

**OFFICER REPORT FOR COMMITTEE**

**DATE: 09/04/2021**

**P/19/1260/OA**

**STUBBINGTON**

**BARGATE HOMES LIMITED**

**AGENT: PEGASUS**

CROSS BOUNDARY OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS FOR THE CONSTRUCTION OF UP TO 99 RESIDENTIAL DWELLINGS, LANDSCAPING, OPEN SPACE AND ASSOCIATED WORKS, WITH ACCESS FROM BROOKERS LANE (GOSPORT BOROUGH COUNCIL TO ONLY DETERMINE PART OF THE APPLICATION RELATING TO PART OF ACCESS IN GOSPORT BOROUGH)

LAND AT NEWGATE LANE (EAST), FAREHAM

***Report By***

Richard Wright - direct dial 01329 824758

**1.0 *Introduction***

- 1.1 This application is being presented to the Planning Committee due to the number of third-party representations received.
- 1.2 An appeal against the non-determination of this application has been submitted to the Planning Inspectorate. The Inspectorate notified the Council on 25<sup>th</sup> February 2021 that the appeal is valid and has advised that the appeal will proceed by way of a 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 An identical planning application has been submitted to Gosport Borough Council as part of the access to the site is via Brookers Lane which lies within Gosport Borough. An appeal against the refusal of this application by Gosport Borough Council on 27<sup>th</sup> July 2020 has also been submitted to the Planning Inspectorate and a joint Hearing will therefore be held into both applications.
- 1.5 Members will note from the 'Five Year Housing Land Supply Position' report to Planning Committee on the 17th February 2021 that the Council currently has

a housing land supply of 4.2 years including a 20% buffer.

## 2.0 ***Site Description***

- 2.1 This application relates to a 4.1ha site to the east of the recently constructed relief road, Newgate Lane East.
- 2.2 The southern site boundary is Brookers Lane, with the Brookers Field Recreation Ground located to the south. The residential area of Woodcot and Bridgemary in the borough of Gosport forms the boundary to the east of the site. The boundary to the west of the site is the Newgate Lane East relief road which is separated from the site by a 1.8m high acoustic fence and new planting.
- 2.3 The site is currently in agricultural use. Both the eastern boundary of the site abutting Bridgemary/Woodcote and the southern boundary abutting Brookers Lane are clearly demarked by a well-established line of trees and hedgerows. There is also hedgerow running east-west across the site just north of Heron Way in Bridgemary along the line of an existing drainage ditch. The northern site boundary is not well defined having an open aspect onto agricultural fields to the north.
- 2.4 The site falls within the countryside and is outside the urban settlement boundary as defined in the adopted Local Plan. It is located within the Stubbington / Lee on Solent to Fareham/Gosport Strategic Gap.
- 2.5 The site is identified as a low-use classification site in the Solent Waders and Brent Goose Strategy.

## 3.0 ***Description of Proposal***

- 3.1 Outline planning permission is sought for the construction of up to 99 dwellings on the site. All the dwellings are proposed to be affordable homes.
- 3.2 The scheme will incorporate a new vehicular access via Brookers Lane in Gosport Borough to the south. A large oak tree is located at the junction between Brookers Lane and the site entrance and therefore a narrowing of Brookers Lane is proposed to avoid encroachment into the root protection area.
- 3.3 Matters of scale, appearance, layout and landscaping are to be reserved however the applicant has submitted a concept masterplan. This shows the retention of the existing hedgerows and mature trees, enhanced where appropriate to provide additional screening and landscaping. A green corridor is provided along the western boundary, incorporating SUDS features, a play area and new landscaping.

#### 4.0 ***Policies***

4.1 The following policies apply to this application:

##### **Adopted Fareham Borough Core Strategy**

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

##### **Adopted Development Sites and Policies**

- DSP1: Sustainable Development
- DSP2: Environmental Impact
- DSP3: Impact on Living Conditions
- DSP4: Prejudice to adjacent land
- DSP6: New residential development outside of the defined urban settlement boundaries
- DSP13: Nature Conservation
- DSP14: Supporting Sites for Brent Geese and Waders
- DSP15: Recreational Disturbance on the Solent Special Protection Areas
- DSP40: Housing Allocations

##### **Other Documents:**

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

#### 5.0 ***Relevant Planning History***

5.1 No relevant planning history.

#### 6.0 ***Representations***

- 6.1 There have been 148 representations received, of these 95 were objections and 53 were in support. The main issues raised within the representations can be summarised as follows:

### **Objections and concerns**

#### ***Principle and Location***

- Loss of open/green space and green infrastructure
- Loss of green belt land
- Concern regarding developing on greenfield site – new houses should first and foremost be built on brownfield land
- New development should preferably be to the north of the M27
- Would set a precedent for future development in the area
- Contrary to policy, including the NPPF and Fareham and Gosport's adopted Local Plans, and Fareham's published draft Local Plan
- Contrary to the PUSH Spatial Position Statement 2016
- Loss of land used for arable farming
- Welborne should solve most of Fareham's housing shortage without affecting commuting from the Gosport peninsula

#### ***Strategic Gap***

- Impact on the strategic gap
- Contrary to policies relating to the strategic gap
- Development in the strategic gap will set a precedent for further development within the gap

#### ***Infrastructure***

- Impact on, and provision of, infrastructure, facilities and services, and concerns regarding capacity and pressure on services – including doctors, schools, dentists, QA hospital, health and emergency services, shops and police
- Unfair impact on Gosport - the council tax from the houses would go to Fareham, but Gosport would provide services and cover the costs needed for the extra houses

#### ***Highways and Transport***

- Access proposals are unsuitable/dangerous
- Access to Tukes Ave and connecting road/access points should be for pedestrians only
- Access should be via Newgate Lane in Fareham not via Gosport – access to Newgate Lane East should be via a traffic light junction(s) and additional lanes and slip roads
- Proposed access requires overturning of traffic regulation order which is supported by residents in the vicinity

- Highway safety, including concerns regarding safety around local schools
- Impact on roads and concerns regarding lack of capacity – development will result in increased traffic in the area and more congestion, and associated issues
- The proposals would undermine the ability of transport routes to function effectively, and would negate the benefits of infrastructure works that have taken place and are planned, including the Stubbington Bypass
- Concern regarding impacts of traffic and congestion on businesses and the economy – increased congestion will have a direct impact on the development and success of, and potential investment in, the Solent Enterprise Zone
- Impact of ‘rat running’ on peripheral roads, and Peel Common Estate and Bridgemary Estate, as a result of the proposed single access via Brookers Lane
- Another set of traffic lights would be required on Newgate Lane
- Access only through Brookers Lane would mean that any deliveries, postal service, dust carts would have to come the whole way around from Fareham to collect within Gosport
- Use of Brookers Lane will split Peel Common Estate in two, causing issues for pedestrians
- Concern regarding existing state of roads
- Additional pedestrian walkways and cycle lanes must be provided
- Concern regarding proposed pedestrian/cyclist provision and impact on existing pedestrian and cycleways – including on pedestrian walkway from Brookers Lane to Newgate Lane
- Development along Newgate Lane would negate the benefits of, and be contrary to the intention of, recent improvements to Newgate Lane, and would impact adversely on access to the Enterprise Zone at Daedalus as well as to the wider Gosport peninsular
- The new bypass was only agreed funding on the provision of no new houses being built
- Concerns regarding parking — including that limited proposed parking means there is the potential for on-street parking spill onto Tukes Avenue and neighbouring roads if vehicle access is made available
- Development would be car dependent with limited public transport provision
- Additional bus lanes / access points must be provided to encourage fast-track public transport alternatives to and from Fareham, Gosport and Lee-on-the-Solent
- Impact on emergency services due to traffic and access issues

