

FAREHAM BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL

APPEAL by Miller Homes against the decisions of Fareham Borough Council to refuse to grant planning permission for **Outline application with all matters reserved (except for the means of access) for residential development, demolition of existing agricultural buildings and the construction of new buildings providing up to 350 dwellings; the creation of new vehicular access with footways and cycleways; provision of landscaped communal amenity space, including children's play space; creation of public open space; together with associated highways, landscaping, drainage and utilities. on **Land East of Down End Road, Portchester, Fareham, Hampshire****

Planning Inspectorate Reference: APP/A1720/W/21/3272188

Local Authority's Reference: P/20/0912/OA

APPENDICES TO PROOF OF EVIDENCE OF STEPHEN JUPP MRTPI ON BEHALF OF FAREHAM BOROUGH COUNCIL

Appendices

NB: Appendices FBC.1 to FBC.10 are attached to the Council's Statement of Case.

- FBC.11 Officer Report to the April Planning Committee on P/18/0005/OA
- FBC.12 Decision notice on P/18/0005/OA
- FBC.13 Appeal decision on P/18/0005/OA - 3230015
- FBC.14 Appeal decision letter - Land off Station Road, Long Melford
APP/D3505/W/18/3214377
- FBC.15 Appeal decision letter - Land East of Posbrook Lane, Titchfield
APP/A1720/W/20/3199119
- FBC.16 Committee report – 22 – 27a Stubbington Green
- FBC.17 HRA-AA 22 – 27a Stubbington Green
- FBC.18 Natural England response – 22 – 27a Stubbington Green
- FBC.19 Coleman's Lane Nitrate Mitigation Scheme – Officer Report
- FBC.20 Supplementary Planning Statement re. revised Welborne Planning
Application
- FBC.21 Written statement from Leader of the Council at Full Council meeting on
10th June 2021
- FBC.22 Press release: Revised Welborne Planning Application (dated 10th June
2021)
- FBC.23 Appeal decision letter - Land off Daking Avenue, Boxford
APP/D3505/W/18/3197391

APPENDIX FBC.11

Officer Report to the April Planning
Committee on P/18/0005/OA

OFFICER REPORT FOR COMMITTEE

DATE: 24/04/2019

P/18/0005/OA
MILLER HOMES

PORTCHESTER WEST
AGENT: TERENCE O'ROURKE
LIMITED

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT THE MEANS OF ACCESS) FOR RESIDENTIAL DEVELOPMENT, DEMOLITION OF EXISTING AGRICULTURAL BUILDINGS AND THE CONSTRUCTION OF NEW BUILDINGS PROVIDING UP TO 350 DWELLINGS; THE CREATION OF NEW VEHICULAR ACCESS WITH FOOTWAYS AND CYCLEWAYS; PROVISION OF LANDSCAPED COMMUNAL AMENITY SPACE, INCLUDING CHILDREN'S PLAY SPACE; CREATION OF PUBLIC OPEN SPACE; TOGETHER WITH ASSOCIATED HIGHWAYS, LANDSCAPING, DRAINAGE AND UTILITIES

LAND EAST OF DOWN END ROAD, FAREHAM

Report By

Richard Wright – direct dial 01329 824758

1.0 Introduction

- 1.1 This application has been presented to the Planning Committee due to the number of third party representations received.
- 1.2 Members will note from the 'Five Year Housing Land Supply Position' report elsewhere on this agenda that this Council currently has a housing land supply of 4.66 years.
- 1.3 This application was previously considered by Members at the Planning Committee meeting held on Wednesday 16th January this year. Members resolved to defer the application to allow the applicant to further consider the proposed improvement to the railway bridge on Down End Road. Paragraphs 8.52 – 8.53 of this report specifically address those matters.
- 1.4 To meet the Council's duty as the competent authority under the Conservation of Habitats and Species Regulations 2017 ("the habitats regulations"), a Habitats Regulations Assessment has been produced including a Stage 3 Appropriate Assessment. The assessment concludes that there would be no adverse effects on the integrity of the identified designated sites.

2.0 Site Description

- 2.1 The application site is located on the slopes of Portsdown Hill north of the Portsmouth to Southampton railway line which forms the development's

southern boundary. The site comprises agricultural land and paddocks with farm buildings at its centre. The site is in the countryside and lies outside of the urban settlement boundary as defined in the adopted local plan. To its east is Portchester Crematorium and the Memorial Gardens whilst to its north-west is an open-air waste facility. Close by on the eastern side of Down End Road is a small group of residential and commercial properties.

- 2.2 Vehicular access is provided in two places, on the eastern side of Down End Road and from The Thicket via a bridge across the railway line (Cams Bridge). A building used as a motor repairs business is located close to the northern side of the bridge however the red edge of the application site is drawn so as not to include that building.

3.0 Description of Proposal

- 3.1 Outline planning permission is sought for the demolition of the existing agricultural buildings on the site and the construction of up to 350 dwellings.
- 3.2 The means of access to the site is proposed at three separate points. Vehicular access and a footway for pedestrians would be formed with a new junction on the eastern side of Down End Road at the western extent of the application site. Meanwhile a new pedestrian and cycle connection with Upper Cornaway Lane would be provided at the other end of the site at its eastern extent. The main pedestrian and cycle access to and from the site would however be via the existing track leading across Cams Bridge to The Thicket. That track is subject to proposed improvements as part of a separate planning application also on this agenda (application reference P/18/0001/OA).
- 3.3 Matters of scale, appearance, layout and landscaping are to be reserved however the applicant has submitted a Landscape Parameter Plan for consideration which shows the location of open space and attenuation drainage features amongst other things.

4.0 Policies

- 4.1 The following policies are relevant 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
CS21 - Protection and Provision of Open Space

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
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)
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 271 representations received (369 if including multiple responses from the same persons). Of the 271 representations, there have been 260 letters objecting to the proposal and 6 letters of support. The remaining 5 representations requested clarification or advice.

6.2 *Objections*

General

- All brownfield sites should be exhausted first
- Further loss of green land around Portchester
- Better sites elsewhere (Newlands?)
- Application is premature to the full consideration of the emerging Local Plan
- Development should not be considered in isolation
- The area is open space in the current local plan
- Overdevelopment

- Welborne should be sufficient – Council stated no further development in Fareham
- No notification of application
- Loss of outlook
- Loss of trees
- Loss of view

Highways

- Road infrastructure unable to accommodate additional pressure (Delme Roundabout; A27 traffic lights)
- Downend Road (narrow bridge) not suitable for extra load – cars will divert through local roads including The Thicket and St Catherines Way
- Possible footbridge required
- Narrow Bridge on Downend Road not suitable for pedestrians and none of the options would lack adverse implications
- Only solution to bridge is a new much wider one
- Transport Assessment too 'narrow'
- Why no investigation into using Veolia access?
- Access should be provided to Upper Cornaway Lane
- Reduced speed limits and traffic calming
- Photographs taken with unusually light traffic
- Traffic monitoring time inadequate
- Use Veolia Haul Road to get traffic to M27
- Use of MOVA [Microprocessor Optimised Vehicle Actuation] is not appropriate because this controls one junction at a time but the congestion issues are wider
- Roads in the area are simply overloaded – detailed plans are required to show how this will be alleviated
- Roads are not capable of accepting the proposed changes
- Too much congestion on Downend Road, The A27, The Thicket and the Delme roundabout
- An increase of speeding traffic along The Thicket.
- The area is traffic gridlocked on a daily basis
- Encouragement of residents to use alternative transport is too little and will not work
- Congestion on the narrow bridge over the railway for all including the emergency services and especially the ambulances which use this route
- Fundamental traffic issues not resolved so this will only be worsened
- There should be an access at the east side of the site to give access to Portchester services
- Changes should be instigated first and monitored for impact before any development takes place

Environmental

- Loss of ecology
- Destruction of wild life habitat

- Noise disturbance
- Air pollution
- Adverse impact on health and wellbeing of children at Cams School
- Possible smells and noise from pumping station
- Ridgeway notified as being in nitrogen dioxide at risk zone – development would surely worsen this
- Pollution of water table from adjacent waste use
- Loss of more farmland
- Add to flooding beyond site
- Need for new sewerage system

Impact on local services

- No development until infrastructure is put in place
- Healthcare unable to cope
- Schools are at capacity
- Contributions required for both primary and secondary schooling
- Strain on local services
- Insufficient affordable houses and lack of guarantees as to provision
- Lack of infrastructure in the application

6.3 Support

- Need for new houses but entrance and exit around the Seagull Roundabout area
- Cannot keep putting off hard decisions about housing provision
- Subject to adequate affordable housing and pedestrian and cycle way provision
- New business and opportunities
- Traffic in the area has been reduced by closing of DRA – this development will not increase the traffic as much as when all sites on Portsdown Hill were fully manned
- Boost to economy
- Those on housing waiting list need more houses

7.0 Consultations

EXTERNAL

NHS – South Eastern Hampshire CCG

- 7.1 The development is featured in the Fareham Borough [Draft] Local Plan 2036 and has already been identified as one which could have a direct impact on healthcare services in the area. The CCG commented on the Draft Local Plan in December 2017 and do not wish to make any further comment at this time.
- 7.2 In the CCG response on the Draft Local Plan in December 2017, concern was raised there would be additional pressure on existing NHS services in primary, community and secondary care settings arising from increased

development and a corresponding rise in the local population. The response goes on to explain that, notwithstanding, the level of additional demand that will be placed on NHS primary care does not warrant the commissioning of an additional GP surgery. The increased demand will be accommodated by the existing GP surgeries open to new registration requests from people living in the area of the proposed development however additional capacity within the premises will be required. In order to meet the additional demand on health services that new housing will bring, the CCG would wish to apply for Section 106 or CIL contributions on individual schemes on behalf of local GP practices to enable targeted infrastructure improvements for existing local practices.

HCC Highways

- 7.3 Please See Appendix 1 to this Officer's report for comments received on 29th August 2018 and Appendix 2 to this Officer's report for further comments received on 12th March 2019.

HCC – Archaeology

- 7.4 The applicant's Heritage Statement identifies potentially highly significant archaeological deposits particularly in the eastern half of the site. No objection subject to conditions.

HCC - Flood Water Management Team

- 7.5 The general principles of the drainage strategy are acceptable. No objection subject to condition securing further details.

HCC – Countryside Service (Public Rights of Way)

- 7.6 To enhance the access network and to support sustainable travel, it is requested that a safe and convenient public route be provided east-west across the site, linking Footpath 109 and Footpath 117. In addition, a development of this scale will generate substantial additional use upon the local rights of way network, most notably Footpath 117, that provide links to Fort Nelson downland area and Portsdown Hill Road. It is likely that this route would be used extensively for dog walking. To mitigate for this increased footfall and to ensure that additional dogs do not have an adverse impact upon the Fort Nelson SINC, it is requested that Footpath 117 be resurfaced and an additional dog bin be provided (at an estimated cost of £119,825). Should the east-west public route not be provided and the above contribution not be agreed we object to this application.

HCC - Children's Services

- 7.7 This development represents a significant level of additional dwellings in this area and will impact on the supply of school places locally. This justifies a contribution being sought towards the provision of primary education infrastructure.

In line with HCC's Children's Services Developers' Contributions Policy the development should contribute to provision of infrastructure at local schools due to the additional pressure that will be placed on school places. Due to the significant level of proposed housing in the local area investigations are under way as to the requirement for additional places at local schools. To mitigate the impact of this development on school places a contribution should be made. The planning and provision of additional school places is an increasingly complex task with regard to catering for growing populations, inward migration and new housing developments. Individual schools, subject to status, now have greater autonomy regarding admission numbers and decisions surrounding school expansions, adding further complexity to the role the County Council must undertake. For this reason, and that schools need to be organised and of a size to create an organisational structure that is sustainable and sensible, planning for the impact of these developments, and others locally, takes time to resolve with local schools. Hence, at this stage it is not possible to confirm what infrastructure is to be provided to mitigate the impact on school places in the local area. However it is likely that additional infrastructure will be needed at the primary phase in the local area and this will be provided at either Red Barn Primary School or Northern Infant and Junior Schools.

The pupil yield is likely to be 105 primary age pupils based upon a primary pupil yield of 0.3 children per dwelling. In line with the policy a contribution of £17,971 per primary pupil place should be made based on an expansion by 0.5 forms of entry (105 places). For primary this totals £1,886,955.

This amount should be able to be used flexibly to respond to the proposed strategy for delivering any additional facilities that may be required or to assist with home to school transport costs.

Key is the creation of pedestrian and cycle routes from this development to existing schools. It should be ensured that the developer provides safe routes to the schools which should include lighting where appropriate. A contribution towards the cost of providing school travel plans for both schools including on-going monitoring fees should be made. This should total £25,000.

HCC – Minerals and Waste Planning Authority

7.8 No objection.

Natural England

7.9 No objection subject to appropriate mitigation being secured.

Southern Water

7.10 No objection.

Hampshire Constabulary - Crime Prevention Design Officer

7.11 To reduce the opportunities for crime the access route to the east (to Upper Cornaway Lane) should be at least 3m wide, any planting along the route should be low so as not to create a place in which a person might lie in wait and column lighting should be provided. There should be good natural surveillance of the open space and the sports pitches from the nearby dwellings.

Further advice provided which would be for consideration at the detailed reserved matters stage.

Portsmouth City Council

7.12 No comments or observations are offered.

Network Rail

7.13 No objection subject to condition.

INTERNAL

Trees

7.14 No objections subject to detailed landscaping and tree protection plan.

Ecology

7.15 No objection subject to conditions.

Environmental Health (Noise/Pollution)

7.16 No objection.

Environmental Health (Contamination)

7.17 No objection subject to condition.

Tree Officer

7.18 No objection subject to planning condition.

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) Residential development in the countryside;
- c) Policy DSP40;
- d) Other matters;

e) 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" is reported for Members' information elsewhere on this agenda. That report sets out this Council's local housing need along with this Council's current housing land supply position. The report concludes that this Council has 4.66 years of housing supply against the new 5YHLS requirement.

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

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

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

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

8.6 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.

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

"For decision-taking this means:

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

- *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:*
 - 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; or*
 - ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

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

8.9 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.”

8.10 The wording of this paragraph was recently amended by government to clarify that in cases such as this one where an appropriate assessment had concluded that the proposal would not adversely affect the integrity of the habitats site the presumption in favour of sustainable development set out in Paragraph 11 does apply.

8.11 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

8.12 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.

- 8.13 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.'
- 8.14 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).
- 8.15 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) Policy DSP40

- 8.16 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".*
- 8.17 Each of these five bullet points are worked through in turn below.

Policy DSP40 (i)

- 8.18 The proposal is for 350 dwellings however not all of those dwellings are expected to be completed within the five year period up until April 2024.

