimed supply figure of 4.66 years was too optimistic and that the appellant's figure of 2.4 years better represented the situation at that time.
- 8.4 Officers will shortly be presenting an updated 5YHLS report to the Planning Committee. Members attention is drawn to the last such report presented in April 2019 and views of the Planning Inspector who considered the Winnham Farm appeal. Officers accept that the Council cannot currently demonstrate a 5-year supply of deliverable housing sites.
- 8.5 The starting point for the determination of this planning application is section 38(6) of the Planning and Compulsory Purchase Act 2004:
- "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".*
- 8.6 In determining planning applications there is a presumption in favour of the policies of the extant Development Plan, unless material considerations indicate otherwise. Material considerations include the planning policies set out in the National Planning Policy Framework (NPPF).
- 8.7 Paragraph 59 of the NPPF seeks to significantly boost the supply of housing.
- 8.8 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 application are considered out-of-date.
- 8.9 Paragraph 11 of the NPPF then clarifies what is meant by the presumption in favour of sustainable development for decision-taking, including where relevant policies are "out-of-date". It states:

“For decision-taking this means:

- a) Approving development proposals that accord with an up-to-date development plan without delay; or*
- b) 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:
 - i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”**

8.10 Footnote 6 to Paragraph 11 reads:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.”

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

8.12 The following sections of the report assesses the application proposals against national planning policy and 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) The site's status as previously developed land

8.13 The applicant has submitted counsel opinion on the application site comprising previously developed land (PDL). They contend that the site is PDL since it falls within the curtilage of the existing stables, and arguably the curtilage of Turret House itself.

8.14 The National Planning Policy Framework (NPPF) defines PDL as follows:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

8.15 Officers have also sought legal advice from this Council’s Solicitors, and following receipt of that advice agree that there is sufficient evidence in this case to demonstrate that the site is PDL.

8.16 Paragraph 117 of the NPPF states that:

“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land⁴⁴”.

8.17 Footnote 44 to paragraph 117 reads:

“Except where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity”.

8.18 The site lies outside of the existing urban settlement boundaries. In addition, although the land could be classified as PDL by virtue of constituting the curtilage of a building, the NPPF definition makes it clear that *“it should not be assumed that the whole of the curtilage should be developed”*. With the exception of the stables located to a small area along the boundary with the garden of Turret House at the far western extent of the site, the land is not built upon and contains no other permanent structures. Officers do not

consider that residential development on the site would make effective use of the land while safeguarding and improving the environment in which it sits as expected by NPPF paragraph 117. Furthermore, the site's development would conflict with several other NPPF policies including those designed to avoid flood risk and protect heritage assets. These are discussed later in this report.

c) The principle of development in the countryside

8.19 Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of PDL within the urban areas. Whilst the land is considered PDL it is not within the urban area and so the proposal does not comply with this policy.

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

8.21 Policy CS14 of the Core Strategy states that:

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

The construction of a new dwelling here would not represent an ‘acceptable form of development’ as envisaged by this policy. As set out later in this report, Officers consider the proposal would adversely affect the landscape character and appearance of the land.

8.22 Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map). However, new residential development will be permitted in instances where either it has been demonstrated that there is an essential need for a rural worker to live there permanently, it involves a conversion of an existing non-residential building or it comprises one or two new dwellings which infill a continuous built-up residential frontage. Officers can confirm that none of these exceptions apply to the application proposal.

8.23 The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6, and CS14 of the adopted

Core Strategy and Policy DSP6 of the adopted Local Plan Part 2:
Development Sites and Policies Plan.

- 8.24 Further assessment of the degree of harm to the landscape character and appearance of the countryside and to what extent that harm is mitigated follows later in this report under Policy DSP40(iii).
- 8.25 In summary, when considering the principle of development, it is clear that there is conflict with various aims and objectives set out in national and local planning policy.

d) Policy DSP40(i) & (iv)

- 8.26 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.
- 8.27 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".*

- 8.28 Firstly, in relation to the first of these criteria at Policy DSP40(i), the proposal is for a single dwellinghouse which is relative in scale to the current shortfall.
- 8.29 In relation to Policy DSP40(iv), Officers have no concerns that the proposed dwelling could not be delivered in the short term.