### ***Amenity and Pollution***

- Air quality impacts associated with the development, with concerns regarding the AQMA on the A32
- Noise impacts associated with traffic from the development

- Aircraft noise impacts could affect residents of the development – development located under flight path
- Aircraft noise not mentioned in noise survey
- Light pollution associated with the development
- Reduced natural lighting
- Loss of privacy and impact on security from proposed development
- Impact on amenity of nearby residents from construction of development, including on two nursing homes in close proximity

### ***Environment and Ecology***

- Impact on the environment
- Impact on wildlife and habitats – including on birds, bats and reptiles
- Concerns regarding ecological surveys carried out
- Concern regarding proposed ecological enhancement/mitigation measures and future management, including effectiveness of proposed bat boxes
- Concerns regarding impact of development on climate change
- Query whether all houses will have solar panels and be carbon neutral
- Nitrates impact on the Solent

### ***Flooding and Drainage***

- Concerns regarding risk of flooding of existing properties and the proposed development – site floods regularly
- Drainage issues – access would struggle to cope with heavy rain

### ***Design***

- Proposed layout not suitable
- New housing developments seem to have tiny back gardens and front gardens are often non-existent

### ***Other Issues***

- The development should be considered in the wider context of the area designated as HA2 in Fareham BC's withdrawn draft Plan – numerous objections to HA2 appear to no longer be extant for new applications
- Site forms part of a larger allocation which has not been subject to independent assessment in conjunction with the other sites put forward in the previous draft Local Plan – granting permission now would be premature and would undermine the integrity of the new Local Plan process
- If the site is allocated through the plan process the whole allocation should be covered by a masterplan to ensure issues are comprehensively addressed
- Application documents understate the impact of the proposals on the local community
- Impact of loss of greenspace on health and wellbeing of residents
- Any housing development must include suitable senior living development to

- enable release of family homes currently in single person occupation
- Concerns regarding affordability of housing
- Should be considered alongside a further future application to be built on land north of the site with proposed access west of Kent Road
- Design and Access Statement includes misleading statement that *'It is understood that there are no deliverability issues affecting allocation HA2'*.
- Fareham has duty to cooperate with its neighbours – Gosport opposed to building within the strategic gap
- Gosport Borough Council should purchase this land for the Gosport community and develop it into a common / wooded area
- Concern regarding the demolition of private/council properties as a result of proposed vehicle access to Tukes Avenue
- Concern regarding enforced selling of existing properties
- Query whether there is a covenant on the Lane at the end of Brookers Lane which prevents any such use like an access to the proposed development
- Will 'brick in' those living in the peninsula

## **Support**

### **Principle**

- Development/new housing is much needed
- Support proportion of affordable homes

### **Highways and Transport**

- Easy access to public transport is good
- Many jobs are no longer 9 - 5, so the impact will be minimal
- Query whether there is long term provision for better cycle paths

6.2 Forty-eight of the letters of support comprised standard response forms from local households in the Fareham and Gosport areas supporting the plans for new affordable homes at Newgate Lane East following a targeted door knocking campaign in the Fareham and Gosport area organised by Bargate Homes Limited.

## **Petitions**

6.3 A petition opposing this development and other development on Land at Newgate Lane (North) and (South) started on [www.change.org](http://www.change.org) has been submitted to the Council and at the point that it was submitted it contained 1,246 signatures. It reads as follows:

Stop building houses on the Fareham / Gosport Strategic Gap!  
 We, the undersigned, object to building houses on the Gosport / Fareham / Stubbington Strategic Gap, as set out in the planning application

Reference: P/18/1118/OA Land At Newgate Lane (North) Fareham Outline Planning Permission for the demolition of existing buildings and development of up to 75 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure, with all matters except access to be reserved.

And:

Reference: P/19/0460/OA Land At Newgate Lane (South) Fareham Outline planning permission for the demolition of existing buildings and development of up to 125 dwellings, open space, vehicular access point from Newgate Lane and associated and ancillary infrastructure, with all matters except access to be reserved.

And:

HA2 - Newgate Lane South, Peel Common

The reasons for our objection include, but it not exclusive to, the following:-  
Nitrate levels:

The Solent is located with a Special Protection Area (SPA), which is protected under the Conservation of Habitats and Species Regulations 2017

The primary concern in the Solent area is the quality of the water, with high levels of nitrogen causing eutrophication (excessive growth of green algae) which can result in oxygen depletion within rivers and groundwater, and therefore a loss in species richness of protected habitats and bird species. An increase in nitrates also leads to an increase in nitrogen oxides, which can impact air quality and raise acidity levels in water. High levels of nitrogen in the atmosphere can also contribute to the greenhouse effect and acid rain, which are both concerns relating to climate change.

Air Quality:

The Environment Agency has named Fareham Borough Council as one of 30 councils in the UK which have excessive levels of nitrogen dioxide, breaching the EU Commissions limit.

Air Quality Management Areas (AQMAs) are declared when there is an exceedance or likely exceedance of an Air Quality Strategy (AQS) objective, which are legally binding pollution limits to which Fareham and Gosport Boroughs must adhere to. The areas identified, include an area encompassing the junction of Gosport Road, Redlands Lane and Newgate Lane Fareham and the surrounding



area up to the Quay Street roundabout Fareham.

Traffic from the proposed development will lead through these areas. This is in addition to the increased air traffic from the development of Solent Airport. Fareham Borough Council's own policy states: 2.1 Policy CS5, Transport Strategy and Infrastructure, Paragraph 2: "Development proposals which generate significant demand for travel and/or are of a high density, will be located in accessible areas that are or will be well served by good quality public transport, walking and cycling facilities."

Draft Policy INF2 aims to: "g) Positively contributes to the delivery of the Council's Air Quality Action Plan by mitigating the effects of development on air quality within Air Quality Management Areas (AQMAs); and h) Demonstrates good practice and principles of design, minimising emissions and contributing to the reduction of transport impacts on local air quality." This proposed development has its main access through an AQMA. 1.3 Draft Local plan CF1 - Development proposals for new or extended community and leisure facilities within the urban area boundary, will be permitted where they: "c) Do not have a severe adverse impact on the strategic and/or local road network"

Development of Greenfield and strategic gap

This contravenes Fareham's own policies. Both Gosport and Fareham adopted protection of the Strategic Gap in 2015.

Partnership for Urban South Hampshire (PUSH) policy as follows: 1.1. Policy C22 (DLP SP6): Development in Strategic Gaps a policy that specifies that: "Development proposals will not be permitted where they cause severe adverse harm to the physical and visual separation of settlements."

PUSH Spatial Position Statement, key principle D: Protecting and Enhancing Countryside Gaps, article 5.2L "Locating development in a way which creates a high quality pattern of town and countryside, maintaining the distinct identity and separation of key cities and towns, to avoid urban sprawl." and the Position Statement S1: "Strategic countryside gaps between settlements are important in maintaining the sense of place, settlement identity and countryside setting for the sub region and local communities." This premise is policy that applies to all the PUSH signatories.