8.19 The applicant anticipates that there will be two house builders on site. As such the development is expected to be able to deliver between 60 to 120 dwellings per annum including affordable units. Based on an anticipated start on site approximately two years from now Officers believe it is reasonable to expect that some 200 of those dwellings would be delivered within the five year housing land supply period.

8.20 The proposal is considered relative in scale to the 5YHLS shortfall and therefore bullet point i) of Policy DSP40 is satisfied.

Policy DSP40 (ii)

8.21 The site is in a sustainable location in close proximity to local schools (Red Barn Primary School, Northern Infant and Junior Schools, Wicor Primary School and Cams Hill Secondary School), Portchester Community Centre and Westlands Medical Centre. The A27 is close by where regular bus services run eastwards towards Portsmouth and westwards towards Fareham. Eastwards Portchester District Centre provides retail opportunities nearby and beyond the centre lies the employment areas of Murrills Estate and Castle Trading Estate. Portchester Railway Station is located within 1.5km of the site. Westwards lies Fareham Town Centre approximately 1.7km from the vehicular access to the site.

8.22 The site is located adjacent to the existing urban area. The easterly pedestrian and cycle connection to Upper Cornaway Lane lies adjacent to Northfield Park and the residential cul-de-sac Lancaster Close. The residential streets of Winnham Drive, Tamar Close, The Pines and The Thicket lie on the immediate opposite side of the railway line to the site. The connectivity proposed by the access across Cams Bridge and to Upper Cornaway Lane/Lancaster Close would assist in integrating the site with those existing adjacent residential areas.

8.23 The proposal is considered to accord with Policy DSP40(ii).

Policy DSP40 (iii)

8.24 The application is in outline form meaning consideration of the layout, scale and appearance of the development are reserved matters. However, taking into account the quantum of development proposed of 350 homes and the parameters provided in the submitted Landscape Parameters Plan, Officers have no concerns that the scheme could not be delivered to successfully reflect the character of the existing settlement of Portchester through a sensitive design approach to accord with Policy DSP40(iii).

8.25 The site is within an area of countryside but is not designated as strategic gap. The site occupies an area of farmland on the lower slopes of Portsdown

Hill. The Fareham Landscape Assessment 2017 (which is part of the published evidence base for the draft Fareham Local Plan 2036) indicates that:

“The overall character of the area is of undistinguished farmland and modified landscape disconnected from the wider rural landscape... and which lacks any special qualities or features of recognised landscape value.... The generally low visual sensitivity of the area means there is potential for some development, particularly the lower slopes to maintain longer views to the green character of high ground to the north and further mitigated through the introduction of substantial new planting, east-west GI corridors, maintenance of the rural appearance of Down End Road and ensuring development flows with the natural topography”.

- 8.26 The proposed development would inevitably result in long term adverse change to the landscape character of the countryside. However, the application proposal seeks to minimise this impact by assimilating the development into the landscape in a sensitive way. Importantly the submitted Landscape Parameters Plan shows how the parcels of development on the site would be broken up by north-south landscape corridors of green open space. Those corridors would act to maintain views up the hillside to the higher ground as encouraged by the 2017 landscape assessment and along with the other open space shown to be retained would provide space for the required new planting and green infrastructure linkages.
- 8.27 Officers consider that the adverse visual impacts of the development could be mitigated to a satisfactory extent so as to accord with the test set out at point iii) of Policy DSP40.

Policy DSP40 (iv)

- 8.28 The applicant has stated that, should outline permission be granted, they would hope to be in a position to submit a reserved matters application within 6 months. They would anticipate being on site within 12 months of the last of those reserved matters being approved.
- 8.29 As reported above, Officers consider that it would be reasonable to expect 200 of the 350 homes proposed on the site to be delivered within the five year housing land supply period up to April 2024. The remaining homes would be delivered at an average rate of 90 homes per annum meaning completion of the final residential units would be achieved by the end of the year 2025.
- 8.30 Officers consider that the site is therefore deliverable in the short term thereby satisfying the requirement of Policy DSP40(iv).

Policy DSP40 (v)

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

Loss of Agricultural Land

- 8.32 The site is classified as Grade 3a or 3b agricultural land. Grades 1, 2 & 3a agricultural land constitutes best and most versatile (BMV) agricultural land.
- 8.33 Policy CS16 of the adopted Fareham Borough Core Strategy seeks to prevent the loss of the best and most versatile agricultural land. The NPPF does not place a bar on the development of the best and most versatile agricultural land. NPPF paragraph 170 advises planning decisions should recognise the economic and other benefits of the best and most versatile agricultural land. Where significant development is demonstrated to be necessary, the use of poorer quality land should be used in preference to that of a higher quality.
- 8.34 The Agricultural Assessment submitted by the applicant indicates that there are site specific limiting factors that are very likely to reduce the grade of the land to 3b or even 4 meaning it would not constitute BMV agricultural land.
- 8.35 In their consultation response Natural England have concluded that the proposal does not appear to lead to a loss of 20 ha of BMV agricultural land. Having reviewed the information provided Officers agree with this conclusion.

Pollution

- 8.36 The applicant has submitted various technical reports in support of the proposal including an air quality assessment, noise and vibration impact assessment and odour assessment. The advice received from the Council's Environmental Health team is that, subject to planning conditions being imposed, there are no concerns over the proposals either in terms of the likely impact on future residents or from the development itself.

Ecology

- 8.37 The Council's ecologist and Natural England are satisfied that the proposal is acceptable subject to planning conditions and appropriate mitigation.
- 8.38 A contribution towards the Solent Recreation Mitigation Strategy (SRMS) can be secured through a Section 106 legal agreement. Subject to this contribution being secured, the imposition of conditions to secure mitigation measures, the proposal is considered acceptable from an ecological perspective in accordance with Policy CS4 of the adopted Fareham Borough Core Strategy and Policies DSP13 and DSP15 of the adopted Fareham Borough Local Plan Part 2.

- 8.39 To meet the Council's duty as the competent authority under the Conservation of Habitats and Species Regulations 2017 ("the habitats regulations"), a Habitats Regulations Assessment has been produced including a Stage 3 Appropriate Assessment. To assist in the drafting of this assessment the applicant has themselves provided information in support. The report produced concludes that the application will have a likely significant effect in the absence of avoidance and mitigation measures on the Portsmouth Harbour Special Protection Area (SPA) and Ramsar site, the Solent and Southampton SPA and Ramsar site and the Solent and Dorset Coast Potential Special Protection Area (pSPA). The effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the SRMS and so can be mitigated to ensure no adverse effect on the integrity of those designated sites.
- 8.40 Natural England have been consulted on the report and have responded to say that, provided measures concerning recreational disturbance, water quality and flooding are secured and implemented with any planning permission, they concur with the conclusions drawn in the Appropriate Assessment. The completed Habitats Regulations Assessment and Appropriate Assessment has been published on the Council's website.

Surface Water Drainage

- 8.41 Hampshire County Council, in its capacity as the Lead Local Flood Authority (LLFA), has reviewed the flood risk assessment and drainage strategy submitted by the applicant. The LLFA are in agreement that the general principles of the strategy are acceptable and subject to further detail being provided at a later stage there would be no reason to withhold outline planning consent on the grounds of inadequate surface water drainage provision.
- 8.42 During the consultation period concerns were raised by Network Rail over the proximity of proposed attenuation ponds close to the southern site boundary and the possibility of such features adversely affecting the adjacent railway land. Network Rail requested further detail be provided on the local geology in order to determine the risks posed by saturation of the railway cutting, the likely change to the rate of water infiltration into the cutting and the adequacy of the current track to accommodate any additional infiltration. Following discussions it was agreed that such detail could be secured by condition and it is proposed this be included as part of a detailed surface water drainage strategy along with the further information requested from the LLFA.

Amenity

- 8.43 The proposal is in outline form with matters of scale, appearance and layout, as well as landscaping, reserved for later consideration. At the reserved

matters stage, the detailed layout and scale would need to be policy compliant to ensure that there would be no adverse unacceptable impact on the amenity of neighbouring residents.

- 8.44 One particular area of concern for residents is the effect of increased usage of Cams Bridge on neighbouring properties. The proposal would not result in any material increase in vehicle movements over the bridge but there would be a notable additional number of pedestrian and cycle movements. Officers do not consider the effect on the living conditions of properties bordering the track leading up to the south side of Cams Bridge would be materially harmful subject to appropriate lighting and boundary treatment where required to safeguard privacy being secured through any permission granted for the associated improvements to that bridge (planning reference P/18/0001/OA).
- 8.45 Officers are satisfied that the development would be acceptable in accordance with Core Strategy policy CS17 and Local Plan Part 2 Policies DSP3 and DSP40(v).

Highways

- 8.46 Hampshire County Council, the highway authority, has provided detailed comments as appended to this report at Appendix 1 (their response dated 29th August 2018).
- 8.47 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 in an accessible location and promotes walking, cycling and use of public transport as alternative sustainable modes of transport to the motor car.
- 8.48 At the eastern end of the site the applicant proposes a new pedestrian and cycle link with Upper Cornaway Lane and Lancaster Close. The improvements required to the existing public footpath and link to Lancaster Close would be funded by the developer with a financial contribution secured through a Section 106 obligation.
- 8.49 The primary means of pedestrian and cycle access meanwhile is proposed to be formed using the existing track over Cams Bridge. The improvements to the track and bridge itself, such as resurfacing and widening, raised parapet heights and bollard lighting, are subject of a separate planning application reported elsewhere on this agenda (planning reference P/18/0001/OA). The delivery of those improvements and the use of the route by members of the public in perpetuity could be secured through a Section 106 obligation. Vehicular access over the bridge would be retained for the motor repair use located on the northern side, however vehicle movements and speeds along

the bridge associated with that use are recorded as being low. Furthermore vehicular access into the housing development would be prevented for all but emergency vehicles. As a result the Highway Authority has raised no concerns with regards to the safety of pedestrian and cyclists using what is anticipated to be the main route into and out of the site.

- 8.50 The sole vehicular access into the site is to be provided via a ghost island junction off Down End Road close to where the existing farm entrance is located. The proposed access is considered acceptable in highway safety terms.
- 8.51 To the south of the vehicular access along Down End Road the bridge over the railway is proposed to be improved in order to accommodate the increased pedestrian usage generated from the development site, notwithstanding that most pedestrians are anticipated to use Cams Bridge and Upper Cornaway Lane rather than Down End Road as a point of access and egress. The applicant has proposed three options for improving pedestrian access over the bridge of which the Highway Authority have found two to be acceptable. The two options are either the formation of a formal footway with a reduced minimum width of 1.2m thereby retaining a 4.8m carriageway for two way vehicular traffic (as shown in drawing no. ITB12212-GA-004 Rev B), or a footway with a minimum width of 2.0m alongside a 3.5m single vehicle width carriageway which would operate with a priority shuttle system (as shown in drawing no. ITB12212-GA-011 Rev B). Since either solution is considered acceptable it is proposed to secure one or the other through a Section 106 obligation. The highway authority have recommended that further consultation by the applicant on the options would be required to ensure that the most appropriate and publically acceptable option is taken forward.
- 8.52 When considering this application during the Planning Committee meeting held on Wednesday 16th January Members expressed concern over the proposed improvements to the railway bridge on Down End Road. Members resolved to defer the application to allow the applicant to further consider this matter.
- 8.53 In response the applicant has produced a further technical note from their transport consultants which identifies two further options on the bridge (labelled Options 4 & 5) but explains that the highway authority were not amenable to either option. The further comments received from the highway authority dated 12th March in relation to the applicant's technical note (attached to this report as Appendix 2) confirms that to be the case and that the advice set out in the original response remains unchanged. As well as these additional options the technical note also explains that the provision of a

separate footbridge for pedestrians, whilst clearly beneficial, would carry a very large construction cost (likely to be around £1.5 – 2.0m) and would be reliant on agreement with Network Rail in relation to rights to cross the railway line. The applicant is therefore unable to commit to the delivery of a footbridge which requires regulatory and commercial consents outside of its control and carries a very significant financial cost.

- 8.54 A number of junctions were modelled as part of the application including Down End Road/The Thicket, A27/The Thicket, A27 Portchester Road/Down End Road/Shearwater Avenue and A27 Portchester Road/Wallington Way/Eastern Way (the 'Delme Arms' roundabout). Two of those junctions are considered by the Highway Authority to require improvements to mitigate the impact of traffic generated by the development proposals.
- 8.55 The A27 Portchester Road/Down End Road/Shearwater Avenue signalised junction currently experiences capacity issues in the morning peak period. Initially the applicant proposed a scheme of improvements using PUFFIN (Pedestrian User Friendly Intelligent crossing) and MOVA (Microprocessor Optimised Vehicle Actuation) technology to optimise signal times and a two-lane approach for the Shearwater Avenue junction arm. Following discussions between the applicant and the highway authority a revised scheme was proposed instead focussing on the dualling of the Down End Road approach with both lanes facilitating right turn movements towards the Delme Roundabout. It is considered that these improvements, along with the implementation of MOVA, would successfully mitigate the impact of development traffic on this junction.
- 8.56 The development would also impact on traffic using the Delme roundabout. The applicant has provided details of a potential improvement scheme to the roundabout which Officers consider would successfully mitigate that impact. It is acknowledged however that a wider improvement scheme for the roundabout will likely be required to take account of wider strategic implications, for example the proposed improvements to Junction 10 of the M27 to an 'all-moves junction'. The highway authority have therefore suggested that a contribution should be taken from this development and secured through a Section 106 obligation.
- 8.57 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 not considered the development would have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe.

8.58 Officers are satisfied that the proposal would not have any unacceptable environmental, amenity or traffic implications in compliance with criteria (v) of DSP40.

d) Other Matters

Affordable Housing

8.59 The proposal includes the provision of 40% affordable housing and Officers have negotiated an appropriate mix of different size and tenure units to meet the identified local need in the area. The proposal therefore complies with the requirements set out in Policy CS18 of the adopted Fareham Borough Core Strategy. The provision of those units would be secured via a Section 106 legal agreement.

Effect upon Local Infrastructure

8.60 A number of residents have raised concerns over the effect that 350 further homes would have upon schools, doctors and other services in the area. Officers acknowledge the strength of local concern on these issues.

8.61 With regard to schools, Hampshire County Council have identified a need to increase the number of primary school places available within the area in order to meet the needs generated by the development. The comments of the County's Children's Services can be found in full earlier in this report. A financial contribution can be secured through a Section 106 obligation.

8.62 In respect of the impact upon doctors/ medical services, the difficulty in obtaining appointments and the increased pressure on local GP surgeries is an issue that is raised regularly in respect of new housing proposals. It is ultimately for the health providers to decide how they deliver health services however Officers do not consider that requesting a financial contribution towards the improvement of GP surgeries would be justified in this instance.

Draft Local Plan

8.63 Members will be aware that the Draft Local Plan which addresses the Borough's development requirements up until 2036, was subject to consultation between 25th October 2017 and 8th December 2017.