8.30 The remaining three bullet points from Policy DSP40 are worked through in turn below.

e) Policy DSP40(ii)

8.31 The application site does not lie adjacent to the existing urban settlement boundary which, at its nearest point, is located approximately 125 metres north-west as the crow flies. There is a clear physical and visual separation between the site and the urban area. Officers are of the view therefore that housing development on the site would not relate well to, or be well integrated with, the existing urban area.

8.32 The nearest public house (The Cormorant on Castle Street) lies a relatively short distance away (650 metres) but down a long private driveway and single-track rural lane (Hospital Lane) without a pedestrian footway and with no street lighting along its whole length. Other local services and facilities accessed via this route are beyond what is considered a reasonable walking distance - Castle Primary School (1.2km), Portchester Community School (1.5km), Westlands Medical Centre (2.2km), Portchester District centre (1.7km) and Portchester railway station (1.9km). The nearest bus stop is on White Hart Lane approximately 1.1km from the application site. Officers consider the proposal does not accord with Policy DSP40(ii).

8.33 In addition the proposal is considered to be contrary to Policy CS5 (Transport Strategy and Infrastructure) of the adopted Fareham Borough Core Strategy which states that development will be permitted which *“is designed and implemented to prioritise and encourage safe and reliable journeys by walking, cycling and public transport”*, and Policy CS17 (High Quality Design) which expects development to *“ensure permeable movement patterns and connections to local services, community facilities, jobs and shops”*.

8.34 In their submission, the applicant refers to the recent appeal decision at Land east of Down End Road (planning reference P/18/0005/OA; appeal reference APP/A1720/W/19/3230015). The applicant contends that the Inspector’s findings in that case, which dealt with a proposed scheme of 350 homes, are material to their own proposal for a single dwellinghouse insofar as the relative accessibility of the site is concerned.

8.35 In that appeal decision at paragraph 79 the Inspector found that:

“The development would fall short of being particularly accessible by transportation modes other than private motor vehicles... That said this development would be close to many other dwellings in Portchester and the accessibility to local services and facilities would be similar to that for many of

the existing residents of the area. Given the existing pattern of development in the area, I consider there would be few opportunities for new housing to be built in Portchester on sites that would be significantly more accessible than the appeal site... In that regard it is of note that the Council is considering allocating this site for development in connection with the preparation of its new local plan”.

8.36 The Inspector’s views on this issue therefore were given in the context of him considering whether it was realistic that large scale major development of that many dwellings could be accommodated in a more accessible location than the appeal site. Those views are in a different context to this current application which proposes one single house on a site which Officers have found not to be well located in terms of access by walking or public transport to local services and facilities.

f) Policy DSP40(iii) – including design and visual impact

8.37 The third test of Policy DSP40(iii) 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”*. The application site is not located within a Strategic Gap.

8.38 Policy CS17 of the adopted Fareham Borough Core Strategy sets out a similar, but separate policy test that, amongst other things, *“development will be designed to: respond positively to and be respectful of the key characteristics of the area, including heritage assets, landscape, scale, form, spaciousness and use of external materials”*. Core Strategy Policy CS14 meanwhile seeks to protect the landscape character, appearance and function of the countryside as explained earlier in this report. It also expects that *“In coastal locations, development should not have an adverse impact on the special character of the coast when viewed from the land or water”*.

8.39 The application site is part of an area of largely undeveloped coastline and countryside located outside of the urban settlement areas of Portchester. The open character of this area can be appreciated from a number of viewpoints, including the coastal footpath which runs alongside the southern site boundary and more long distance views from within the harbour itself.

8.40 The dwelling proposed in this application comprises a single storey dwelling albeit raised out of the ground by around 1.6 – 1.8 metres as described earlier in this report. Taking account of the slight variance of ground levels as shown by the survey levels on the submitted plans, the dwelling would stand approximately 4.2 metres above existing ground level at its lowest point and

around 5.9 metres tall at its highest points (two parapet walls set in the centre of the front and eastern side elevations).