School Places:

Admissions data shows that the local schools are over-subscribed.  
Reception admissions for Reception 2018. Places offered / applications made  
Peel common reception: 49/81  
Rowner 53 / 99

Bedenham 37/53

Woodcot 26/46

Year 7 admissions for 2018. Places offered / applications made

Crofton 218/438

Bridgemary 179/232

Brune Park 293/322

Therefore, this many houses would require the building of a new school that is both nitrate and carbon neutral.

Doctors and medical care:

Dr Ian Bell, of Lee Medical Practice, was reported to have said: "Most people will be aware that the NHS and general practice in particular, is facing unprecedented demands and pressures on its services at a time when there are real challenges on both GP and nurse recruitment and retention, especially In the Gosport area" Two of eight medical practices have had to close their registers. Residents of the Gosport area were not able to change surgeries over the winter, as medical practices would be left with 'unsafe to manage' numbers of patients.

The British Medical Journal review, identified a deterioration in outcome for people that live further or take longer to get to hospital. Increased traffic along the route from Gosport areas to QA will increase the travel time.

Population density and housing:

The Office of National Statistics 2018 records the population density of Gosport as 3372 per km<sup>2</sup>. Therefore, making it one of the most densely populated areas in the UK.

Median house prices to median earnings ratio demonstrate it is one of the more affordable places in the county to live. Therefore, increased housing availability is unlikely to have the same impact of housing prices as exists in other parts of the county.

Gosport has areas ring-fenced as the top 10% most deprived areas in the UK. Without a train service, the routes out of the area, include the ferry and the Newgate Lane route. Clogging the arteries out of the area will further isolate those who need access to work and amenities. Therefore, isolating those residents on the uniquely positioned, peninsula and in deprived areas.

To summarise, it is on the basis of these points raised that we object to the mentioned planning applications and any building on the Strategic Gap. Please

see the additional comments for further points made.

- 6.4 A petition entitled 'Fareham and Gosport Residents against the development in the Strategic Gap' was published in March 2020 with an end date of 30<sup>th</sup> June 2020. At the end date, there were 133 signatories. It reads as follows:

*Fareham and Gosport Residents against the development in the Strategic Gap*

*We the undersigned petition the council to Stop the development of the Strategic gap between Fareham and Stubbington.*

*It would appear that in the past promises have been made by certain councillors to preserve the gap between Fareham & Stubbington. The residents now find that consideration is being given to develop the GAP. In a CAT meeting Sean Woodward said that there was a duty to help neighbouring areas (Portsmouth & Gosport) with housing. Gosport Borough Council have said that this is not the case and they do not need Fareham to help with housing. Portsmouth City Council have said that they have a short fall of 3000 houses. This would raise doubts over the numbers needed to be built as Portsmouth Planning Dept say that they are also in negotiation with other councils to provide them with help, Quote 'For us this means Fareham and Havant Borough's and the southern parts of Winchester and East Hampshire District's around the Waterloo/ Clanfield/ Horndean area.'*

*With all these areas being looked at and the fact that we already have Welbourne as a development I would suggest that we do not need to take the 1700 houses that Mr Woodward seems to think we need and using up lovely agricultural land and recreation area.*

- 6.5 The petitions may be debated as part of the consideration and deliberation of the planning application.

## 7.0 **Consultations**

### **EXTERNAL**

#### **HCC Highways**

- 7.1 The Highway Authority raises no objection to the proposal from a highways and safety perspective subject to a number of recommended conditions and the applicant entering into a Section 106 Legal Agreement to secure appropriate mitigation.

#### **Natural England**

- 7.2 The nutrient budget calculation shows the proposals will involve a net reduction

in nutrients compared to the current land use. Natural England concur with the conclusions and recommend this aspect can be screened out of an appropriate assessment.

- 7.3 Provided that the applicant is complying with the policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites and the Bird Aware Definitive Strategy, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and has no objection to this aspect of the application.
- 7.4 In respect of the Solent Wader and Brent Goose Strategy, Natural England thanks officers for requesting its advice on the updated Report to Inform Habitats Regulations Assessment Stage 1 and Stage 2 (WYG, March 2021), which sets out an approach to mitigate impacts on SPA functionally linked land, in particular the 'Low Use' site F13 which is identified within the Solent Wader and Brent Goose Strategy for supporting lapwing. This development, along with two related developments, will result in the partial loss of site F13 (4.03 ha for this development, 11.84ha in total), and Natural England have previously advised that mitigation is required. Where a financial contribution towards maintaining the network is proposed, it is Natural England's advice that further details are required with regards to the project to which the funds will be directed.
- 7.5 The mitigation strategy outlined within the WYG report proposes a change in management of a 5ha site near Old Street, Stubbington, to enhance the continued ecological function of the brent goose and wader network and support the adjacent Titchfield Haven National Nature Reserve. The proposals for a short sward grassland, uncultivated margins and wader scrapes are welcomed, as such habitats and features, where they are maintained in appropriate long term management, are likely to benefit SPA birds including lapwing.
- 7.6 It is advised that further details are required in the form of a detailed costed management and monitoring plan, to be agreed with Natural England and the competent authority. Such a plan should cater for instances where monitoring shows declining effectiveness and allow for remedial management measures. The mitigation land should be delivered in advance of any loss of SPA functionally linked land and managed by a suitable third party (such as LPA or NGO partner (or similar stable management body such as Land Trust)) in perpetuity.
- 7.7 Provided such arrangements can be put in place and appropriately secured with any granting of permission, Natural England consider such a strategy is appropriate and suitable in mitigating the effects on site F13.

### **HCC Flood Water Management Team**

- 7.8 No objection subject to planning condition.

### **HCC Archaeology**

- 7.9 No objection subject to planning condition.

### **HCC Children's Services**

- 7.10 Local schools in Gosport have places available, however until a review of catchment areas is undertaken it is not possible to identify which schools will serve this new housing development. Even if there is a capacity at a school, there may be a need for additional facilities due to suitability issues. In line with the Children's Services Developers' Contribution Policy a contribution to resolve building suitability issues at the Peel Common Infant and Junior Schools is required. A contribution of £120,000 is required, of which £20,000 should be classed as revenue funding to contribute towards the cost of producing school travel plans plus monitoring fees as well as undertaking any improvements to footpaths/cycleways to allow active travel to schools.

No objection is raised subject to the payment of the funding required.

### **HCC Minerals and Waste Planning Authority**

- 7.11 Evidence submitted by the applicant is sufficiently compelling to argue that prior extraction would not be a viable option for development. Recommends the inclusion of a condition requiring that minerals that can be viably recovered during the development operations are put to beneficial use and the quantity of recovered mineral is reported to the Mineral Planning Authority (MPA).

### **Gosport Borough Council**

- 7.12 Strongly object to planning application on the basis that it is located outside the settlement boundary and is located within the Strategic Gap. No weight should be given to the Draft Fareham Local Plan (DFLP) 2036 given the strength of objection to the proposed allocation HA2, which should properly be considered as part of the forthcoming Examination in Public into the DFLP in combination with other proposals within the existing Strategic Gap.