8.64 The site of this planning application is proposed to be allocated for housing within the draft local plan. A number of background documents and assessments support the proposed allocation of the site in terms of its deliverability and sustainability which are of relevance. However, at this stage in the plan preparation process, the draft plan carries limited weight in the assessment and determination of this planning application.

e) The Planning Balance

8.65 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".

8.66 Paragraph 11 of the NPPF clarifies the presumption in favour of sustainable development in that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- the application of policies in the Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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

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

8.69 Officers have carefully assessed the proposals against Policy DSP40: Housing Allocations which is engaged as this Council cannot demonstrate a 5YHLS. Officers have also given due regard to the updated 5YHLS position report presented to the Planning Committee elsewhere on this agenda and the Government steer in respect of housing delivery.

8.70 In weighing up the material considerations and conflict between policies; the development of a greenfield site weighted against Policy DSP40, Officers have concluded that the proposal is relative in scale to the demonstrated 5YHLS shortfall, located adjacent to the existing urban settlement boundaries such that it can be well integrated with those settlements whilst at the same

time capable of being sensitively designed to reflect the areas existing character and minimising any adverse impact on the Countryside.

- 8.71 It is acknowledged that the proposal would have an urbanising impact through the introduction of housing and related infrastructure onto a site which is at present largely undeveloped. It is further noted that there would be degree of harm to the landscape character of the countryside however that impact would be reduced by the incorporation of landscape or view corridors comprising planted open space extending up to the higher slopes of Portsdown Hill and located between parcels of housing development.
- 8.72 Officers are satisfied that there are no outstanding amenity and environmental issues which cannot otherwise be addressed through planning conditions and obligations. There would not be any unacceptable impact on highway safety and the residual cumulative impact on the road network would not be severe, subject to the range of measures and financial contributions agreed with the developer being secured through appropriate Section 106 obligations. A financial contribution towards education provision is also to be secured through a legal agreement.
- 8.73 Affordable housing as 40% of the units in a mix of appropriate sizes and tenures along with the delivery of onsite open space and play provision can be secured through planning obligations.
- 8.74 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 350 dwellings, including affordable housing, of which 200 could be provided in the short term. The contribution the proposed scheme would make towards boosting the Borough's housing supply is a substantial material consideration, in the light of this Council's current 5YHLS.
- 8.75 There is a conflict with development plan Policy CS14 which ordinarily would result in this proposal being considered unacceptable. Ordinarily CS14 would be the principal policy such that a scheme in the countryside should be refused. However, in light of the Council's lack of a five-year housing land supply, development plan policy DSP40 is engaged and officers have considered the scheme against the criterion therein. The scheme is considered to satisfy the five criteria and in the circumstances Officers consider that more weight should be given to this policy than CS14 such that, on balance, when considered against the development plan as a whole, the scheme should be approved.

8.76 In undertaking a detailed assessment of the proposals throughout this report and applying the 'tilted balance' to those assessments, Officers consider that:

(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, particularly when taking into account that any significant effect upon Special Protection Areas can be mitigated through a financial contribution towards the Solent Recreation Mitigation Strategy; and

(ii) any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole.

8.77 Having carefully considered all material planning matters, Officers recommend that outline planning permission should be granted subject to the following matters.

9.0 Recommendation

9.1 GRANT OUTLINE PLANNING PERMISSION subject to:

- i) the applicant/owner first entering into a planning obligation under Section 106 of the Town and Country Planning Act 1990 on terms drafted by the Solicitor to the Council in respect of the following:
 - a) To secure the provision and transfer of the areas of open space, including a Neighbourhood Equipped Area of Play (NEAP), to Fareham Borough Council and associated financial contributions for its future maintenance;
 - b) To secure a final contribution totalling £392,821.08 towards the following off-site highways and public rights of way works:
 - i. Mitigation of the impact of development traffic at Delme Roundabout, including provision for Bus Rapid Transit (BRT) - £287,380.08
 - ii. Bus infrastructure improvements on the A27 in the vicinity of the site - £7,500;
 - iii. Implementing A27 safety measures to mitigate the impact of increased pedestrian and cycle movements from the development - £40,000;
 - iv. Pedestrian and cycle audit improvements - £39,461;
 - v. Improvements to Upper Cornaway Lane public right of way - £19,635.

- c) To secure the provision of the following highway improvements to be delivered by the developer through a Section 278 agreement with the highway authority:
- i. Delivery of the site access as detailed in drawing no. ITB12212-GA-014 rev A;
 - ii. Pedestrian improvements to Down End Road bridge as detailed in drawing nos. ITB12212-GA-004 Rev B (reduced width formal footway) or ITB12212-GA-011 Rev B (priority shuttle working);
 - iii. Pedestrian crossing point across A27 as detailed in drawing no. ITB12212-GA-021B;
 - iv. Delivery of the Downend Road/A27 capacity improvements as detailed in drawing no. ITB12212-GA-026.
- d) To secure improvements to Cams Bridge as proposed by planning application reference P/18/0001/OA and subsequent approved reserved matters application (to be completed and made available for use prior to occupation of more than 25 of the dwellings hereby permitted);
- e) To secure pedestrian and cycle access across Cams Bridge and through the site for members of the public in perpetuity;
- f) To secure the implementation of the Framework Travel Plan, a financial contribution towards approval and monitoring of the Travel Plan and provision of a bond or other form of financial surety in respect of the measures within the Travel Plan;
- g) To secure a financial contribution towards the Solent Recreation Mitigation Strategy (SRMS);
- h) To secure a financial contribution towards education provision at a level of £17,971 per primary pupil place;
- i) To secure a financial contribution of £25,000 towards the cost of preparing school travel plans;
- j) To secure the provision of affordable housing on-site at an overall level of 40% and in line with the following size and tenure split:

| Affordable/Social rent units (65% of total number of the affordable units) of which: | | |
|---|-------|-----|
| Affordable/social rent | 4 bed | 15% |
| Affordable/social rent | 3 bed | 23% |
| Affordable/social rent | 2 bed | 17% |

| | | |
|---|-------|-----|
| Affordable/social rent | 1 bed | 45% |
| Intermediate units (35% of total number of the affordable housing units) of which: | | |
| Intermediate units | 4 bed | 2% |
| Intermediate units | 3 bed | 28% |
| Intermediate units | 2 bed | 49% |
| Intermediate units | 1 bed | 21% |

ii) Delegate to the Head of Development Management in consultation with the Solicitor to the Council to make any minor modifications to the proposed conditions or heads of terms or any subsequent minor changes arising out of detailed negotiations with the applicant which may necessitate the modification which may include the variation, addition or deletion of the conditions and heads as drafted to ensure consistency between the two sets of provisions; and

iii) The following planning conditions:

1. No development shall take place until details of the appearance, scale and layout of buildings and the landscaping of the site (hereafter called “the reserved matters”) have been submitted to and approved in writing by the Local Planning Authority.

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than twelve months from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of this permission, or before the expiration of one year from the date of the approval of the last of the reserved matters to be approved, whichever is later.

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

2. The development shall be carried out in accordance with the following drawings and documents:

- a) Site Location Plan (drawing number: 2495-01 / SK-017 rev C);
- b) Landscape parameter plan (drawing number: 2495-01 / PS-001 rev C);

- c) Detailed access proposal: site access arrangement – ghost island (drawing number: ITB12212-GA-014 rev A)

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

- 3. No development shall take place on site until a Development Parcel Plan has been submitted to and approved by the local planning authority in writing. The plan shall identify which phase of development shall relate to which part of the site (referred to as development parcels).

REASON: To allow the development to be carried out in phases and to enable the timely delivery of the development.

- 4. No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until a Written Scheme of Investigation (WSI) for that development parcel has been submitted to and approved in writing by the Local Planning Authority.

The submitted WSI shall:

- a) recognise, characterise, record and delimit areas of potentially significant Palaeolithic deposits to establish a “Development Exclusion Zone” and an “Area of Restricted Impact” in order to protect areas of potentially national significance from any impact of the development;
- b) recognise, characterise and record Holocene colluvium and negative archaeological features dating from the later prehistoric period onwards in the form of a series of trial trenches located across the whole of the application site.

No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until an archaeological mitigation strategy for that development parcel, based on the results of the approved WSI has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved mitigation strategy.

Following completion of all archaeological fieldwork a report will be produced setting out and securing appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement. That report shall be submitted to and approved in writing by the local planning authority prior to the occupation of any of the dwellings hereby permitted.

REASON: In order to assess the extent, nature and date of any archaeological deposits that might be present, the impact of the development upon these heritage assets and to secure appropriate mitigation. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid potential adverse impacts.

5. No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until a detailed surface water drainage strategy for that development parcel has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following:
 - a) The detailed design of Sustainable Drainage Systems (SuDS) to be used on the site in accordance with best practice and the CIRIA SuDs Manual (C753) as well as details on the delivery, maintenance and adoption of those SuDS features;
 - b) An assessment of local geology to determine risks to saturating the railway cutting face located to the south of the site, the likely change to rate of water infiltration into the cutting and the adequacy of the current track to accommodate any additional infiltration;
 - c) Identification of any proposed amendments to the principles detailed within the Flood Risk Assessment and Drainage Strategy rev D;
 - d) A summary of surface run-off calculations for rate and volume for pre and post development;
 - e) Evidence of sufficient attenuation on site for a 1 in 100 year plus climate change event;
 - f) Evidence that Urban Creep has been considered in the application and that a 10% increase in impermeable area has been used in calculations to account for this;
 - g) Information evidencing that the correct level of water treatment exists in the system in accordance with the Ciria SuDS Manual C753;
 - h) Maintenance regimes of entire surface water drainage system including individual SuDS features, including a plan illustrating the organisation responsible for each element, evidence that those responsible/adopting bodies are in discussion with the developer and evidence of measures taken to protect and ensure continued operation of drainage features during construction;

The development shall be carried out strictly in accordance with the approved strategy unless otherwise agreed in writing by the local planning authority.

REASON: To ensure satisfactory disposal of surface water from the site; to ensure no adverse effects on the integrity of designated sites for nature conservation purposes. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid potential adverse impacts.

6. No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until an intrusive site investigation and risk assessment for that development parcel has been carried out, including an assessment of the risks posed to human health, the building fabric and the wider environment such as water resources. Where the site investigation and risk assessment reveal a risk to receptors, no development shall commence until a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed use has been submitted to and approved by the local planning authority in writing.

The presence of any unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the local planning authority. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme implemented following written approval by the Local Planning Authority. The approved scheme for remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development in that development parcel, the developers and/or their approved agent shall confirm in writing that the works have been completed in full and in accordance with the approved scheme.

REASON: To ensure that any contamination of the site is properly taken into account before development takes place. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid potential adverse impacts.

7. No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until a Construction Environmental Management Plan (CEMP) for that development parcel has been submitted to and approved in writing by the local planning authority. The submitted CEMP shall include (but shall not necessarily be limited to):
 - a) Details of how provision is to be made on site for the parking and turning of operatives/contractors'/sub-contractors' vehicles and/or construction vehicles;

- b) The measures the developer will implement to ensure that operatives'/contractors/sub-contractors' vehicles and/or construction vehicles are parked within the planning application site;
- c) Arrangements for the routing of lorries and details for construction traffic access to the site;
- d) The arrangements for deliveries associated with all construction works, loading/unloading of plant & materials and restoration of any damage to the highway;
- e) The measures for cleaning the wheels and underside of all vehicles leaving the site;
- f) A scheme for the suppression of any dust arising during construction or clearance works;
- g) The measures for cleaning Down End Road to ensure that it is kept clear of any mud or other debris falling from construction vehicles;
- h) A programme and phasing of the demolition and construction work, including roads, footpaths, landscaping and open space;
- i) Location of temporary site buildings, compounds, construction material, and plant storage areas used during demolition and construction;
- j) Provision for storage, collection, and disposal of rubbish from the development during construction period;
- k) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- l) Temporary lighting;
- m) Protection of pedestrian routes during construction;
- n) No burning on-site;
- o) Scheme of work detailing the extent and type of piling proposed;
- p) A construction-phase drainage system which ensures all surface water passes through three stages of filtration to prevent pollutants from leaving the site;
- q) Safeguards for fuel and chemical storage and use, to ensure no pollution of the surface water leaving the site.

REASON: In the interests of highway safety; To ensure that the occupiers of nearby residential properties are not subjected to unacceptable noise and disturbance during the construction period; In the interests of protecting protected species and their habitat; In the interests of protecting nearby sites of ecological importance from potentially adverse impacts of development. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid potential adverse impacts.

- 8. No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until a reptile and great crested newt (GCN) mitigation strategy for that development parcel has been submitted to and approved by the local planning authority in writing. The strategy shall include

detailed proposals for the protection of reptiles and GCNs during the construction phase, timings of the works, location of the on-site receptor site, provisions for loss of suitable habitat and enhancement/management measures to ensure the long-term suitability of the receptor site during the operational phase including a planting scheme. The development shall be carried out in accordance with the approved strategy.

REASON: To provide ecological protection and enhancement. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid potential adverse impacts.

9. No development hereby permitted shall commence in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until details of the internal finished floor levels of all of the proposed buildings for that development parcel and finished external ground levels in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

REASON: To safeguard the character and appearance of the area and in the interests of residential amenity. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid potential adverse impacts.

10. No development hereby permitted shall proceed beyond damp proof course (dpc) level in any development parcel, as shown on the Development Parcel Plan approved pursuant to Condition 3 above, until an Electric Vehicle Charging Strategy has been submitted to and approved by the Local Planning Authority in writing. The strategy shall identify the nature, form and location of electric vehicle charging points that will be provided across that development parcel, including the level of provision for each of the dwellings hereby approved and the specification of the charging points to be provided. The development shall be carried out in accordance with the approved details.

REASON: To promote sustainable modes of transport, to reduce impacts on air quality arising from the use of motorcars and in the interests of addressing climate change.

11. No work relating to the construction of any development hereby permitted (including works of demolition or preparation prior to operations) shall take place before the hours of 08:00 or after 18:00 hours Monday to Friday, before the hours of 08:00 or after 13:00 on Saturdays or at all on Sundays

or recognised public holidays, unless otherwise first agreed in writing with the Local Planning Authority.

REASON: To protect the living conditions of existing residents living nearby.

12. The development shall be carried out in accordance with the measures set out Sections 5.5.3, 5.7.3 and 5.12 in the Ecological Assessment report (Ecosa, October 2017) unless otherwise agreed by the local planning authority in writing.

REASON: To ensure the protection of species that could be adversely affected by the development.

13. The development shall be carried out in accordance with the mitigation measures contained within the submitted Noise & Vibration Impact Assessment (REC Reference: AC102510-1R3) unless otherwise agreed in writing by the local planning authority.

REASON: In order to ensure satisfactory living conditions for future residents.