- 8.41 At these heights, and despite being set back in the plot away from the southern site boundary, the upper parts of the dwelling would be visible over the current enclosure of boundary vegetation from the public footpath which runs along the harbour shoreline and from the water itself. The dwelling would also be seen through gaps in the mature tree coverage running along the northern site boundary. The applicant has emphasised that existing boundary vegetation would remain; however the site's waterfront location and large picture windows set in the south facing elevations mean that the occupants of the dwelling would naturally wish to keep such boundary planting to a minimum to allow views out over the harbour. Officers consider it unlikely that future occupants would wish to retain boundary planting, especially along the southern boundary, at a height where it fully or substantially screened views of the dwelling.
- 8.42 Applying the various policy tests set out above; it is clear from the submission that the applicant has given careful consideration through the design to how the building would be viewed within its countryside context and how to minimise the adverse visual impact on the countryside. The materials proposed to be used, including a small amount of stonework, and the installation of a sedum roof, would assist in blending the dwelling into the surrounding landscaping. However, the dwelling would still result in a degree of visual intrusion into this countryside and coastal setting.
- 8.43 The applicant has provided a Landscape and Visual Impact Appraisal which concludes that there would be a Minor Adverse effect on the landscape character of the coastal fringe. They say views from the coastal footpath and Roman Grove cemetery would result in a Minor to Moderate Adverse visual effects. This appraisal would appear to broadly concur with Officers' own assessment of the landscape and visual impacts of the development. However, albeit at the lower end of the spectrum, the harm in visual and landscape terms is considered contrary to Policies CS14 & CS17 respectively.

g) Policy DSP40(v) – including highways, ecology and flood risk

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

Ecology

- 8.45 In relation to the effect of the development on protected species or habitats on the application site itself, the Council's ecologist has raised no objections

following consideration of the ecological appraisal submitted with the application.

- 8.46 The site is in very close proximity to the shoreline of The Solent. 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.
- 8.47 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).
- 8.48 The application site lies immediately adjacent the harbour shoreline and Portsmouth Harbour SPA and Ramsar site and the Solent and Dorset Coast SPA. In addition, there are other European protected sites which potentially would also be impacted by the development proposal including Solent and Southampton Water SPA, Chichester and Langstone Harbours SPA and Solent Maritime SAC. The Council has a legal duty to consider whether any impact from new developments are likely to have a significant effect upon EPS. Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive European sites and mitigation impacts on air quality.
- 8.49 The following paragraphs of this report set out potential impacts arising from recreational disturbance and increased wastewater.
- 8.50 In relation to recreational disturbance, Policy DSP15 (Recreational Disturbance on the Solent Protection Areas) of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to the Solent Recreation Mitigation Project (SRMP). The applicant has unilaterally made a payment towards the SRMP in order to provide this mitigation.
- 8.51 Turning to the increase in wastewater, Natural England has recently 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 EPS.

- 8.52 In the case of this application, the applicant proposes to create a new public sewer connection for both the proposed dwelling and the existing adjacent dwelling at Turret House, which is currently served by a septic tank. The applicant has submitted information stating that the existing septic tank at Turret House currently discharges basically treated effluent to the ground within the site. In their assessment the applicant has demonstrated that by removing the septic tank at Turret House there would be a reduction in the amount of nitrogen being discharged to the water environment, even when allowing for the connection of the existing dwelling and the proposed new house to the public sewer. Natural England have been consulted on the proposals and have responded to say that in light of this information they are satisfied that this approach will ensure the proposed development achieves nutrient neutrality. This is provided the removal of the septic tank and connection of both properties to the mains sewer can be secured with the necessary parties, for example by way of a legal agreement.
- 8.53 In summary, Officers are satisfied on the basis of the submitted information, that European Protected Sites would not be adversely affected by increased wastewater resulting from the development. This is on the basis of the existing septic tank at Turret House being removed and both the existing house and proposed new house being connected to the public sewer. Had Officers been minded to grant planning permission, it would have been necessary to undertake an Appropriate Assessment and formally consult Natural England upon it. Mitigation such as that proposed by the applicant would ultimately be secured by way of a legal agreement with the relevant parties. In the absence of a legal agreement in place to secure this mitigation, the proposal would be contrary to Policies CS4 and CS6 of the Core Strategy and Policy DSP13 of the Local Plan Part 2: Development Sites & Policies.
- 8.54 In this particular case no Appropriate Assessment has been carried out by the Local Planning Authority under the 'habitat regulations'. Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'Competent Authority' (in this case the Local Planning 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 is likely to have a 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. However since the application is being recommended for refusal by Officers for other reasons, there is no requirement to carry out an Appropriate Assessment.