### **Southern Water**

- 7.13 Southern Water confirm that on the basis of initial investigations it can provide foul sewage disposal to service the proposed development. It recommends an informative to be attached to any planning consent and an appropriate planning condition to ensure details of the proposed means of foul and surface water sewerage disposal are submitted to, and approved in writing by, the Local Planning Authority.

### **Hampshire Fire and Rescue Service**

- 7.14 Access and facilities for fire service appliances and firefighters should be in accordance with the current Building Regulations. A series of advisory recommendations have been provided.

### **INTERNAL**

#### **Ecology**

- 7.15 No objection subject to planning conditions.

#### **Trees**

- 7.16 No objection subject to planning conditions.

#### **Environmental Health**

- 7.17 No objection subject to planning conditions.

#### **Contaminated Land Officer**

- 7.18 No objection subject to planning condition.

#### **Housing Officer**

- 7.19 Advice has been provided in respect of the affordable housing mix to be secured which will be the subject of detailed negotiations. Recommends 40% affordable housing is secured on site and that the full housing mix (by tenure, property size and location) be detailed at reserved matters stage to ensure a mixed community is provided. A condition is also recommended to ensure that any additional affordable housing to be provided on the site beyond the 40% identified as part of the s106 shall not be occupied until a community lettings plan has been agreed with the Local Planning Authority, and thereafter the housing should be occupied in accordance with the agreed Community Lettings Plan.

### **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) Implications of Fareham's current 5-year housing land supply position;
- b) Residential development in the countryside;
- c) The impact on 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 titled "Five year housing land supply position" was reported to Planning Committee on the 17th February 2021. That report sets out this Council's local housing need along with the Council's current housing land supply position. The report concluded that the Council has 4.2 years of housing supply against its five year housing land supply (5HLS) requirement.

8.3 Officers accept that the Council cannot currently demonstrate a 5-year supply of deliverable housing sites.

8.4 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".*

8.5 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).

8.6 Paragraph 59 of the NPPF seeks to significantly boost the supply of housing.

8.7 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.

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

*"For decision-taking this means:*

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

*d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 7 below), granting planning permission unless:*

- i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed (see footnote 6 below); or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

8.9 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.”*

8.10 Footnote 7 to paragraph 11 reads:

*"This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1."*

8.11 This planning application proposes new housing outside the defined urban settlement boundaries. Whilst the Housing Delivery Test results in December 2020 confirmed that the Council has not substantially under delivered its housing requirement, the Council cannot demonstrate a five year housing land supply. Footnote 7 to NPPF paragraph 11 is clear that in such circumstances those policies which are most important for determining the application are to be considered out-of-date meaning that the presumption in favour of sustainable development in paragraph 11(d) is engaged.



8.12 Taking the first limb of NPPF paragraph 11(d), as this report sets out, in this instance there are specific policies in the NPPF which protect areas of assets of particular importance namely European habitat sites which are specifically mentioned in footnote 6. Therefore a judgement will need to be reached as to whether policies in the Framework would have provided a clear reason for refusing the development. Where this is found to be the case, the development should be refused. The second limb of NPPF paragraph (d), namely whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole (the so called 'tilted balance') will only apply if it is judged that there are no clear reasons for refusing the development having applied the test at Limb 1.

8.13 Members will be mindful of Paragraph 177 of the NPPF which states that:

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

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

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

### **b) Residential Development in the Countryside**

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

8.17 Policy CS14 of the Core Strategy states that:

*'Built development on land outside the defined settlements will be strictly controlled to protect the countryside and coastline from development which would adversely affect its landscape character, appearance and function.'*

*Acceptable forms of development will include that essential for agriculture, forestry, horticulture and required infrastructure.'*

- 8.18 Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map).
- 8.19 The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6 and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.

### **c) The impact upon European Protected Sites**

- 8.20 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.
- 8.21 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.
- 8.22 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).
- 8.23 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. In this case, because an appeal has been lodged, it is the Planning Inspectorate.

- 8.24 When considering the proposed development there are three main likely significant effects on EPS.
- 8.25 The first likely significant effect on EPS relates to deterioration in the water environment through increased nitrogen. Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the European Protected Sites (EPS).
- 8.26 Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England have provided a methodology for calculating nutrient budgets and options for mitigation should this be necessary. The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research, however for each input there is a degree of uncertainty. Natural England advise local planning authorities to take a precautionary approach when addressing uncertainty and calculating nutrient budgets.
- 8.27 The applicant submitted a nitrate budget calculation based on Natural England's methodology dated March 2020. It is noted that this guidance was updated in June 2020, however the changes will not materially affect the previous calculation.
- 8.28 The calculation that the appellant has undertaken is based on an average household size of 2.4 persons in line with the Natural England guidance (March 2020). The appellant's calculation goes on to measure the total nitrogen load from the current land use and then calculates the nitrogen load from future land uses (the proposed development). The appellant's calculation demonstrates that there will be a net decrease in Total Nitrogen output from the site when it is fully occupied and therefore no mitigation is required.
- 8.29 A letter from the farmer confirming that the site has been in crop production since at least 2009 has been submitted. A tenancy agreement has also been submitted, however as the accompanying plan cannot be located, no weight can be attached to this.
- 8.30 Officers are satisfied however that sufficient evidence exists to substantiate the inputs used to calculate the existing nitrogen load. As the application is in outline

with layout reserved for future determination, any reliance on the illustrative masterplan to identify the amount of open space / SANG, and therefore calculate the nitrogen budget for future uses, must be treated with caution. It would be necessary to ensure that a minimum of 1.37 ha of open space / SANG could be secured as part of any reserved matters application in order to conclude that the development would not have a significant adverse effect on the EPS.

- 8.31 The second of these likely significant effects on EPS concerns recreational disturbance on The Solent coastline through an increase in population. Policy DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to The Solent Recreation Mitigation Strategy (SRMP). Had the proposal been found acceptable in all other regards the applicant would have been invited to make a financial contribution through the SRMS. In the absence however of a legal agreement to secure such a contribution, or the submission of evidence to demonstrate that the 'in combination' effects of the development can be avoided or mitigated in another way, the proposal is held to be contrary to Policy DSP15.
- 8.32 The third of these effects is the loss of a Low Use site (F15), as identified in The Solent Waders and Brent Goose Strategy (SWBGS). The level of mitigation and off-setting required is dependent on the importance of the site within the ecological network and how these non-designated sites support the wider designated Solent SPA network. All Low Use sites have the potential to be used by waders or brent geese and to support the existing network and provide alternative options and resilience for the future network.
- 8.33 The applicant has proposed an area of land to the west of Old Street, Hill Head which can be used as mitigation. The intention is to introduce an agricultural use to this area, comprising a four-year rotation of three years spring barley, followed by a break crop comprising grass clover ley. This will create suitable overwintering habitat for lapwing and other waders.
- 8.34 A Winter Bird Mitigation Strategy is included as part of the Appellant's 'shadow HRA' (Report to Inform Habitats Regulations Assessment Stage 1 and Stage 2, December 2020) which was submitted to FBC on 19th March 2021.
- 8.35 Natural England have been consulted on the shadow Appropriate Assessment and have responded that in respect of the Solent Wader and Brent Goose Strategy, the mitigation strategy outlined in the updated Report to Inform Habitats Regulations Assessment Stage 1 and Stage 2 is considered acceptable and suitable in mitigating the effects on the Low Use site, provided a

detailed costed management and monitoring plan, to be agreed with Natural England and the competent authority, can be put in place and appropriately secured with any granting of permission.