14. None of the dwellings hereby permitted shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved LEMP (unless otherwise agreed in writing by the local planning authority) which shall include (but shall not necessarily be limited to):

- a) A description, plan and evaluation of ecological features to be retained, created and managed such as grasslands, hedgerows, attenuation ponds and treelines;
- b) Details of a scheme of lighting designed to minimise impacts on wildlife, in particular bats, during the operational life of the development;
- c) A planting scheme for ecology mitigation areas;
- d) A work schedule (including an annual work plan);
- e) The aims and objectives of landscape and ecological management;
- f) Appropriate management options for achieving aims and objectives;
- g) Details of the persons, body or organisation responsible for implementation of the plan;
- h) Details of a scheme of ongoing monitoring and remedial measures where appropriate.

REASON: To ensure appropriate on-going management of new and retained habitats for wildlife and to enhance biodiversity within the site.

15. No dwelling shall be occupied until the Building Regulations Optional requirement of a maximum water use of 110 litres per day has been complied with.

REASON: In the interests of preserving water quality and resources

9.2 INFORMATIVES:

A formal application for connection to the public sewerage system is required in order to service this development, Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk".

10.0 Background Papers

P/18/0005/OA

Appendix 1 – Hampshire County Council Highways response dated 29th August 2018



**Hampshire
County Council**

*Economy, Transport and Environment Department
Elizabeth II Court West, The Castle
Winchester, Hampshire SO23 8UD*

*Tel: 0300 555 1375 (General Enquiries)
0300 555 1388 (Roads and Transport)
0300 555 1389 (Recycling Waste & Planning)
Textphone 0300 555 1390
Fax 01962 847055*

www.hants.gov.uk

**Head of Planning Services
Fareham Borough Council
Civic Offices
Civic Way
FAREHAM
Hampshire
PO16 7AZ**

| | | | |
|---------------------|------------------------------|-----------------------|--------------------------|
| <i>Enquiries to</i> | Chris Hirst | <i>My reference</i> | 6/3/10/197 (1607&1740) |
| <i>Direct Line</i> | 01962 846877 | <i>Your reference</i> | P/18/0005/OA |
| <i>Date</i> | 29 th August 2018 | <i>Email</i> | Chris.Hirst@hants.gov.uk |

For the attention of Richard Wright

Dear Sir

P/18/0005/OA – Land East of Downend Road, Fareham. Outline Planning Application With All Matters Reserved (Except The Means Of Access) For Residential Development, Demolition Of Existing Agricultural Buildings And The Construction Of New Buildings Providing Up To 350 Dwellings; The Creation Of New Vehicular Access With Footways And Cycleways; Provision Of Landscaped Communal Amenity Space, Including Children’s Play Space; Creation Of Public Open Space; Together With Associated Highways, Landscaping, Drainage And Utilities.

Thank you for the opportunity to comment on the above application. The application is for a residential development comprising up to 350 dwellings, with vehicular access provided onto Downend Road and improvements to the pedestrian provision along Cams Bridge.

Pre-Application Consultation

Pre-application discussions were previously held with Hampshire County Council (HCC) to discuss the Transport Assessment scoping for the outline application. During these discussions, the site access (in principle), trip rates and the method for ascertaining trip distribution were principally agreed.

Site Location

The site is located north of the Portsmouth to Southampton Railway line, south of the M27 and east of Downend Road, approximately 3km from the centre of Fareham and 2km from Portchester. Vehicular access to the site is proposed through a ghost island junction from Downend Road.

*Director of Economy, Transport and Environment
Stuart Jarvis BSc DipTP FCIHT MRTPI*

The development proposals intend to maintain access to C&C Motors south of the site (across Cams Bridge, planning reference P/18/0001/OA), whilst also improving the bridge to become the main pedestrian access point to the development. Vehicular access to Cams Bridge from the site is to be prevented through the use of staggered barriers.

Site Accessibility

Walking and Cycling

Pedestrian access points to the site are proposed in the following locations:

- To Downend Road at the vehicular site access;
- To 'The Thicket' via Cams Bridge;
- To 'Upper Comaway Lane' via Footpath 117;
- To Lancaster Close via Footpath 117; and
- Cycle access is to be provided at Cams Bridge, Downend Road and to Lancaster Close via Footpath 117.

These proposals are assessed individually below given the distribution of pedestrian trips and potential improvements proposed for all of the routes identified above.

Assignment of Pedestrian and Cycle Trips

To establish which route from the site will be most utilised by pedestrians and cyclists, an appraisal of the 2011 Census Data was used in combination with the 2016 National Travel Survey. This data identifies the destinations of trips which may be generated from the site from existing nearby wards and the mode of travel taken for these trips. Travel behaviour can then be assigned to the proposed development and forecasts on route choice can be made.

The initial appraisal carried out in the Transport Assessment, dated 31st October 2017, stated that Cams Bridge would experience a total 255 walking and cycling trips a day, 51% of the overall pedestrian and cycle trips from the site. At the request of the highway authority, further work was carried out by the applicant as part of a review of the wider walking/cycling strategy for the site, with the findings presented in a Transport Assessment Addendum (20th April 2018). Following this review, updated route demand figures showed the total number of pedestrian and cycling trips increase to 312 equal to 62% of all pedestrian and cycle trips.

Through this further appraisal work pedestrian movements via Downend Road are forecast over a 24 hour period to equal 38 pedestrians movements. Movements via the new site connection to footpath 117 is forecast to take the remaining pedestrian and cycle movements totalling 154.

Pedestrian and Cycle Access Downend Road

Of the 38 pedestrian and cycle trips onto Downend Road 11 are expected to head south and cross over the bridge. The remaining movements are expected to utilise the circular recreational route north of the bridge.

However, despite these forecast figures, the highway authority was concerned with increased pedestrian usage of the bridge in its current state, especially given that Downend Bridge could be considered by pedestrians as a direct route to Cams Hill Secondary School to the south. It is acknowledged by the applicant that current pedestrian provision across the bridge is limited. Footpaths are located both to the north and south of the bridge, but there is no segregated link across it resulting in pedestrians being required to walk in the carriageway. With the significant propensity for this site to generate additional pedestrian trips this is considered to be unacceptable.

Accident data at the site has been reviewed and there have been 1 personal injury accidents reported in the past 15 year period, however this accident did not involve any vulnerable road users.

Following HCC raising concerns regarding the use of the bridge by pedestrians, the applicant provided video footage of pedestrians and vehicles crossing over Downend Bridge to illustrate how they interacted. This footage demonstrated that in its current state, Downend Bridge can accommodate 2 cars passing simultaneously while a pedestrian walks across the short section of carriageway, between the footpaths provided to the north and south. However, with pedestrian usage forecast to increase as a result of this development providing a more formal arrangement for pedestrians would be essential.

To alleviate the highway authority's concerns raised with the current arrangement, three potential improvements have been tabled to improve walking conditions across the bridge. These are shown in drawing numbers ITB12212-GA-003 Rev B, ITB12212-GA-004 Rev B and ITB12212-GA-011 Rev B. A pedestrian island is also proposed south of the access to provide a safe crossing point for pedestrians looking to walk along Downend Road after exiting the site.

To formalise the existing layout, two of the three tabled improvements are considered to be acceptable in principle. The acceptable improvements are shown in drawing numbers ITB12212-GA-004 Rev B and ITB12212-GA-011 Rev B, which look to provide either a formal 2m footway with a priority shuttle working system, or a 1.2m footway with a narrowed carriageway. Further consultation by the applicant on the options however will be required to ensure that the most appropriate and publically acceptable option is taken forward. This should be committed to within the s106 obligations at an appropriate scale to be agreed with the highway authority. The improvements to be implemented should be agreed prior to occupation of the development. The applicant should also be aware that Network Rail will also need to be informed/consulted on any proposed works to the bridge and may require input into the scheme.

Pedestrian and Cycle Access via Cams Bridge

The proposed shared surface through The Thicket south towards the A27 is proposed to be the principle pedestrian and cycle access to the site with 62% of total pedestrian trips. Currently, Cams Bridge provides access to C&C Motors. This access is to be maintained, with the bridge becoming a shared pedestrian/vehicular access.

Cams Bridge is subject to a separate planning application (reference P/18/0001/OA) but is considered alongside this application given its importance as the main pedestrian route to and from the site.

Further information has been provided to clarify that the farm sheds north of C&C motors will not be retained and the bridge does not currently accommodate any HGV movements. Vehicle flows along the bridge are low with vehicular access to the development site blocked via this route. A detailed breakdown of the existing traffic flows were provided at the request of the highways authority to demonstrate the composition of traffic accessing C&C Motors and further confirm the low flows and speeds presented in the Transport Statement. Mean vehicle speeds were recorded as 15.2mph Northbound and 13.9mph southbound with traffic flows totalling 21 movements between 7am and 7pm with only 1 vehicle in the AM and PM peak hours.

It has been set out within the TA that the applicant has been in dialogue with Network Rail and has received an 'in-principle' technical clearance to the outline scheme, subject to the inclusion of increased height parapets (1.8m) and the provision of an area for parking and servicing for the Network Rail equipment.

Discussions regarding the improvement required for Cams Bridge are ongoing. The latest illustrative drawing (ITB12212-GA-023 Rev B) confirms that a 3.5m shared surface can be achieved across the bridge, providing sufficient width for a car to safely pass a pedestrian. To further support safety across part of the route open to vehicle traffic, the highways authority has requested that the detailed design includes small build outs to ensure low vehicle speeds. These features can also be utilised to provide the bollard lighting and would act to provide a safe waiting point for pedestrians in the event a larger vehicle is attempting to cross the bridge.

In order to secure Cams Bridge as the main pedestrian/cycle link from the site, a commitment will be required (and included within the S106 agreement) to enter into a Common Law Dedication which will enable the route to be included on the definitive Public Rights of Way map. This dedication will ensure the longevity of the Bridge as the primary pedestrian/cycle access. As mentioned above, given the Bridge's importance for sustainable access to the site, it is considered that suitable conditions should be placed on this application to ensure that this necessary sustainable travel link is provided in an appropriate timescale to this development.

Pedestrian access via 'Upper Cornaway Lane' and Footpath 117

This route is forecast to take 30% of pedestrians from the site through the north eastern corner of the development towards Northfields Park, eventually connecting to the existing Footpath 117 which provides access south along Upper Cornaway Lane towards Portchester.

To accommodate the forecast increased pedestrian flows, improvements have been tabled in drawing number ITB12212-GA-020. To maintain the rural nature of the route, resurfacing of the footpath is proposed to deliver a 1.8m – 2m 'rural style' path which would remain unlit. These improvements shall be delivered by means of a contribution to be agreed with HCC's Rights of Way Team.

Cycle Access to Lancaster Close

Further to the above, discussions have been held to discuss the improvements for cyclists to Footpath 117 to provide access to Lancaster Close and a safe cycle route from the site to nearby amenities including the railway station and local primary schools.

The internal path within the site shall be provided at a 2.5m width suitable for cycling. It has also been confirmed that there is sufficient width to achieve a short section of shared cycle/footway to connect from the north eastern corner of the site and tie into Lancaster Close.

These improvements are considered acceptable and drawing ITB2212-GA-020 Rev C details these works. It is considered that the HCC Public Right of Way team will be able to carry out all of these improvements to Footpath 117 within the timescales required for the development subject to the funding being provided prior to commencement. Funding for these improvements has been requested directly by the HCC Rights of Way team.

A27 Cycle/Pedestrian Crossing

As part of the development, a cycle/pedestrian uncontrolled crossing (drawing number ITB12212-GA-010) has been proposed south west of The Thicket to enable those using Cams Bridge to safely cross the A27 without having to walk to the existing crossing points either to the east or the west of The Thicket access.

Following an initial review of this proposal, HCC requested that confirmation was provided as to the width of the refuge island, along with an amended swept path analysis. To confirm these points, ITB12212-GA-021 Rev B was submitted, outlining a 2.4m wide island (suitable for pedestrians and cyclists) and demonstrating that all required vehicles can safely negotiate the island when egressing The Thicket or adjacent properties.

It has also been confirmed that the position of the crossing will not conflict with any vehicles egressing nearby properties and the width of the island is now acceptable. This highway improvement should be secured as works for the developer to deliver within the S106 Agreement.

Pedestrian and Cycle Audit

To assist in considering sustainability of walking and cycling facilities, a pedestrian and cycle audit was carried out by the applicant, covering the site and nearby walkable routes. This review has highlighted potential improvements along the routes to improve existing infrastructure, and therefore sustainable travel routes from the site.

Some of the recommendations made by the audit included proposals to improve Downend Bridge, Cams Bridge and Upper Cornaway Lane. These have been assessed separately within this response. Other recommendations involve the provision of dropped kerbs and tactile paving to improve the crossing points along some of the nearby residential roads. A comprehensive plan of all pedestrian improvements associated with the site has been provided in Figure T5, attached to the technical note dated 25th July 2018. This includes the location of the improvements to the main pedestrian/cycle accesses into the site, along with the further crossing point improvements to some of the wider residential roads in the area. The pedestrian and cycle audit improvements should be secured via contribution in a S106 agreement.

Public Transport

The site benefits from three regular commercial bus services (3, F3 and the Solent Ranger X4) all within a maximum 800m walk from the site. Whilst the walking distance is acknowledged to be above the recommended there is not any scope to redirect the services. The frequency of these services varies from every 10 minutes with Route 3, up to every 2 hours with Route F3. These buses provide regular access to Portchester, Fareham, Portsmouth and other commuter locations. This level of frequency makes the service attractive to perspective users and is considered in this case to overcome the additional walking distances. Pedestrians will access the bus stops along the A27 via the improved Cams Bridge link and the crossing facilities on the A27.

It is noted that the bus stops currently provided along the A27 are simple flag poles. Provision of bus shelters could be considered beneficial to encourage usage from the site in providing more attractive waiting facilities. Subject to the direct sustainable access route through Cams Bridge towards the A27, it is considered that current bus provision is acceptable, subject to a contribution for improvements to waiting facilities and towards wider BRT improvements along the A27 corridor in Portchester.

Portchester Rail Station lies roughly 1,500m to the east of the site. Trains run regularly from this station and the larger Fareham Railway Station lies 3km from the site, with a higher train frequency. Overall, Portchester Station sits within the 'reasonable walking distance' identified by the CIHT and Fareham Station within reasonable cycling distance therefore providing a suitable sustainable option of travel from the site.

Personal Injury Accident Data

Personal Injury Accident (PIA) data has been obtained from Hampshire Constabulary for a five year period, spanning 1st October 2011 through to 30th September 2016.

The summary provided for this data within the TA concludes that there have been no accident patterns identified within the area. The Highway Authority disagrees with this view, given the Road Safety Foundation has identified the route from the Delme Roundabout to the M27 Junction 12 as one of the ten persistently higher risk roads (2009-2011 and 2012-2014). Hampshire County as the lead authority for the route is one of eight local authorities taking part in the Pathfinding Exercise to improve safety along each of the highest risk roads in Britain by considering and treating the whole route with appropriate countermeasures.