Flood risk

- 8.55 Paragraph 157 of the NPPF sets out a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate changes – so as to avoid, where possible, flood risk to people and property.
- 8.56 Paragraph 158 of the NPPF explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
- 8.57 The government's Planning Practice Guidance (PPG) sets out how the sequential, risk-based approach to the location of development should work in practice. This application of the sequential approach is known as the sequential test. It states that this general approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.
- 8.58 The Environment Agency advise that the site is situated within Flood Zone 2 where the land is considered to have between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (medium probability of flooding).
- 8.59 When it comes to considering individual planning applications, the PPG advises that it is not normally necessary to apply the sequential test to development proposals in Flood Zone 1 (land with a low probability of flooding) or on sites which have been allocated in development plans through the local plan-making sequential test.
- 8.60 Having regard to the advice contained in the NPPF and PPG the proposed development should be subject to the sequential, risk-based approach to the location of development in relation to flooding. The PPG explains that it is for local planning authorities to consider the extent to which sequential test considerations have been satisfied, taking into account the particular circumstances in any given case.
- 8.61 No sequential test has been provided by the applicant. In the Flood Risk Assessment submitted with this application, instead of a sequential test the applicant has stated that the proposed elevated finished floor levels of the dwelling mean that the building is defined as falling within Flood Zone 1 and so inherently meets the sequential test. Officers do not believe that this is the correct approach which departs entirely from the sequential risk-based

approach set out in the NPPF and PPG. The principle of the sequential test is to locate development, as far as possible, away from the risk of flooding. Officers consider the correct approach would have been to carry out a sequential test to demonstrate that no other suitable sites are reasonably available in an area with the lowest probability of flooding. The application fails to demonstrate this through applying the sequential test and is contrary to those relevant parts of the NPPF and PPG described above.

- 8.62 Officers note that the Environment Agency (EA) have raised no objection to the application. Officers must stress however that this advice is in relation to the technical aspects of the applicant's proposal to raise the internal finished floor level of the dwelling. The EA have not commented on the application of the sequential test. Proposals such as raising floor levels to manage and mitigate the potential impact of flooding should only be considered when it has been successfully demonstrated that it is not possible to locate the development elsewhere away from the risk of flooding. As already mentioned, it is for the local planning authority to consider the extent to which the sequential test considerations have been satisfied.
- 8.63 In summary of the flood risk issue, the proposed development is contrary to NPPF paragraph 158 which clearly states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The applicant has failed to provide a sequential test to satisfy this matter.

Amenity

- 8.64 Officers are satisfied that the development would not be harmful to the living conditions of neighbouring residents.

Highways

- 8.65 The highway authority Hampshire County Council have raised no concerns over the proposal. Officers note that several of the letters from third parties in response to this application being publicised have raised concerns over increased traffic along Hospital Lane, however the increase in traffic movements arising from a single dwelling would not be so significant to be harmful to the safety of users of the highway.

h) Effect on heritage assets

- 8.66 The plot on which the proposed dwelling would stand lies approximately 30 metres from the south-western edge of Portchester Castle Street Conservation Area. The plot is around 325 metres south-west of Portchester Castle itself which is a Grade I Listed building and Scheduled Ancient

Monument. The conservation area and castle are therefore important designated heritage assets.

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

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

8.69 Paragraph 193 of the NPPF sets out that:

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

8.70 NPPF paragraph 194 continues that:

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

8.71 NPPF paragraph 196 adds that:

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

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

“...In considering the impacts of proposals that affect the Borough’s designated heritage assets, the Council will give great weight to their conservation (including those that are most at risk through neglect, decay, or other threats). Harm or loss will require clear and convincing justification in

accordance with national guidance. Substantial harm or loss to a heritage asset will only be permitted in exceptional circumstances.

Listed buildings will be conserved by...

a)...

b)...

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

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

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

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

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

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

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

8.74 At page 16 the appraisal and management strategy says:

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

8.75 It continues that:

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

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

8.77 The Council’s conservation consultant has raised concerns over the effect of the proposed dwelling would have on the character and setting of the conservation area and castle. Whilst the proposed dwelling would not be within the boundary of the conservation area, the site comprises part of the setting and has a similar open character to the open land surrounding the settlement within which the conservation character appraisal states further development would be harmful. The conservation consultant notes that across this land there are significant open views and glimpses of the castle from the coastal path. The visual intrusion into this landscape of the proposed dwelling would harm the character and setting of both the conservation area and the appreciation of the significance of Portchester Castle, although the level of harm would be at the lower end of less than substantial.