- 8.36 If the Council had been able to determine this application and had Officers been minded to recommend planning permission be granted, the information sought by Natural England would have been requested. Following those details being provided an Appropriate Assessment would have needed to have been carried out concluding no adverse effects on EPS before a decision to grant planning permission could have been made. In such a scenario it would have been necessary to secure the delivery of the Winter Bird Mitigation Strategy and a financial contribution through the SRMS by way of a suitably worded set of obligations in a Section 106 legal agreement. In the absence of such an agreement, the proposal would fail to appropriately secure this mitigation and would be contrary to Policies CS4, DSP13, DSP14 & DSP15. In this particular case however the Officer recommendation would have been to refuse planning permission and so since the application is not able to be favourably determined it has not been necessary for the authority to carry out an Appropriate Assessment.

#### **d) Policy DSP40**

- 8.37 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.

- 8.38 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".*

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

**Policy DSP40(i)**

8.40 The proposal for up to 99 dwellings is relative in scale to the 5YHLS shortfall and therefore bullet i) of Policy DSP40 is satisfied.

**Policy DSP40(ii)**

8.41 In respect of Policy DSP40(ii) there are four different policy requirements that must be met. First, is whether the development is sustainably located and second is whether is adjacent to an existing urban settlement boundary. In this respect Officers are satisfied that these requirements have been met.

8.42 The application site is immediately adjacent to the existing urban settlement boundary of Bridgemary and Woodcot in Gosport Borough with public open space at Brookers Lane recreation ground to the south.

8.43 The primary vehicular, pedestrian and cycle access is proposed in the southeast corner of the site onto Brookers Lane which will provide access to the local services and facilities in Bridgemary and Woodcot. The site is located within recommended walking distances to a range of local amenities as set out in Council's emerging Local Plan evidence base including Peel Common Infant and Junior School, Bridgemary Secondary School, the local centres at Tukes Road and Carisbrook Road, Bridgemary Medical Centre and Brooker Lane Recreation Ground.

8.44 Other potential pedestrian/cycling links are shown connecting to Brookers Lane to the southwest of the site and to land to the north on the Illustrative Masterplan.

8.45 A potential pedestrian/cycling link to the Heron Way to the east of the site in Bridgemary is also shown on the illustrative masterplan. HCC Highways has reported that Hampshire Constabulary has raised some concerns that this the route may give rise to potential opportunities for crime and anti-social behaviour. However, Officers consider that the illustrative pedestrian/cycle link would assist in achieving the integration of the development with the neighbouring settlement in line with Policy DSP40 (ii) and on this basis that it should be retained for further detailed consideration at the reserved matter stage.

8.46 HCC Highways report that the nearest bus stops to the site, and the only stops within the recommended 400m walking distance, are situated on Newgate Lane East. These serve the 21/21a route between Hill Head, Stubbington, Peel Common and Fareham, including the rail station. The bus service runs infrequently (every hour and 15 minutes) however, there are a number of alternative bus stops on Tukes Avenue at approximately 600m from the site (a 7

minute walk) serving various locations including Fareham with more frequent bus services (every 20 minutes). Officers therefore consider that suitable alternative options for bus travel are available.

- 8.47 Having regard to the above, Officers consider that the development would be capable of being well-integrated with the existing neighbouring settlement fulfilling the fourth requirement of Policy DSP40(ii).
- 8.48 The third requirement of the DPS40(ii) is that the development be well-related to the existing settlement boundary. The existing settlement boundary of Bridgemary is well-defined by an established mature belt of vegetation which provides a definitive edge to the existing urban area. The proposed development in this location does not represent a logical extension to this unequivocal settlement edge. The proposed development is of a scale such that it will significantly protrude and extend the urban settlement boundary into the countryside and the strategic gap, appearing incongruous. For this reason it is not considered to be well-related to the existing built form of the settlement boundary.
- 8.49 In summary, Officers consider that the application site is sustainably located adjacent to the existing urban settlement boundary and that the proposed development is capable of being well integrated with Bridgemary. However, it is not considered that the proposed development is well-related to the existing urban settlement boundary as it will represent an incongruous extension to Bridgemary beyond the well-established and clearly defined settlement boundary. For this reason, officers consider that the proposed development does not meet the requirements of Policy DSP40(ii).

#### **Policy DSP40(iii)**

- 8.50 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 located within the Fareham to Stubbington Strategic Gap.
- 8.51 The area is identified within the Fareham Landscape Assessment (FLA) 2017 as part of the Woodcot/Alver Valley landscape character area (LCA 8). The Woodcot/Alver Valley LCA is further divided into two sub-areas, with the site and its surrounding arable context falling within Sub-Area 8.1a.
- 8.52 The Landscape Sensitivity Assessment within the Fareham Landscape Assessment (2017) states that Sub-Area 8.1a is a highly sensitive landscape and that following the construction of Newgate Lane East there is '*very limited scope to accommodate development without a significant impact on the integrity of the area's rural, agricultural character and the role it performs in maintaining*

*the separate identity and character of the settlements and their landscape settings.'*

- 8.53 The site is also located within the Fareham-Stubbington Strategic Gap. A Technical Review of Areas of Special Landscape Quality and Strategic Gaps has been carried out (September 2020) in support of the emerging Local Plan review. This latest evidence base confirms the site's continued presence within the Fareham to Stubbington Strategic Gap, as part of Study Area 8c (gap between Stubbington, Fareham and Gosport). The Technical Review (Figure 4.2) identifies Newgate Lane East, which follows the site's western boundary, as a key vehicle route between the settlements from which to experience the Strategic Gap. The document also places value on the '*largely undeveloped views eastward from old Newgate Lane, to retain a sense of space and 'big skies'*' and on '*highlighting and retaining long north-south views*' and the '*important east to west 'sense of separation' with Peel Common.*'

#### *Effects upon Settlement Character*

- 8.54 In terms of the effects upon the local settlement character, the edge of Bridgemary is well-defined in this location, with a mature belt of tall vegetation containing and screening the western settlement edge from the adjacent countryside. The proposed development would breach this established boundary with an incongruous extension that would protrude into an area of open countryside that is identified as being highly sensitive to development.
- 8.55 Furthermore, the significant western expansion of Bridgemary as a result of the proposed development would result in a significant reduction in the identity of Peel Common as an isolated settlement within the Strategic Gap, with only Newgate Lane East separating the existing dwellings on Woodcote Lane from the development boundary.

#### *Effects upon the Countryside*

- 8.56 In terms of landscape impact, the proposed development will lead to a loss of a significant proportion of the open arable land that currently characterises the space between Bridgemary and Peel Common, which has been identified as being highly sensitive to development. It will exert a strong urbanising influence upon the adjacent arable areas to the north, making it more difficult to defend these parts of the open countryside from further development and it is likely to act in combination with Newgate Lane East to tip the balance of the area from a predominantly rural character to a predominantly urban one.
- 8.57 In terms of visual impact, the site occupies a restricted visual envelope with most public views occurring within its immediate vicinity, although these views are



often highly sensitive in nature. The site is also partially visible from Public Footpath Fareham 73 to the north-west. Some of the greatest visual impacts will be upon the pedestrian and cycle users of Brookers Lane, who currently experience a sense of passing through open land between the settlements of Bridgemary in the east and Peel Common in the west. The proposed development is anticipated to eliminate this, essentially connecting Bridgemary with Peel Common via the existing dwellings on Woodcote Lane. Additional groups who will likely be significantly affected are the users and residents of Curlew Walk on the edge of Bridgemary, who currently experience clear open views across the site, as well as the residents of Fulmar Walk. The users of Newgate Lane East will also be affected, with their experience of passing through a space between settlements substantially diminished.