To address the safety concerns along the A27, a number of schemes have been identified to improve the safety of all road users along the route. Given the high frequency of accidents along the route, especially for pedal cyclists, it is considered necessary that a contribution should be made by the applicant towards improvements along this route due to the increase in both vehicle movements and additional pedestrian and cycle demand along the A27 as a result of the development.

Vehicular Access

Vehicular access to the site is shown proposed through a ghost island junction on Downend Road, in drawing number ITB12212-GA-014. The vehicle access has been reviewed and is acceptable in principle to the Highway Authority. An emergency access would be provided via Cams Bridge.

Access drawing number ITB12212-GA-014 also details the repositioning of the speed limit sign further north up Downend Road from its existing position close to Downend Bridge. The HCC Traffic Management team have been approached to gauge whether this movement would be welcomed. Given Ellerslie House to the north has an accident history, it has been suggested by HCC that the speed limit is moved further north to also encompass this access. This matter can be concluded within a TRO application at the S278 stage.

Vehicle Trip Generation

The TA presents the proposed vehicular trip generation rates for the development during both the weekday AM and PM Peak Hours, and the daily total. The weekday trip rates have been calculated using the TRICS database of surveyed trip generation from similar sites.

These vehicular trip rates are presented as 0.531 (two way AM peak) and 0.584 (two way PM peak), providing vehicular trips from the site as 186 in the AM and 204 in the PM. These vehicular trip rates are considered acceptable for this development.

Vehicle Trip Distribution

The distribution of residential development traffic is split, with commuting trips accounting for 46% of peak hour trips (identified through the 2011 Census Journey to Work dataset) and the remaining 54% distributed in accordance with a gravity model produced for this development.

The combination of results from the two distribution calculations identified Portsmouth as the main attractor with 17% of all trips, followed by Fareham (15%) and Portchester (10%). Both the Census Journey to Work Data and gravity model results provided are considered reasonable and proportionate.

Traffic Impact on The Ridgeway

Within the TA, the applicant has carried out an assessment of how many additional vehicles are predicted to use The Ridgeway when travelling to or from the development.

The Ridgeway provides direct vehicular access off the A27, providing an alternative vehicular route to Downend Road instead of utilising the A27/Downend Road signalised junction when heading eastbound. The junction with The Ridgeway/A27 does not allow vehicular access from Cams Hill back onto the A27 westbound, meaning the rerouting of traffic could only occur for vehicles heading to the east towards the proposed development. The TA sets out that within the AM and PM peak periods there are forecast a total of 20 trips in the AM peak and 47 in the PM peak which could potentially utilise The Ridgeway.

An ANPR survey was carried out between 7 AM and 7 PM to ascertain how many vehicles currently use The Ridgeway when travelling to Downend Road. This identified a total of 321 movements travelling from the A27 to Downend Road along the Ridgeway within this time period. When compared with the total number of movements from the A27 to Downend Road this equates to 18.2% of the current overall trips between Delme Roundabout and Downend Road utilising this route.

When considering this percentage against the agreed distribution from the site, 4 vehicles are predicted to use The Ridgeway in the AM peak and 9 in the PM peak. The proposed increase in trips along The Ridgeway is therefore not considered to represent a significant increase in demand along this route.

Junction Modelling

The following junctions have been modelled as part of the application:

- Downend Road/Site Access;
- Downend Road/The Thicket;
- A27/ The Thicket and;
- Portsdown Hill/Swivelton Lane.
- A27 Portchester Road/Downend Road/Shearwater Avenue; and
- A27 Portchester Road/Wallington Way/Eastern Way 'Delme Arms' roundabout.

An initial review of the modelling submitted for the above junctions was undertaken and further information was requested from the applicant as a result, including: queue data to validate all of the models, Ordnance Survey mapping for all junctions, drawings for the site access, modelling files for Portsdown Hill/Swivelton Lane and outputs for most scenarios at Portsdown Hill/Swivelton Lane. This information was provided within a Transport Assessment Addendum.

The results of this review confirmed that all the non-signalised junctions are forecast to operate within practical capacity across all approaches in the AM and PM peak. It is worth noting that in the 2016 base, the Portsdown Hill/Swivelton Lane junction is operating close to practical capacity, with an RFC of 0.77 on Swivelton Lane in the AM peak. This Ratio of Flow to Capacity (RFC) increases to 0.81 with a 4-vehicle queue in the 2021 'with development' scenario and to 0.82 and 0.85 in the 2021 'Sensitivity Test' and 2026 'With Development' scenarios respectively. In these scenarios, the maximum queue is 5 vehicles.

The current RFC on Portsdown Hill is 0.71 in the PM peak, increasing to 0.76 in the 2021 'Sensitivity Test'. In the 2026 'With Development' scenarios, the RFC is 0.75 and 0.76 respectively. The increase to the RFC values as a result of development is not considered significant in the context of the National Planning Policy Framework (paragraph 32).

Junction model results have also been reviewed for Downend Road/Site Access, Downend Road/The Thicket and A27/The Thicket. The outcome of this review found the Downend Road/The Thicket junction to be operating with reserve capacity in the 2016 base model during both the AM and PM peak. The maximum RFC observed at this junction was 0.21 in the AM peak. Applying the '2026 with Development' scenario sees a small increase in the RFC value to 0.26.

Both the Downend Road/Site Access and A27/The Thicket junctions where the RFC values are low across all scenarios, and therefore there is forecast to be no operational impacts across all development scenarios.

No improvements are therefore sought by the Highway Authority at these junctions.

Downend Road/A27 Signalised Junction

The Transport Assessment identifies that the Downend Road/A27 signalised junction currently experiences capacity issues in the morning peak period.

In order to mitigate a number of improvements were proposed by the applicant. These included:

- Upgrading the junction operation to MOVA;
- Upgrading the pedestrian crossings to PUFFIN technology; and
- Delivery of a two-lane approach on Shearwater Avenue.

Following consultation on the initial Transport Assessment, these improvements were reviewed by the highway authority which identified a number of concerns with the improvements. These were mainly regarding formalising the existing informal two-lane approach taken by motorists on Shearwater Avenue which would not provide the capacity improvements anticipated. The other issue centred on the amendments to the current form of the controlled crossing and removal of the countdown timers by Cams Hill School, a system recently put in place to help school children safely access the school. HCC are therefore not favourable to changes to the crossing arrangement.

Following discussion on these issues, the applicant agreed to review a new scheme to improve capacity at this junction, centred on the dualling of the Downend Road approach, with both lanes facilitating right turn movements towards Delme Roundabout.

A subsequent plan was submitted (drawing number ITB12212-GA-024) detailing these proposals.

Swept path analyses were submitted for vehicles both entering and exiting Downend Road via the new alignment, demonstrated in drawing number ITB12212-GA-024 Rev A. The tracking shown confirms that the proposed 2 lane approach of Downend Road can accommodate two large cars simultaneously turning right onto the A27 and a large car turning right alongside an articulated vehicle. It was also demonstrated that an articulated vehicle could safely turn left off of the A27 into Downend Road.

Drawing ITB12212-GA-024 Rev A notes a potential location for a secondary signal head on the island at the junction with Shearwater Avenue and a redesign of the yellow box marking in the middle of the junction. Further consideration should be given to both of the above at detailed design.

Following a review of the dualled approach from Downend Road, it is considered that this junction improvement, along with the implementation of MOVA, will successfully mitigate the impact of traffic from this development.

Delme Roundabout

As a consequence of the development impact, a proposed improvement scheme has been put forward by the applicant (shown in drawing number ITB12212-GA-006 Rev B) to provide the following improvements to Delme Roundabout:

- Signalisation of the A27 Cams Hill approach;
- Widening of the southern circulatory to create a third circulatory lane;
- Signalisation of A32 Wallington Way; and
- Widening of the northern circulatory to create a secondary ahead lane.

Whilst a wider improvement scheme for Delme Roundabout is required which takes account of the wider strategic context of the area (future network improvements at M27 junction 10 and Stubbington) it is acknowledged that the improvement scheme proposed as part of this development is of an appropriate scale to mitigate the impact of this development. The highway authority therefore considers that a contribution should be taken from this proposed development and used towards a future improvement scheme for Delme Roundabout to offset development traffic from the Downend Road site and further developments in the local area. The contribution value is to be determined and will be agreed as part of the S106 negotiations.

Travel Plan

An initial travel plan was submitted and reviewed by the highway authority. The travel plan failed to meet the minimum standards set out in HCC's "A guide to development related travel plans". A list of outstanding comments was sent to the applicant to address and provide a revised travel plan covering these matters.

An updated travel plan has since been provided and reviewed, with a cover sheet named 'FTP Comments Log' submitted detailing the changes made. The included improvements address the initial comments made and therefore make the travel plan acceptable. At the time of the reserved matters stage, the Framework Travel Plan submitted will need to be closely observed to ensure that all the measures concerning the design and layout are adequately covered.

Recommendation

Following ongoing discussions with the applicant, the primary areas of concern regarding the highway have now been suitably addressed. Therefore, the highway authority raises no objection to this application, subject to the following conditions and obligations:

Conditions

- A Construction Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority (in consultation with Hampshire County Council Highway Authority) before development commences. This should include construction traffic routes and their management and control, parking and turning provision to be made on site, measures to prevent mud being deposited on the highway, adequate provision for addressing any abnormal wear and tear to the highway, and a programme for construction.

Reason:

In the interests of highway safety

Obligations

- A contribution towards the following:
 - Mitigating the impact of development traffic at Delme Roundabout including provision for BRT;
 - Bus infrastructure improvements on the A27 in the vicinity of the site;
 - Implementing A27 safety measures to mitigate the impact of increased pedestrian and cycle movements from the development; and
 - Pedestrian and cycle audit improvements detailed in figure T5.
- Public consultation on the proposed improvements to the Downend Road bridge (detailed in drawing numbers ITB12212-GA-004 Rev B and ITB12212-GA-011) and delivery of the preferred scheme;
- Commitment to enter into a Common Law Dedication to secure Cams Bridge as a Public Right of Way footpath;
- Improvements to Cams Bridge as detailed in drawing number ITB12212-GA-023 Rev B;
- Provision of the crossing point detailed in drawing number ITB12212-GA-010 across the A27;
- Delivery of the site access as detailed in drawing number ITB12212-GA-014;
- Improvement to Upper Cornaway Lane as detailed in drawing number ITB12212-GA-020;
- Delivery of the Downend Road/A27 capacity improvements through a S278 agreement with the highway authority;
- Payment (by developer) of HCC fees in respect of approval (£3,000) and monitoring (£15,000) of the Framework Travel Plan prior to commencement; and
- Provision of a bond, or other form of financial surety, in respect of the measures within the Travel Plan.

I trust the above is clear, but should you wish to discuss any of the above further, please do not hesitate to contact Chris Hirst on the number above.

Yours Faithfully,

Stuart Morton
Team Leader – Highways Development Planning

Cc – David McMahon – Fareham Borough Council

Appendix 2 – Hampshire County Council Highways further comments 12th March 2019

We have reviewed document reference TW/RS/ITB12212-036b and can confirm that the content reflects the position of the Highway Authority.

Options 4 and 5 were specifically tabled and comments made to the applicant which are accurately reflected within the document from I-Transport. For your benefit I shall elaborate on the safety concerns in relation to option 5.

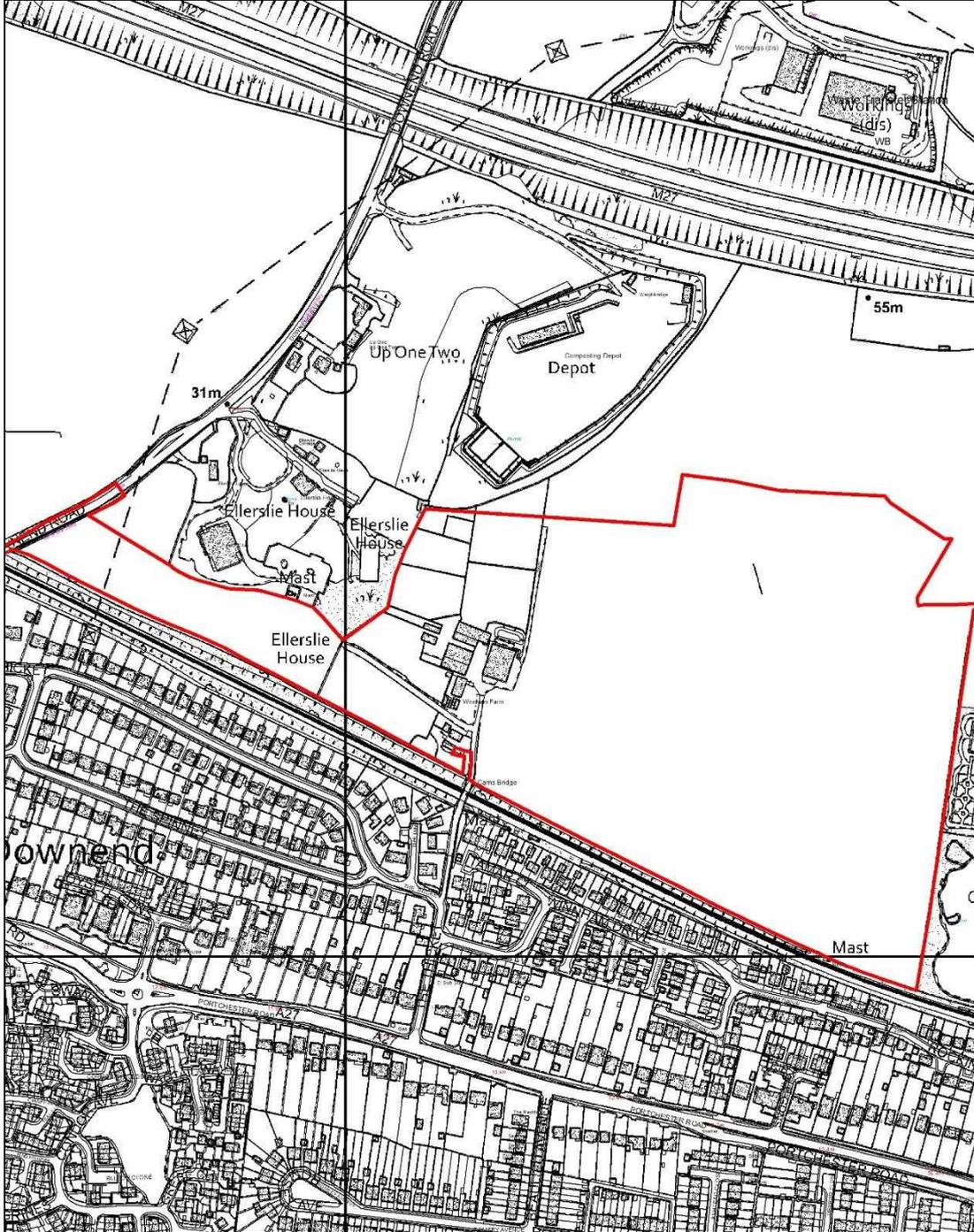
The scheme was reviewed by our Traffic Signals scheme who have detailed knowledge of existing similar arrangements. The fundamental difference however is that these arrangements all work on a 24 hour shuttle working basis (each direction getting a green light whilst the other direction is held on red) with the pedestrians phase holding all traffic on red to cross being part of the shuttle working arrangement. This layout would therefore be a unique arrangement where unless a pedestrian requested for traffic to be stopped the signals would always be on green in both directions, and both held on red when a pedestrians demand was made. On review of the proposal a number of safety concerns were highlighted which include the following:

1. At all other signalised rail bridge sites in Hampshire, traffic is controlled separately on each approach arm giving drivers alternate right of way in each direction through the signals . As such drivers unfamiliar with the site may not expect opposing vehicles to be on the bridge at the same time (both directions on a green signal). This situation is exacerbated by the carriageway width on the bridge which in this controlled situation would encourage drivers to take a more central position in the carriageway. Consequently vehicles may meet each other on the bridge. Where a vehicle needed to take evasive action, drivers may steer their vehicles towards the bridge parapets, particularly if they felt that they were unable to stop in time.
2. With good visibility across the bridge drivers would approach and travel through without reducing their speeds. The southbound direction has a long downhill gradient on approach to the signals which combined with a green signal could see vehicle speeds increase. The presence of speed, particularly in the southbound direction, adds to the risk of bridge strikes occurring.
3. The low pedestrian flows would mean the signals were called infrequently increasing the chances of confusion regarding the layout as regular users are unlikely to become familiar with the suggested operation.