8.78 NPPF paragraph 196 requires that less than substantial harm be weighed against the public benefits of a proposed development. However Officers do not consider the very modest contribution towards addressing the Council’s shortfall in housing supply to amount to such a public benefit and there are no other benefits, for example in terms of enhancing or making a significant positive contribution towards the protection of the heritage assets in question.

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

i) The planning balance

8.80 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 purposes 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”.

8.81 As set out in paragraph 8.11 above, the effect of Paragraph 177 of the NPPF is that:

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

8.82 In this instance Officers have identified likely significant effects on habitats sites. Officers acknowledge that the likely significant effects could be addressed by securing appropriate mitigation of the impacts from wastewater. It is also noted that the applicant has made a payment towards the SRMS to mitigate the impact of recreational disturbance. In light of the overriding reasons for refusal Officers have not undertaken an Appropriate Assessment. Accordingly the presumption in favour of sustainable development set out at Paragraph 11 of the NPPF does not apply.

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

8.84 Officers have carefully assessed the proposals against Policy DSP40: Housing Allocations, which is engaged as this Council cannot demonstrate a 5YHLS. The proposal does not satisfy key tests set out in points (ii), (iii) and (v) of that policy. The site is not sustainably located adjacent to the urban area. The development would have a harmful effect on the character and appearance of the countryside and in doing so would be contrary to Policies CS14 & CS17 also. In addition, the proposal does not demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

8.85 The proposal has been found to result in less than substantial harm to designated heritage assets, a matter which should still be given great weight in the decision making process as set out in NPPF paragraph 193.

8.86 Officers have also given due regard to the updated 5YHLS position report presented to the Planning Committee in April 2019 and the Government steer in respect of housing delivery. Officers consider that the proposal would make a very limited contribution towards addressing the shortfall of houses in the Borough. The benefits of granting planning permission for granting a single house would not outweigh the harm identified above.

- 8.87 The applicant's assertion that the application site is previously developed land by virtue of being part of a curtilage is noted. Even accepting that the application site is previously developed land, it is essentially devoid of permanent structures. Officers do not consider that either national or local planning policies encourage the development of such sites especially where other harm is caused to national or local planning policies. Officers do not believe that the fact that the site is previously developed land is of such importance that it outweighs the harm identified. On the specific circumstances of this particular case, Officers consider that the fact the application site is previously developed land carries limited weight in the planning balance.
- 8.88 In light of this assessment, and taking into account all other material planning considerations, Officers recommend that planning permission should not be granted for this application. A recommendation for refusal is set out below at paragraph 9.1.
- 8.89 This balancing exercise has been made under Section 38(6) of the 2004 Act as set out above, however if the likely significant effects of the development on habitats sites had been addressed and an Appropriate Assessment had concluded no adverse effects on the integrity of the habitats sites, the presumption in favour of sustainable development, as set out in NPPF paragraph 11, would apply. The proposal does not accord with the development plan and the report above has shown how the proposal is contrary to two separate NPPF policies which provide clear reasons for refusing the development. In relation to flood risk, NPPF paragraph 158 states that development should not be permitted if there are other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding and the applicant has failed to provide a sequential assessment in this regard. In relation to heritage assets meanwhile and NPPF paragraph 196, the proposal is found to result in less than substantial harm which is not considered to be outweighed by any public benefits of granting permission.
- 8.90 Finally, even if those reasons for refusal were not in place, Officers consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.