- 8.58 Whilst landscape proposals were submitted with the application, these are illustrative and cannot address the greatest landscape impacts, which relate to the principle of development in this location. The proposals, which mainly comprise a 'landscape buffer' between 10m and 25m width on the western edge of the development, make a limited contribution to addressing the most sensitive visual receptors, which are located to the east and south.

#### *Effects upon the Strategic Gap*

- 8.59 The development of this site would compromise the integrity of the Strategic Gap, eliminating the open arable land between Bridgemary and Newgate Lane East in this location and significantly narrowing the gap between Bridgemary and Peel Common. This would interfere with the views both along and across the Alver Valley, which are valued within the recent Technical Review, and significantly erode the sense of separation of Peel Common. The development would also be clearly visible for those passing southwards on Newgate Lane East, adversely affecting the ability of users to experience the Gap between settlements.
- 8.60 In conclusion, there would be harm to the countryside and spatial development strategy as a matter of principle because the development would be outside the settlement boundary. However, and more importantly there would be an actual harmful and significant effect to the countryside and the strategic gap in this location as a result of the site specific development proposals. On that basis, the harm would not be minimised in accordance the requirements of Policy DSP40(iii). It is also considered that the proposed development would fail to reflect the settlement character of Peel Common and Bridgemary.
- 8.61 For these reasons, the proposed development does not meet the requirements of Policy DSP40(iii).

### **Policy DSP40(iv)**

- 8.62 In terms of delivery, the agent has advised that the site can deliver the first unit by April 2023, the 50<sup>th</sup> unit by April 2024 and the 99<sup>th</sup> unit by April 2025. The proposal would therefore be in accordance with Policy DSP40(iv).

### **Policy DSP40(v)**

- 8.63 The final test of Policy DSP40 requires that the proposal does not have any unacceptable environmental, amenity or traffic implications.

### ***Ecology***

- 8.64 An Ecological Assessment and surveys in respect of reptiles, great crested newts, dormouse, invertebrates, bats, badger, breeding and overwintering birds, otter and water vole have been submitted. Measures to enhance biodiversity of the site are proposed which includes installation of bird and bat boxes and reptile hibernacula, hedge enhancement and creation of meadow grassland.
- 8.65 Insofar as protected species on the site are concerned, and notwithstanding the matter of the loss of migratory bird habitat as explained earlier in this report, the Council's ecologist and Natural England are satisfied that the proposal is acceptable subject to planning conditions and appropriate mitigation including those detailed in the Ecological Mitigation and Management Plan (March 2020).

### ***Agricultural land***

- 8.66 Policy CS16 seeks to prevent the loss of the best and most versatile (BMV) agricultural land. The site contains some Grade 3a, i.e. best and most versatile agricultural land. The proposal would therefore be contrary to Policy CS16 and the permanent loss of BMV agricultural land weighs against granting planning permission in the balance of issues.
- 8.67 The proposal is considered to fail the fifth test of Policy DSP40 as a result of having unacceptable environmental implications.

### ***Amenity***

- 8.68 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.
- 8.69 Officers are satisfied that there is sufficient flexibility and control in the description of up to 99 units that this can be satisfactorily addressed to ensure that the proposal would be policy compliant.

### ***Highways***

- 8.70 Hampshire County Council, the highway authority, has provided detailed

comments (in its response dated 3rd June 2020).

- 8.71 Officers are satisfied that, subject to the proposed improvements to off-site infrastructure and pedestrian/cycle connections in and out of the site being delivered, the development is sustainably located and appropriate opportunities to promote walking, cycling and the use of public transport as alternative to the private motor car can be secured through a Travel Plan, subject to the applicant entering into s106 agreement.
- 8.72 Footway widening works by the developer to be secured through a Section 278 agreement are proposed to the walking and cycling route to Peel Common Infant and Junior School. An additional contribution towards school travel planning has also been requested as part of HCC's Children's Services Department education contribution.
- 8.73 Further local accessibility improvements are also proposed to Woodcot Primary School and the Tukes Avenue Local Centre; to Holbrook Primary School; Bridgemary School; and to Nobes Avenue Local Centre. Pedestrian and cycling improvements at the Brookers Lane crossing of Newgate Lane East are also proposed. These improvements would be funded by the developer with a financial contribution secured through a Section 106 obligation.
- 8.74 A suitably worded planning condition/s106 obligation would be required to ensure that the detailed layout to be agreed at the reserved matters stage makes provision for future pedestrian and cycle links to Brookers Lane and along the eastern boundary of the site to link the north of the site to the vehicular access as shown on the indicative masterplan. These links must be secured in perpetuity, be appropriate surfaced and lit and be offered for adoption as public highway.
- 8.75 The sole vehicular access into the site is to be via Brookers Lane and this is considered acceptable by the Highway Authority. The northern footpath at the site entrance will be narrowed to 1.8m for a short section to avoid encroachment into the root protection zone of a large oak tree in the vicinity of the site access. A suitably worded planning condition would be required to preclude vehicular access to land to the north to prevent any further development being served from the access road onto Brookers Lane.
- 8.76 The appeal against the refusal of the identical planning application submitted to Gosport Borough Council will be heard at the same time as the proposed development. As part of the access road falls within Gosport Borough, and had the Council been able to determine the application, Officers would have recommended that a planning condition is required to prevent the commencement of the development until planning permission for a suitable

vehicular, pedestrian and cycling access had been granted by Gosport Borough . The occupation of the development would need also need to be restricted until the access had been constructed and made available for use.

- 8.77 The proposed site access will result in motorised vehicles using an area where driving is currently prohibited. As such, the existing Prohibition of Driving TRO will need to be amended prior to the commencement of works. This amendment can be secured through a Section 106 agreement entered into with the applicant. A TRO contribution of £5,000 towards parking restrictions on Brookers Lane in the vicinity of the site access can also be sought, to be used should parking restrictions be required to maintain suitable access.
- 8.78 Other matters in relation to the loss of five on-road parking spaces in Brookers Lane in Gosport Borough can be compensated for by the provision of five publicly available parking spaces being provided on land close to Brookers Lane within the development to be available in perpetuity. The exact location of the parking spaces can be agreed at the reserved matters stage and the requirement can be dealt with through a s106 agreement entered into with the applicant.
- 8.79 Off-site safety improvements to the junction of Brookers Lane, Tukes and Avenue and Carisbrooke road are also required. This improvement would also be funded by the developer with a financial contribution secured through a Section 106 obligation.
- 8.80 The highway Authority recommend that a Construction Transport Management Plan be secured via condition.
- 8.81 In summary, subject to the applicant entering into a Section 106 agreement to secure the various measures and financial contributions detailed in the Recommendation section of this report, it is considered the development would not have an unacceptable impact on highway safety and that the residual cumulative impacts on the road network would not be severe in accordance with the NPPF paragraph 109.
- 8.82 For the above reasons, Officers are satisfied that the proposal would not have any unacceptable amenity or traffic implications, however there are unacceptable environmental impacts arising from the loss of BMV agricultural land and subject to mitigation measures for the loss of migratory bird habitats being found to be acceptable. The development does not therefore meet the requirements of criteria (v) of DSP40.