The Highway Authority are therefore satisfied that the position set out within our planning response dated 29th August remains unchanged.

FAREHAM

BOROUGH COUNCIL



Land to East of Down End Road
Scale 1:1250



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APPENDIX FBC.12

Decision notice on P/18/0005/OA

FAREHAM

BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY (DEVELOPMENT MANAGEMENT
PROCEDURE) ORDER 2015

Planning Decision Notice

Planning Application Reference: P/18/0005/OA

Decision Date: 26th April 2019

Fareham Borough Council, as the local planning authority, hereby **REFUSE** to permit the **OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT THE MEANS OF ACCESS) FOR RESIDENTIAL DEVELOPMENT, DEMOLITION OF EXISTING AGRICULTURAL BUILDINGS AND THE CONSTRUCTION OF NEW BUILDINGS PROVIDING UP TO 350 DWELLINGS; THE CREATION OF NEW VEHICULAR ACCESS WITH FOOTWAYS AND CYCLEWAYS; PROVISION OF LANDSCAPED COMMUNAL AMENITY SPACE, INCLUDING CHILDREN'S PLAY SPACE; CREATION OF PUBLIC OPEN SPACE; TOGETHER WITH ASSOCIATED HIGHWAYS, LANDSCAPING, DRAINAGE AND UTILITIES** at **LAND TO EAST OF DOWN END ROAD, FAREHAM** as proposed by application **P/18/0005/OA** for the following reasons:

The development would be contrary to Policies CS5 of the adopted Fareham Borough Core Strategy 2011 and Policy DSP40 of the adopted Local Plan Part 2: Development Sites and Policies Plan and is unacceptable in that:

- a) The proposal would result in a material increase in pedestrian movements along Down End Road across the road bridge over the railway line. The works to the bridge as shown on drawing no. ITB12212-GA-003 Rev B (titled "virtual footway proposal") and the works to the bridge as shown on drawing no. ITB12212-GA-004 Rev B (titled "reduced width formal footway") would provide inadequate footway provision to ensure the safety of pedestrians using the bridge and other highway users. The works to the bridge as shown on drawing no. ITB12212-GA-011 Rev B (titled "priority shuttle working") would result in unacceptable harm to the safety and convenience of users of the highway.

- b) The application site is not sustainably located in terms of access to local services and facilities.

Notes to Accompany Planning Decision Notice

Planning Application Ref: P/18/0005/OA

Decision Date: 26th April 2019

General Notes for Your Information:

- Had it not been for the overriding reasons for refusal to the proposal, the Local Planning Authority would have sought to address matters relating to the provision of public open space, off-site highway and public rights of way works, improvements to Cams Bridge (as proposed by application reference P/18/0001/OA), pedestrian and cycle access, travel plan, affordable housing and matters requiring financial contributions towards the Solent Recreation Mitigation Strategy (SRMS), education provision and school travel plans by inviting the applicant to enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990.
- The documents considered in relation to this application can be viewed online at www.fareham.gov.uk/planning.
- The Council worked positively and proactively with the applicant and their agent to try and address the issues which came up during the course of the application being considered. A report has been published on the Council's website to explain how a decision was made on this proposal.
- Please contact the officer who handled this application Richard Wright on 01329 824758 or at rwright@fareham.gov.uk if:
 - You would like clarification about this notice
 - You are unhappy with this decision or the way it has been reached

Right of appeal:

- The person who made this application has the right to appeal to the Secretary of State against the Council's decision to refuse permission.
- The Secretary of State may decide he will not consider an appeal if it seems to him that, due to statutory requirements, the local planning authority could not have granted permission without the conditions being imposed.
- Appeals must be made within 6 months of the date of this decision notice (so by 26th October 2019).
- The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- Appeals are handled by the Planning Inspectorate on behalf of the Secretary of State. Appeals must be made using a form which you can get from:
 - Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN;
 - Or submit online at The Planning Inspectorate website at
 - www.gov.uk/planning-inspectorate

Purchase Notices:

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase the owner's interest in the land.

APPENDIX FBC.13

Appeal decision on P/18/0005/OA -
3230015



Appeal Decision

Inquiry Held on 24 to 26 September 2019

Site visits made on 23, 25 and 26 September 2019

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2019

Appeal Ref: APP/A1720/W/19/3230015

Land to the east of Downend Road Portchester

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miller Homes against the decision of Fareham Borough Council.
 - The application Ref P/18/0005/OA, dated 2 January 2018, was refused by notice dated 26 April 2019.
 - The development proposed is described as 'Outline planning application with all matters reserved (except the means of access) for residential development, demolition of existing agricultural buildings and the construction of new buildings providing up to 350 dwellings; the creation of new vehicular access with footways and cycleways; provision of landscaped communal amenity space, including children's play space; creation of public open space; together with associated highways, landscaping, drainage and utilities'.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Miller Homes against Fareham Borough Council. That application is the subject of a separate Decision that will follow the appeal decision.

Preliminary Matters

3. The Inquiry sat for three days between 24 to 26 September 2019. I made what the Planning Inspectorate refers to as an 'access required' visit to the site on 25 September when I was granted access to enter and view the site, rather than being accompanied by representatives for the appellant and the Council. I also made unaccompanied visits to the area within the vicinity of the appeal site on 23 and 26 September.
4. While the Inquiry finished sitting on 26 September, I adjourned it, as opposed to closing it to allow for the submission of: a certified copy of an executed Section 106 agreement (S106); the appellant's and the Council's closing submission in writing; some documents referred to by the parties in evidence (inquiry documents [IDs]); a final version of the inquiry position statement; and the appellant's written application for costs and the Council's response to that application. The Inquiry was closed in writing on 21 October 2019.

5. The S106 was received by the Planning Inspectorate on 3 October 2019 and it contains planning obligations concerning:
- the provision of 40% affordable housing within the development;
 - the implementation of improvements to the Cams bridge;
 - the undertaking of off-site highway works for alterations at the railway bridge in Downend Road and on the A27;
 - the payment of contributions for various off-site highway and transportation improvements and the implementation of an occupiers travel plan;
 - the provision of and the payment of maintenance contributions for public open and play space;
 - the payment of a contribution to mitigate the development's effects on off-site designated habitats; and
 - the payment of a contribution for school facilities in the area.

Main Issues

6. The main issues are:
- whether the development would make adequate provision for pedestrian access via Downend Road and the effects of providing pedestrian access on the operation of Downend Road;
 - whether there would be accessibility to local services and facilities for the occupiers of the development by a range of modes of transport; and
 - the effects of the development on the integrity of the Portsmouth Harbour Special Protection Area and Ramsar Site, the Solent and Southampton Special Protection Area and Ramsar site and the Solent and Dorset Coastal Potential Special Protection Area (the designated habitats).

Reasons

Pedestrian access via Downend Road and effects on the operation of Downend Road

7. Having regard to the wording of part a) of the reason for refusal, ie pedestrian use of Downend Road and any subsequent implications for the 'safety' of and 'convenience' of users of this road, and the evidence put to me, there are various matters that come within the scope of the consideration of this main issue. Those matters, which I consider below in turn, being: the pedestrian routes that would be available to occupiers of the development; the pedestrian demand (movements) and the distribution of those movements amongst the pedestrian routes; and the options for and effects of altering the railway bridge in Downend Road to accommodate the pedestrian movements arising from the development.
8. Inevitably there is some overlap between the matters of pedestrian movements and their distribution to be consider under this issue and the

wider accessibility to services and facilities that concerns the second main issue that I have identified.

Proposed pedestrian routes

9. The development would involve the construction of 350 dwellings to the north of a railway line, just beyond part of Portchester's established residential area. The development would have three pedestrian routes to and from it and they would be via: Downend Road, the westernmost of the routes (route A); Cams bridge, the central route (route B); and Upper Cornaway Lane, the easternmost route (route C).
10. Cams bridge crosses the railway line and currently provides access between the site and a small vehicle repair garage and The Thicket, the latter being a residential street. Separately planning permission has been granted for upgrading works to the Cams bridge to facilitate its use as a pedestrian route for occupiers of the appeal development. On the southern side of Cams bridge there is a tarmacked track leading off The Thicket. With the upgrading of Cams bridge route B would be a pedestrian route of an essentially urban character.
11. Route C would in part be reliant on the use of an unsurfaced, one metre wide and 200 metre or so length of a public right of way (footpath PF117), and Upper Cornaway Lane, a street providing access to the crematorium and some chalet type homes. Given the rural character of FP117 and its current suitability only for recreational use, some widening and surfacing works would be undertaken to it to enable it to be used more easily by residents of the proposed development.
12. Downend Road can be characterised as being a local distributor road¹, with a two-way, daily flow of the order of 6,800 vehicles per day². Pedestrians using route A and travelling to and from destinations south of the railway line would have to cross the railway bridge in Downend Road, following some alterations to the bridge being made, which are referred to in more detail below. That railway bridge has variously been described as providing a north/south or east/west crossing of the railway line and I shall hereafter only refer to it as an east/west crossing of the railway line and to drivers making eastbound or westbound crossings of the bridge. On the railway bridge and westbound of it, as far as the junction with the A27, Downend Road is subject to a 30mph speed limit. Immediately eastbound of the railway bridge the speed limit increases to 40mph.
13. In terms of accessing places of work and education, shopping and leisure facilities, public transport (Portchester railway station and bus stops along Portchester Road [A27]) and other services and facilities etc, it is agreed that some occupiers of the development would walk to and from the previously mentioned destinations. However, there is disagreement about the scale of the pedestrian demand and how it would be distributed amongst the three routes.

¹ Paragraph 6.24 of Mrs Lamont's PoE

² Table 2.1 within Mr Wall's proof of evidence and paragraph 41 of Mr Litton's closing submissions for the appellant (ID21)

The pedestrian demand (movements) and the distribution of those movements

14. The appellant's most up to date estimate of the total daily pedestrian demand generated by the development would be nearly 700 movements per day, inclusive of walking trips to access buses and trains, 26.6% or so of all daily trips arising from the development³. By contrast the Council estimates that the number of daily single mode walking trips would be of the order of 284 trips, ie origin to destination trips excluding the use of buses or trains (CD10A). The parties agree for the purposes of estimating the development's pedestrian demand that data from the national travel survey 2018 (NTS2018) should be used to establish all trip generation, mode share and journey purpose. It is further agreed that the 2011 Census data should be used to determine the development's population.
15. However, there is disagreement between the appellant's and the Council's transportation witnesses⁴ as to what flexibility should be used in applying the acceptable walking distance guidance stated by the Chartered Institution of Highways and Transportation (CIHT) in its guidelines for the 'Provision for journeys on foot' (CIHT2000 [CD25]). There is also a difference of opinion as to whether the mode share for walking to work recorded by the Census, ie 52% of the national level, should be used as a proxy when considering the propensity for all walking trips arising from the development. The consequence of those disagreements being whether local places of work, schools, shopping facilities etc would or would not be within walking range of the development, having regard to the alternatives offered by the three routes.
16. Mr Wall for the appellant is of the view that the suggested acceptable walking distances set out in Table 3.2 of CIHT2000 are dated and are being too rigidly applied by Mrs Lamont for the Council. The guidelines set out Table 3.2 are:

| | Town centres (metres) | Commuting/school and sightseeing (metres) | Elsewhere (metres) |
|----------------------|--------------------------|---|-----------------------|
| Desirable | 200 | 500 | 400 |
| Acceptable | 400 | 1,000 | 800 |
| Preferred Maximum | 800 | 2,000 | 1,200 |

17. While it has been suggested that the acceptable walking distance guidelines stated in CIHT2000 are dated, given that they are nearly 20 years old, that concern does not seem to be borne out by the information contained within Table NTS0303 contained within NTS2018⁵. That is because between 2002 and 2018 the average walking trip length has remained constant at 0.7 miles (1.12 Km), while walking trips over a mile (1.6 Km) have consistently been of an average length of around 1.4 miles (2.25 km). Those national survey results suggest that individuals' attitudes towards walking trip

³ Page 2 of CD10A and Paragraph 2.3.9b of Mr Wall's PoE
⁴ Mr Wall for the appellant and Mrs Lamont for the Council
⁵ Page 4 Appendix 1 of Mrs Lamont's PoE

lengths have not altered appreciably and that there is no particular issue with the currency of the guidance contained in Table 3.2 of CIHT2000.