9.0 Recommendation

- 9.1 REFUSE PERMISSION for the following reasons:

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

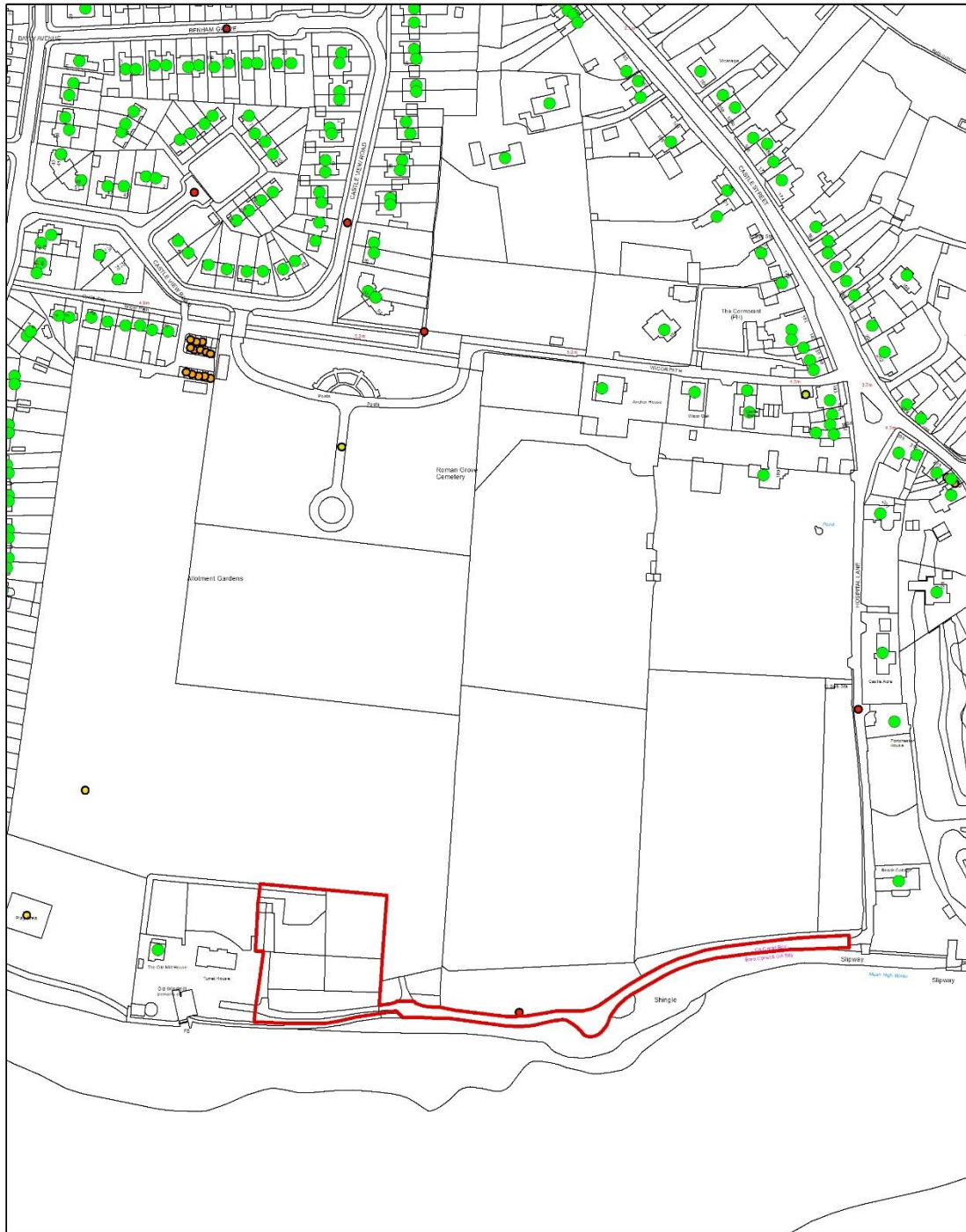
- a) The provision of a dwelling in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The proposed dwelling fails to respond positively to and be respectful of the key characteristics of the area and would be harmful to the character and appearance of the countryside;
- c) The application site is not sustainably located adjacent to, well related to or well integrated with the existing urban settlement boundaries;
- d) The proposal fails to provide a sequential test to demonstrate that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding;
- e) The proposed dwelling would intrude into the area of open land west of Hospital Lane resulting in less than substantial harm to the significance of the setting of the Grade I Listed Scheduled Ancient Monument Portchester Castle and the Portchester Castle Street Conservation Area.
- f) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of European Protected Sites which, in combination with other developments, would arise due to the additional generation of nutrients entering the water environment;

10.0 Background Papers

P/19/0925/FP

FAREHAM

BOROUGH COUNCIL



Turret House, Hospital Lane

Scale 1:2,500



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