#### **d) Other matters**

### **Affordable Housing**

- 8.83 The proposal for up to 99 dwellings is for 100% affordable housing incorporating a mix of housing types, sizes and tenures. The applicant is working in association with Vivid, the largest housing association in Hampshire. The provision of affordable housing is a significant material benefit to be weighed in the planning balance.
- 8.84 The applicant proposes that 40% of the dwellings will be available to those on the Council's waiting list only. The remaining 60% of homes will be determined by the applicant at the reserved matters stage but the applicant expects that there will be a mix of tenures including rented and shared ownership, with a high proportion likely to be shared ownership/intermediate homes.
- 8.85 Subject to an appropriate size, mix and tenure being agreed to meet the identified local need to comply with Policy CS18, officers consider this is acceptable. It would be appropriate for 40% of the dwellings in accordance with Policy CS18 to be secured via a Section 106 legal agreement. A planning condition could be used ensure to that any additional affordable housing to be provided on the site beyond the 40% identified as part of the s106 shall not be occupied until a community lettings plan has been agreed with the Local Planning Authority. Thereafter any additional affordable housing to be provided on the site beyond the 40% identified as part of the s106 will be occupied in accordance with the agreed Community Lettings Plan.

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

- 8.86 Public open space will be provided on site and will include informal amenity space and a LEAP as shown indicatively on the submitted plans.
- 8.87 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). This can be secured via a Section 106 legal agreement.

### **Effect upon Local Infrastructure**

- 8.88 Concerns have been raised over the effect of the number of dwellings on schools, doctors and other services in the area.
- 8.89 Hampshire County Council have identified a need to improve infrastructure and address suitability issues at local schools so that existing nominal capacity can be fully used to meet the additional demand from the development. A financial contribution can be secured through the Section 106 legal agreement.
- 8.90 The difficulty in obtaining doctor's appointments and dental services is an issue

regularly raised in respect of new housing proposals. It is ultimately for the health providers to decide how they deliver their services. A refusal on these grounds could not be substantiated.

- 8.91 The Lead Local Flood Authority are content with the general principles for the surface water drainage proposals.

#### **Other third party concerns**

- 8.92 With regard to concern over noise and air quality the Council's Environmental Health officer has not raised concerns in this regard subject to conditions to secure appropriate noise mitigation measures at the reserved matters stage.

#### **Draft Local Plan**

- 8.93 Members will be aware that the Regulation 19 Publication Local Plan which addresses the Borough's development requirements up until 2036, was subject to consultation between 6th November and 18th December 2020. Whilst the site of this planning application was formerly part of the HA2 allocation that was include in the Regulation 18 Draft Local Plan in 2017, the HA2 allocation no longer forms part of the Council's proposed spatial development strategy.
- 8.94 Further consultation on changes to the Publication Local Plan is expected in early summer 2021 following the Government's recent announcement that housing requirements in Fareham Borough is 508 homes per year as opposed to 403 homes proposed in the Regulation 19 Publication Local Plan in Autumn 2020.

#### **e) The Planning Balance**

- 8.95 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".*

- 8.96 As set out in paragraph 8.13 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 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".*

- 8.97 The effect of NPPF paragraph 177 means that if having carried out an Appropriate Assessment it is concluded that the proposal is likely to have an adverse effect on the integrity of a habitats sites, then the application can be determined in accordance with paragraph 38(6) under the 'straight' balance.
- 8.98 In this instance Officers have identified likely significant effects on a upon The Solent and Southampton Water Special Protection Area, a Ramsar site, Solent Maritime Special Area of Conservation. Officers acknowledge that likely significant effects could be addressed by securing a payment towards the SRMS to mitigate the impact of recreational disturbance. Appropriate mitigation for the loss of a low use Brent geese and waders site is set out the Winter Bird Mitigation Strategy submitted by the Applicant. A 'shadow' Appropriate Assessment has also been submitted by the applicant and Natural England has been consulted responding that a detailed costed management and monitoring plan, to be agreed with Natural England and the competent authority, is required to be put in place and appropriately secured with any granting of permission.
- 8.99 If the Council had been able to determine this application and had Officers been minded to recommend planning permission be granted, the information sought by Natural England would have been requested and following receipt of those details, an Appropriate Assessment would have needed to have been carried out concluding no adverse effects on EPS before a decision to grant planning permission could have been made. In such a scenario it would have been necessary to secure the delivery of the Winter Bird Mitigation Strategy and a financial contribution through the SRMS by way of a suitably worded set of obligations in a Section 106 legal agreement. In the absence of such an agreement, the proposal would fail to appropriately secure this mitigation and would be contrary to Policies CS4, DSP13, DSP14 & DSP15. In this particular case however the Officer recommendation would have been to refuse planning permission and so since the application is not able to be favourably determined it has not been necessary for the authority to carry out an Appropriate Assessment.
- 8.100 As the application is the subject of Appeal, should the Inspector be minded to grant permission for the development then it would fall to the Inspector as the Competent Authority to undertake this Appropriate Assessment.
- 8.101 If having carried out an Appropriate Assessment, the Inspector judges that the proposal would not adversely affect the integrity of the habitat sites, then the application, given a 5YHS shortfall, must be determined in accordance Paragraph 11(d). In this instance, Limb i) of Paragraph 11 d would be met (there would be no clear reason for refusing the development remaining if potential impacts on habitat sites have been addressed) and the application would fall to be determined under Limb ii), applying the presumption in favour of sustainable

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

- 8.102 The site is outside of the defined urban settlement boundary and the proposed development does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan.
- 8.103 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 5YHLS position report presented to the Planning Committee in February this year and the Government's steer in respect of housing delivery.
- 8.104 In weighing up the material considerations and conflict between policies; the development of a greenfield site weighed against Policy DSP40, Officers have concluded that the proposal satisfies three of the five policy tests (points) (i), (ii) and (iv).
- 8.105 With regard to Policy DSP40(ii) Officers consider that the application site is sustainably located adjacent to the existing urban settlement boundary and that the proposed development is capable of being well integrated with Bridgemark. However, it is not considered that the proposed development is well-related to the existing urban settlement boundary as it will represent an incongruous extension to Bridgemark beyond the well-established and clearly defined settlement boundary. For this reason, officers consider that the proposed development does not meet the requirements of Policy DSP40(ii).
- 8.106 With regards to Policy DSP40(iii) Officers considered that there would be a harmful and significant effect to the countryside and the strategic gap in this location as a result of the site specific development proposals and on this basis the harm has not been minimised in accordance the requirements of Policy DSP40(iii). It is also considered that the proposed development would fail to reflect the settlement character of Peel Common and Bridgemark. The proposal therefore fails to satisfy this policy test and is also considered contrary to Policies CS14 and CS17.
- 8.107 With regard to Policy DSP40 (v) there would be an unacceptable environmental impact arising from the loss of BMV agricultural land and also an unacceptable environmental impact subject to mitigation measures for the loss of migratory bird habitats being found to be acceptable.