18. In any event were the guidelines stated in CIHT2000 thought to be out of date, then I would have expected the CIHT to have revised them, either by issuing an amended version of CIHT2000 or publishing an entirely new document. Neither of those courses of action have been initiated by CIHT, with the publication of its 'Planning for Walking' guidance in 2015 (CD27 – CIHT2015) appearing to have provided an obvious opportunity for replacement acceptable walking distance guidelines to have been introduced. Instead CIHT2015 makes cross references to CIHT2000 in sections 4 and 6, which I consider to be a strong indication that CIHT was of the view that irrespective of the age of its acceptable walking guidelines, they continued to have currency. Mr Wall in giving his oral evidence stated that he was unaware of the CIHT undertaking any current review of CIHT2000.
19. Regardless of a walking trip's purpose the appellant contends that an upper ceiling distance of 2.4 Km (1.5miles) should be used. However, setting such a distance is inconsistent with what is stated in CIHT2000 and the average walking trip lengths reported in the NTS2018 and I therefore consider it should be treated with some caution. The wider disagreement about the overall number of pedestrian movements that would be generated is something I shall return to in providing my reasoning for the second main issue. However, in the context of the consideration of the utility of route A, I consider that the walking trips of most significance would be those to and from Cams Hill Secondary School (the school) and the Cams Hall employment site (CHes). That is because the school and the CHes would or would very nearly meet the 2,000 metre preferred maximum distance guideline for walking journeys for schools and commuting stated in CIHT2000.
20. As it is highly unlikely that route C would be used to get to or from either the school or the CHes, there is no need for me to make any further reference to it in considering this main issue.
21. The parties are now agreed that the development would generate 35 or 36 pedestrian crossings of the Downend Road bridge per day, an increase of between 83% and 86% on the present situation⁶. Of the new crossings there is agreement that 24 would be for the purpose of travelling to and from the school. However, unlike the Council, the appellant contends that no use of route A would be made by commuters walking to or from a place of work⁷.
22. There is some disagreement as to whether the CHes would be 2,000 or 2,100 metres from the development. I consider that a 100 metre (5%) difference would not act as a significant deterrent for pedestrians using route A. That is because the time to walk an extra 100 metres would not be great and for a walker using either routes A or B and it would probably be necessary to time the duration of the alternative walking trips to be aware of any meaningful difference between them. Having walked routes A and B, and presuming that a safe pedestrian crossing for the Downend Road railway bridge would be available, I consider that qualitatively there would be very little to differentiate route A from B. I also consider there would be potential

⁶ Page 5 of CD10A

⁷ In the zero entry against commuting/business trips in the upper table and supporting text on page 3 of CD10A and in Tables 10 and 11 included in Appendix C to Mr Wall's PoE

for commuters walking between the development and the CHes to vary their routes, to avoid monotony, and to use either route A or B. I am therefore not persuaded that route B would automatically be favoured ahead of route A by those walking to and from the CHes.

23. So, unlike the appellant, I consider it incorrect to discount commuters from walking to or from CHes via route A. I therefore consider that there would be potential for more pedestrian use of Downend Road rail bridge than has been allowed for by the appellant. I also consider that as there is access to the circular countryside public footpath route just beyond the railway bridge that there would be potential for additional recreational walkers, originating from the existing built up area, to be drawn to Downend Road resulting in some additional crossings of the bridge. That is because the provision of enhanced pedestrian facilities would make it safer to cross the bridge and the bridge's existing condition may well be acting as a detractor for recreational walkers.

The five options considered at the application stage for altering the Downend Road railway bridge

24. To accommodate additional pedestrian crossings of the railway bridge in Downend Road there is no dispute that alterations would need to be made to this bridge. That is because the existing bridge only provides a very rudimentary refuge for pedestrians, in the form of a very narrow margin, tantamount to a 'virtual footway', that comprises a strip of tarmac demarcated by a white painted line.
25. To address the additional demand for pedestrian crossings of the bridge the appellant when the appealed application was originally submitted put forward three options for alterations (options 1 to 3). Option 1 would involve the introduction of a formalised virtual footway and has been discounted by Hampshire County Council (HCC). Option 2 would involve the provision of a 1.2 metre wide traditional (raised) footway, with a carriageway width of around 4.8 metres. Option 3 would involve the provision of a 2.0 metre wide footway and a reduction in the width of the carriageway to form a single lane of 3.5 metres and would involve the introduction of a shuttle working arrangement, with the signed priority being in favour of the eastbound stream of traffic. HCC in offering its advice to the Council⁸ expressed no preference for either options 2 or 3, with it stating that the final decision on which option should be pursued being deferred until a post planning permission public consultation exercise had been completed.
26. Following the decision of the Council's planning committee to defer the determination of the appealed application in order to enable further consideration to be given to the alteration of the railway bridge, two further options were put forward by the appellant. The first of those, option 4, would be similar to option 3, albeit than in substitution for signed priority vehicles would be controlled by traffic signals. HCC are reported as raising no in principle concern with option 4, albeit it indicated that this option would entail greater driver delay, including unnecessarily during off peak periods, and a maintenance liability, such that options 2 and 3 remained preferable to the highway authority⁹.

⁸ Letter of 29 August 2018 (contained within CD2)

⁹ Paragraph 3.2.6 in the i-Transport Technical Note of 28 February 2019 and entitled 'Downend Road Railway Bridge – Review of Pedestrian Options' (CD29)

27. Option 5 would involve no footway provision, with the carriageway available to vehicles crossing the bridge travelling in opposite directions at the same time being 5.0 metres. There would also be 300mm wide margins to protect the parapets on each side of the bridge¹⁰. Additionally, traffic signals would be installed so that when pedestrians sought to make a bridge crossing they would initiate an all red phase for both eastbound and westbound drivers, making the bridge a pedestrian only area for so long as pedestrians were crossing it. HCC are reported as considering option 5 to be a unique and unsafe means for controlling shuttle working at the bridge and rejected it (CD2¹¹). However, HCC's advice to the Council concerning Option 5 appears to have been on the basis that it would involve shuttle working, as opposed to two way working. In this regard HCC is reported as commenting:

'As such drivers unfamiliar with the site may not expect opposing vehicles to be on the bridge at the same time (both directions on a green signal). This situation is exacerbated by the carriageway width on the bridge which in this controlled situation would encourage drivers to take a more central position in the carriageway. Consequently vehicles may meet each other on the bridge'. (Appendix 2 of committee report of 24 April 2019 [CD2])

However, HCC's comments regarding option 5 appear to have been made on an erroneous basis, with it having put forward as an alternative to shuttle working. It is therefore unclear what HCC's views on option 5 would have been had it not been treated as being an 'unconventional arrangement'¹², given its apparent misunderstanding about what this option would entail. It would also appear that the appellant did nothing to bring this misunderstanding to HCC's attention.

28. The Council's determination of the planning application was therefore based on options 2 and 3 being for its consideration and it contends that option 2 would be unsafe for pedestrians, while option 3 scheme would unacceptably affect the safety and convenience of road users. I now turn to the detailed consideration of options 2 and 3.

Option 2

29. The railway bridge provides poor facilities for pedestrians crossing it. I recognise that in general terms the provision of a 1.2 metre wide footway on the Downend Road bridge under option 2 would represent an improvement in safety terms compared with the prevailing situation, however, I consider that cannot reasonably be said of the post development situation. That is because the development would be a significant new generator of vehicles crossing the bridge, with the parties agreeing that the development would give rise to a 22% increase in traffic flows on the bridge¹³. Those extra bridge crossings is something that needs to be accounted for when considering whether option 2 would provide a safe environment for the existing and prospective pedestrian users of the bridge.

¹⁰ As clearly depicted in the cross section contained in Image 3.2 and drawing ITB12212-GA contained in CD29

¹¹ The summary of HCC's comments to the Council included as Appendix 2 of the Council's committee report of 24 April 2019

¹² Paragraph 3.3.6 in CD29

¹³ Page 5 of CD10A

30. I am of the view that a 1.2 metre wide footway under option 2 would not provide a safe bridge crossing facility for pedestrians, having regard to both the increases in vehicular and pedestrian crossings of the bridge, with the development being a new origin/destination for both categories of travellers, particularly during the peak hours for the making of commuting trips and/or school journeys. It is also likely that the pedestrians using the bridge would be likely to be a mixture of adults and school aged children. Given that the demand for additional bridge crossings would largely come from commuters and school children, I consider that activity would be more likely to coincide with AM and PM peaks and would not be evenly spread throughout the day. In saying that I recognise that working hours can be staggered and out of teaching hours' activities occur at schools, but those activities would only give rise to some walking trips for occupiers of the development outside the core peak hours.
31. Having regard to the guidance on footway widths stated in the Department for Transport LTN1/04 'Policy, Planning and Design for Walking and Cycling'¹⁴ and Manual for Streets (MfS - CD23), a footway of 1.2 metres width would be considerably narrower than the generally preferred minimum 2.0 metres referred to in paragraph 6.3.22 of MfS. While the guidance is not expressed in absolute terms the footway to be provided as part of option 2 would potentially be used by a variety of pedestrians, ie adults, children, with or without any impairment. However, a footway of 1.2 metres in width would only just be wide enough for an adult and a child to walk side by side, but would not accommodate two adults with a push chair walking side by side in the same direction or an adult and a wheelchair user side by side, based on the details provided in figure 6.8 of MfS.
32. Regard also needs to be paid to pedestrians travelling in opposite directions wishing to cross the bridge at the same time. In that regard I recognise that as far as pedestrians travelling from or to the development in the peak hours are concerned the bulk of those users would be travelling in the same direction and that this demand for the footway's use would not generate opposing movements. However, there are already users of the bridge and many of them will be making trips across the bridge in the opposite direction to pedestrians leaving or returning to the development. There would therefore be potential for opposing crossings of the bridge to be made at the same time, creating a conflict situation. I consider it cannot be assumed that when directional conflicts arose that one party would give way to the other and with such a narrow footway that would make the use of the carriageway a possibility, bringing pedestrians into conflict with vehicles.
33. Under the prevailing situation, I observed cars frequently encroaching beyond the centre line on the bridge whether there were or were not any pedestrians on the bridge. My seeing cars crossing over the centre line irrespective of whether pedestrians are crossing the bridge is also consistent with the screenshot images included in the appellant's evidence, for example those in appendix A of the appellant's Technical Note of 28 February 2019. All of which is also consistent with the advisory road signs on either side of the bridge warning of oncoming vehicles being in the middle of the road.

¹⁴ Appendix X to Mr Wall's PoE

34. I therefore find difficult to envisage how that driver behaviour would not continue to be replicated with an increased number of vehicular crossings of the bridge, following a reduction in the carriageway width for vehicles under option 2. That in turn could result in eastbound vehicles needing to mount the footway or their nearside wing mirrors encroaching into the space above the footway. So, under a scenario of vehicles crossing in opposing directions at the same time as pedestrians were also making use of the bridge there would be the potential for the safety of pedestrians to be unacceptably prejudiced.
35. The appellant has sought to justify the provision of a 1.2 metre wide footway, on the basis of having undertaken a 'Fruin' assessment, to judge the level of service this footway would afford its users. However, the extract of the paper written by Mr Fruin submitted at the inquiry (ID5¹⁵) refers to 'channel's (footways) upwards of 1.8 metres (6 feet) in width having been assessed. I therefore consider that the Fruin methodology has very limited applicability to a footway under option 2 that would be two thirds of the width of the footway referred to in ID5. I therefore find this aspect of the appellant's case does not justify the provision of a 1.2 metre wide footway.
36. While other instances of narrow footways at bridges/archways in Hampshire have been drawn to my attention in evidence¹⁶. However, those examples do not appear to be directly comparable with the appeal proposals and in any event it is the acceptability of otherwise of the latter that I need to consider.
37. I also find it surprising that HCC considers a 1.2 metre wide footway would be appropriate on a road subject to around 6,750 daily vehicle movements, when the appellant is intending the main and secondary estate roads within the development would have 2.0 metre footways¹⁷.
38. I therefore consider that option 2 should be discounted as an appropriate alteration to the Downend Road railway bridge for safely accommodating the additional pedestrian use of the bridge that would arise from the development.

Option 3

39. The appellant's modelling of the effect of option 3's operation traffic flows is heavily reliant on the use of the 'ARCADY' software, that software normally being used to assess the operation of roundabouts. In this instance ARCADY has been set up with a 'dummy arm' as a work around to simulate the operation of eastbound priority shuttle working at the railway bridge. Using ARCADY, the appellant has estimated that in the AM peak hour, the average queue length would be 3.3 vehicles amounting to a delay of 23 seconds¹⁸.
40. I have never previously come across ARCADY being used for any purpose other than modelling the operation of roundabouts. I therefore find it surprising that HCC, in providing its comments to the Council (included in CD2), did not question ARCADY's use in assessing the operation of shuttle working at a bridge. I consider it unsurprising that the Transport Research Laboratory (TRL), as the developers/product owner of ARCADY, has cast significant doubt on the suitability of its model for assessing a scenario such

¹⁵ Designing for pedestrians a level of service concept

¹⁶ Appendix X of Mr Wall's PoE and ID11

¹⁷ Paragraph 2.4.2 of the Transport Assessment (CD15)

¹⁸ Page 9 of CD10A

as option 3 because of an issue of dealing with `... the lag times once a vehicle is in the narrowing ...'¹⁹. So, while HCC appears to have voiced no concerns about ARCADY's suitability, I consider that very little weight should be attached to it for the purposes of assessing the effect of option 3 on the safe and free operation of Downend Road. I also consider it of note that TRL has stated that its PICADY modelling tool, which is designed to model the operation of priority junctions, is also unsuitable for modelling option 3, with TRL referring to its TRANSYT traffic signal software as being more suitable²⁰, albeit still something of a work around.