8.108 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 99 affordable dwellings in the short term. The contribution the proposed scheme would make towards boosting the Borough's housing supply is in itself a significant material consideration, in the light of this Council's current 5YHLS. However, the fact that the proposal is for 100% affordable housing is an additional significant benefit. Added to this is the modest benefit of the additional jobs and expenditure in the locality arising from construction activity and the completed development itself. Other benefits purported by the applicant, such as the ecological enhancement measures, are in reality mitigation measures which offset the harm arising in various matters.

8.109 Officers have carefully weighed the benefits which would be delivered by the proposals, having regard for the Council's 5 year housing land supply position, against the conflict with adopted local plan policies and paragraphs 127(c) and 170(b) of the NPPF. In Officer's views, the harm to the character and appearance of the countryside and the integrity of the strategic gap, and the loss of BMV agricultural land (albeit of minor significance) outweigh the benefits arising from the scheme.

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

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

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

8.111 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should not have been granted.

## 9.0 ***Recommendation***

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

The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS16, CS17, CS18, CS20, CS21 and CS22 of the Adopted Fareham Borough Core Strategy 2011 and Policies DSP6, DSP13, DSP14, DSP15 & DSP40 of the

Adopted Local Plan Part 2: Development Site and Policies Plan, paragraphs 127(c) and 170(b) of the NPPF and is unacceptable in that:

- a) The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The proposed development would not be well-related to the existing urban settlement boundary.
- c) The proposed development 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;
- d) The provision of development in this location would significantly affect the integrity of the strategic gap and the physical and visual separation of settlements;
- e) The proposal would result in the loss of best and most versatile agricultural land;
- 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 impacts of recreational disturbance;
- g) 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 as a result of the loss of a Low Use site for brent geese and waders;
- h) In the absence of a legal agreement to secure the provision of open space and facilities and contributions toward the associated management and maintenance, the recreational needs of residents of the proposed development would not be met;
- i) In the absence of a legal agreement to secure such, the proposal fails to make on-site provision of affordable housing at a level in accordance with the requirements of the local plan;
- j) In the absence of a legal agreement to secure contributions to education, the needs of residents of the proposed development would not be met;

- k) In the absence of a legal agreement to secure the submission and implementation of a full Travel Plan, payment of the Travel Plan approval and monitoring fees and the provision of a surety mechanism to ensure implementation of the Travel Plan, the proposed development would not make the necessary provision to ensure measures are in place to assist in reducing the dependency on the use of the private motorcar;
- l) In the absence of a legal agreement to secure the implementation of footway improvements to The Drive; pedestrian/cycling improvements to the crossing at Brookers Lane; and local accessibility improvements to Woodcot Primary School and Tukes Avenue Local Centre, Holbrook Primary School and Bridgemary School and Nobes Avenue Local Centre, appropriate opportunities to promote sustainable modes of access would not be provided;
- m) In the absence of a legal agreement to secure an amendment to the Prohibition of Driving Order TRO on Brookers Lane and contribution toward parking restrictions on Brookers Lane; an appropriate means of site access would not be provided;
- n) In the absence of a legal agreement to secure contributions towards safety improvements at the junction of Brookers Lane/Tukes Avenue and Carisbrooke Road, there would be an unacceptable impact on highway safety.

10.0 **Notes for information:**

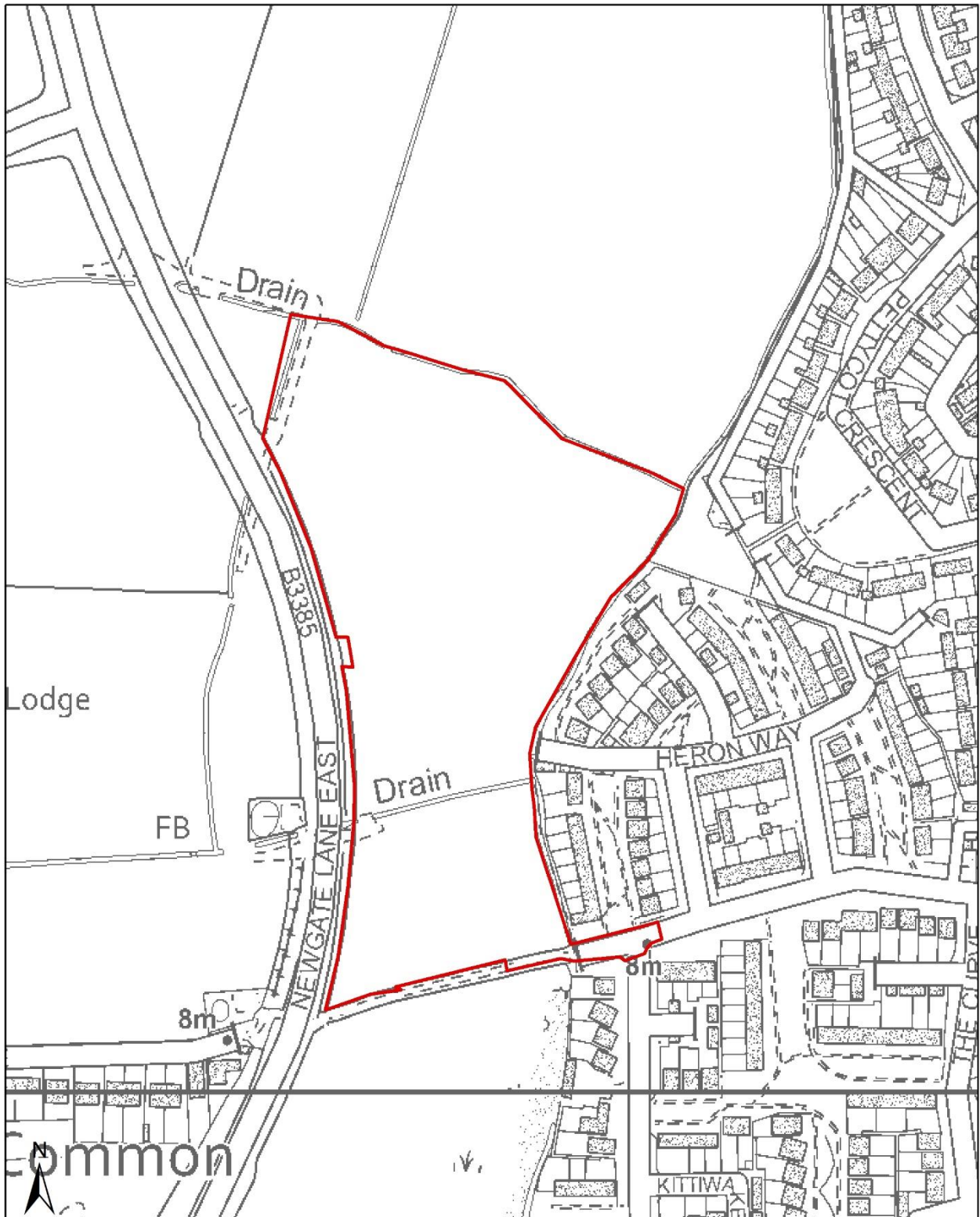
10.1 Had it not been for the overriding reasons for refusal to the proposal, the Local Planning Authority would have sought to address points f) - n) above by inviting the applicant to enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990.

11.0 **Background Papers**

P/19/1260/OA

# FAREHAM

BOROUGH COUNCIL



Land East of Newgate Lane East

Scale 1:2,500

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