41. In response to the limitations of the appellant's modelling of option 3, the Council has used microsimulation software to assess the operational effects of option 3. That software 'Paramics Discovery Version 22' (PDV22) being a microsimulation model that includes a module, introduced around six months ago²¹, and which has a specific module capable of modelling road narrowings²². As a worst case the Council's running of PDV22 predicts that during the AM peak period queues of up to 36 vehicles might extend back from the westbound vehicle give way point and result in westbound traffic being delayed by up to 17 minutes²³.
42. Given the recent introduction of PDV22 its track record is limited and the appellant has raised concerns about the reliability of PDV22. In that regard it has been argued that the Council's running of PDV22 has not been correctly calibrated for the circumstances of option 3 and that its output results cannot be validated. Mr Wall in cross examination contended that PDV22 appears to have been developed without being informed by driver behaviour. However, producing a model that was incapable of replicating driver behaviour would seem a nonsensical exercise for the product supplier. Given that PDV22 has been developed to assess the operation of a highway under the circumstances of vehicles in one flow giving way to an opposing flow of vehicles at a road narrowing, I consider that very little weight should be attached to the proposition that this software had been developed without regard to driver behaviour.
43. Mr Wall is not a 'modelling expert'²⁴ and has placed some reliance on the findings of a study undertaken by the TRL for the Department of Transport to support his use of ARCADY and to critique the Council's running of PDV22. The findings of the TRL study were reported in 1982 in a paper entitled 'The control of shuttle working on narrow bridges' (TRL712)²⁵. To assist with critiquing the running of PDV22 the appellant has engaged a consultancy specialising in microsimulation modelling, Vectos Microsim Limited (Vectos), and a video file of the model runs Vectos has performed, as well as written advice it has given to the appellant, has been submitted as part of the appellant's evidence²⁶. In response to the critique of PDV22 the Council has supplemented its evidence through the submission of a video file for its

¹⁹ Email from Jim Binning of TRL to Mayer Brown of 23 August 2019, included in Appendix RVL4 appended to Mrs Lamont's rebuttal statement

²⁰ Email from Jim Binning of TRL to Mayer Brown of 9 August 2019, included in Appendix RVL4 appended to Mrs Lamont's rebuttal statement

²¹ Mrs Lamont in during cross examination

²² Matter of agreement stated on page 8 of CD10A

²³ Mrs Lamont's rebuttal statement

²⁴ Email of 23 September 2019 to the Planning Inspectorate from Mrs Mulliner on the appellant's behalf

²⁵ Appendix K to Mr Wall's PoE

²⁶ Appendix P to Mr Wall's Rebuttal Statement, Note from Vectos of September 2019 entitled 'Paramics modelling - comments on Sysra review and Mayer Brown rebuttal', ID12 and ID15

- running of PDV22 and written comments from the software's developer, Systra²⁷.
44. For the AM peak period and using PDV22 the appellant estimates that the average westbound queue length would be 6.5 vehicles, with the average delays westbound and eastbound respectively being 43 and 10 seconds²⁸.
 45. The disagreement about whether the running of PDV22 has reasonably represented the operation of option 3, essentially revolves around the behavioural response of westbound drivers to the signed priority and whether that response would cause significant queuing and driver delays. In that regard the appellant contends that the signed priority has been modelled too rigidly and would not be reflective of actual driver behaviour. It is therefore argued that the Council's prediction of the severity of the westbound queuing and delay times would be unrealistic. That is because TRL712 records that when signed priority shuttle working is in place drivers that do not have the priority only give some measure of preference to drivers in the opposing stream. That resulting in drivers without the priority experiencing around 65% of any delay, while the opposing drivers experience around 35% of any delay.
 46. While the appellant has sought to attach significant weight to the findings reported in TRL712, this report of study provides very little information about the computer modelling that was performed and the frequency and duration of the observations of driver behaviour that was undertaken at the two bridge locations that were used.
 47. With respect to the computer model referred to in TRL712, were that model to be of wider utility than just perhaps for conducting this study, I would have expected that it would be known to HCC and could have been drawn to Mr Wall's attention during the pre-application and/or application discussions that took place. I say that because within Hampshire road narrowing at bridges/archway is not uncommon, given the examples cited in Mr Wall's evidence and my own observations in determining various unrelated appeals elsewhere in this county. In a similar vein when the previously mentioned email exchange took place between representatives of the TRL and a colleague of Mrs Lamont about software suitability, if the model used in the 1982 study was of utility today then the TRL could have drawn it to the attention of Mrs Lamont's colleague. Instead of that there is reference to the TRL planning to develop new software to model shuttle working. Whatever form the model used in 1982 took, given the advances in computing that have occurred in the last 37 years, it is unlikely it would bare comparison with modern day software.
 48. With respect to the bridge locations used in the 1982 study, in the final paragraph in section 3.2 of TRL712 it is stated that traffic flow rates at the bridges and the proportions of traffic crossing the bridges in each direction were different. Those differences could have had implications for the observed driver behaviour that was used to validate the output from the running of the model used in this study.
 49. In the time since TRL712's publication there have been significant changes in vehicle technology, most particularly in terms of braking and engine

²⁷ Mrs Lamont's Rebuttal Statement, including Appendix 3, ID9, ID10 and ID14

²⁸ Page 9 of CD10A

technology, which have implications for acceleration and deceleration rates. Vehicle performance is now very different and would not necessarily be reflected in the modelling undertaken as part of the 1982 study. I am therefore doubtful as to whether the acceleration rates used for the purposes of a study undertaken in 1982 can be relied upon today.

50. With respect to the observance of priority signage, much has been made of the Council's PDV22 model runs being too cautious, with it being argued that the modelled driver behaviour would be more akin to that of 'strictly enforced' priority in the language of TRL712. However, option 3 would entail the installation of 'give way' lines and signage clearly indicating that drivers should give way to on-coming traffic. That signing arrangement would in effect be very similar to what is found in the case of a side road forming part of a 'priority junction' where give way signage and road markings are in place, which are routinely observed without strict enforcement. I consider normal driver behaviour is to observe the instructions or warnings appearing on traffic signs, whether they be of a prohibitive or warning type.
51. I therefore consider it reasonable to expect that westbound drivers faced with priority give way signage would take heed of that signage and thus approach the bridge with caution and would avoid commencing a crossing if there was any doubt that it could not be completed safely. So, on approaching the give way point and when there were no eastbound vehicles on the bridge, a driver would need to decide whether there would be enough time to complete a crossing of the bridge before encountering a vehicle travelling in the opposing direction.
52. There is some disagreement as to how much time a driver would deem necessary to make a safe crossing of the bridge, with it also being argued that in working out the time needed westbound drivers would also make a calculation as to whether their crossing of the bridge would unreasonably delay an eastbound vehicle's crossing of the bridge. It being argued, in line with findings reported in TRL712, that if a westbound driver decided its actions would delay an eastbound vehicle then the former would not proceed.
53. In terms of the decision making to be made by westbound drivers, I consider the normal behaviour would be to decide whether a crossing could safely be made, with any decision making about whether their actions would cause delay for a driver travelling in the opposite direction only being a secondary concern. That is because while a westbound driver would be able to judge how long they would need to cross the bridge, they would be unlikely to be able to make the calculation when precisely an eastbound vehicle would arrive at the point where its driver would want to commence its crossing and what any delay caused to the driver of the eastbound vehicle would be.
54. I recognise that some westbound 'platooning' would be likely to arise. That is one vehicle or a group of vehicles following immediately behind another/other westbound vehicle/vehicles already crossing the bridge, irrespective of whether there might be an eastbound vehicle waiting to make a crossing of the bridge. However, I consider the number of vehicles making crossings during an individual platooning event would not necessarily be as great as argued by the appellant. That is because there would come a point at which a westbound driver would decide to observe the priority signage, rather than continue a sequence of not observing it, given that being behind a line of

crossing vehicles it would not necessarily be possible to see whether an eastbound vehicle with priority was waiting to make a crossing. So, while some platooning would arise and would have the potential to reduce westbound queuing and delays, I am not persuaded its occurrence and delay reducing potential would be of the significance claimed by the appellant.

55. As I have indicated above there is very limited information contained within TRL712 about the precise nature of the observation of drivers at narrow bridges, ie how many times driver observations were undertaken and how long they were. I therefore have concerns about driver delay under option 3 being applied on the basis of 35% and 65% respectively for drivers with and without the signed priority, as per the finding reported in TRL712. That being something the appellant has done in critiquing the Council's running of PDV22 to arrive at its finding that if this software is used then in the AM peak period the average westbound queuing length would be 6.5 vehicles and the delay would be of the order of 43 seconds²⁹. The Council's review of the appellant's running of PDV22 suggests that the average maximum westbound queue length could be around 20 vehicles at 07:50 AM (ID10).
56. However, it appears that an unintended consequence of the appellant's rebalancing of the priority to replicate a 35%/65% delay split, is the build-up of eastbound queuing in the absence of much westbound traffic, as is apparent from the 07:46:25 screenshot contained in ID9B. Additionally, vehicles travelling in opposing directions crossing the bridge at the same time would appear to have arisen, as shown in some of the screenshots contained in ID9B.
57. For all of the reasons given above I am therefore not persuaded that much weight should be attached to the findings reported in TRL712 for the purposes of calibrating or validating runs for either PDV22 or for that matter ARCADY.
58. It is contended that the PDV22 model runs undertaken by the Council have been incorrectly calibrated. However, the review of those runs undertaken by Systra has not highlighted any fundamental errors in the way its model has been built and run on the Council's behalf. I am therefore inclined to attach greater weight to the commentary on the model's running provided by Systra than Vectos. That is because Systra, as software designer, could be expected to know precisely what its model is intended to do and whether its running by a 'client' has been appropriate, when consideration is given to the parameters needed to run the software.
59. While PDV22 is a new model and may well become subject to some refinement as more use is made of it, on the basis of everything put to me in evidence about it, I consider its use is more appropriate to that of ARCADY. That is because PDV22 has been designed to address narrow road situations, ARCADY is intended to model circulatory road movements and the TRL has advised that ARCADY is not an appropriate tool to model the operation of option 3.
60. While the queuing and delays under option 3 predicted by the Council's running of PDV22 may be somewhat exaggerated, I consider no reliance should be placed on the appellant's ARCADY assessments. In practice the effect on the flow of traffic associated with option 3's introduction would be

²⁹ Page 9 of CD10A

likely to somewhere between the range of the results yielded by the appellant's and the Council's running of PDV22. That would be likely to result in queue lengths and driver delay exceeding the AM peak period occurrences that HCC found to be unacceptable when it concluded that the traffic light controlled option 4 would be unacceptable, ie mean maximum queuing of nine vehicles and delays westbound and eastbound respectively of 36.8 and 32.4 seconds³⁰.

61. On the basis of the evidence before me I consider that the introduction of option 3 would result in unacceptable levels of queuing and delay for vehicular users of Downend Road.
62. The Council contends that the visibility splay falling within land within the appellant's control would be inadequate for drivers turning right from the development's access onto Downend Road. While a visibility splay that would be fully compliant with the most recent guidance, ie that contained in ID6³¹, would encroach onto third party land, that land comprises undeveloped land, including a ditch. It is therefore unlikely that any development would arise within the third party land, so close to the edge of the highway, as to affect the visibility for drivers emerging from the development's access. I therefore consider that there would be adequate visibility for drivers turning right out of the development's access and that 'edging out' type movements would be unlikely to cause any significant conflicts between drivers emerging from the site access and westbound road users approaching to the give way point proposed under option 3.
63. Concern has also been raised that the introduction of option 3 would adversely affect the vehicular access used by the occupiers of 38 Downend Road (No 38). No 38 lies immediately to the south of the railway line and has a double width dropped kerb providing access to this dwelling's off-street parking. The visibility for drivers emerging from No 38 is already affected by the railway bridge's parapet.
64. The works associated with the implementation of option 3 would have some implications for the manoeuvring for drivers turning right from No 38. However, I consider the new situation would not be greatly different to the existing one and introducing a shuttle working layout would have very little effect on the forward visibility for vehicles emerging from No 38 because there would be no alterations to the railway bridge's parapet. Regard also needs to be paid to the fact that in any given day the number of vehicle movements associated with No 38's occupation would be quite limited, given this access serves a single property. I consider it of note that the safety auditing that has been undertaken to date has not highlighted any particular safety concerns for vehicles emerging from No 38's access associated with the design of option 3.
65. I am therefore not persuaded that the introduction of option 3 would have any adverse effect on the use of No 38's access.

³⁰ Table 3.1 in CD29

³¹ Junction visibility extract from Design Manual for Road and Bridges CD123 Revision 0 (August 2019)

Conclusions on pedestrian access via Downend Road and effects on the operation of Downend Road

66. For the reasons given above I found that the 1.2 metre wide footway to be provided as part of option 2, would not provide a safe facility for its users.
67. Option 3 through the narrowing of the carriageway to 3.5 metres would provide a safe pedestrian route. However, the narrowing of the carriageway would be likely to result in vehicle queuing and delay during the AM peak period. The precise degree of that queuing and delay is the subject of considerable disagreement, with it having proved quite difficult to model. That is because when Mr Wall prepared the original transport assessment (CD15) there appears to have been no readily available software capable of modelling a road narrowing such as that envisaged under option 3. That led to the use of ARCADY, which as I have explained above, I consider cannot be relied upon, not least because the TRL has stated that it is not suited to modelling shuttle working. In connection with presenting its appeal case the Council has used the comparatively new and not widely tested PDV22, the running of which suggests that considerable vehicle queuing and driver delay could be encountered by westbound vehicular traffic.
68. The appellant has sought to persuade me that the results from the Council's running of PDV22 should not be relied on because it has been set up to run with parameters that are exaggerating vehicle queuing and driver delay because the observation of the signed priority by westbound traffic has been too rigid. The appellant's critique of PDV22 in no small measure relies on computer modelling and behavioural observations at narrow bridges undertaken in connection with the TRL712 study dating back to 1982. However, for the reasons I have given above I have significant reservations about how meaningful the findings reported in TRL712 are today.
69. I recognise that the Council's running of PDV22 may have generated unduly pessimistic queuing lengths and delay times. That said I consider more credence can be attached to the Council's running of PDV22 than either the appellant's running of ARCADY or the appellant's modified running of PDV22, the latter understating the reasonable observance of the signed priority that would underpin the functioning of option 3. The degree of vehicle queuing and driver delay would probably be somewhere between levels estimated through the appellant's and the Council's running of PDV22. Given that the scale of the delay may well exceed that which led HCC to believe that a traffic light variant of option 3, ie option 4, should be discounted. I therefore consider that option 4 may well have been prematurely discounted by HCC. That is because HCC accepted option 3 as being a safe and efficient option, based on modelling reliant on the use of ARCADY.
70. Much has been made of HCC being accepting of both options 2 and 3, but as I have said above, I consider those options have pedestrian safety and capacity shortcomings. I am not persuaded, on the evidence available to me, that I should accept that because HCC has raised no objection to options 2 and 3 then either would be acceptable.
71. A fifth option (option 5) that would retain a two-way traffic flow, without a footway being provided or a narrowing of the carriageway, with an all pedestrian zone activated by traffic lights, on demand by pedestrians wishing to cross the bridge, was put forward prior to the appealed application's

determination. However, option 5 appears to have discounted on safety grounds by HCC on the erroneous premise that it would involve the operation of an unusual form of shuttle working. I therefore consider that option 5 may also have been prematurely discounted by HCC because of a fundamental misunderstanding of the way in which it would function.

72. On this issue I conclude that the development with the implementation of option 2 would make inadequate provision for pedestrian access via Downend Road, while the implementation of option 3, in making adequate provision for pedestrian users of Downend Road, would unacceptably affect the operation of this road because of the vehicle queuing and driver delay that would arise. The development would therefore be contrary to the second criterion of Policy CS5 of the Fareham Core Strategy of 2011 (the Core Strategy) insofar as when the development is taken as a whole it would generate significant demand for travel and were option 2 to be implemented it would not provide a good quality walking facility for its occupiers. The development, were option 3 to be implemented, would also be contrary to Policy CS5 (the second bullet point under the third criterion) because it would adversely affect the operation of Downend Road as a part of the local road network.
73. There would also be conflict with Policy DS40 of the Fareham Local Plan Part 2: Development Sites and Policies of 2015 (the DSP) because the implementation of option 3 would have an unacceptable traffic implication.
74. I also consider that there would be conflict with paragraph 109 of the National Planning Policy Framework (the Framework) because the implementation of option 3 in safeguarding the safety of pedestrians would give rise to a residual cumulative effect, vehicle queuing and driver delay, that would be severe for the road network. The development would also not accord with paragraph 110c) of the Framework because the implementation of option 2 would create a place that would not be safe because of the conflict that there would be between pedestrians and vehicles through the provision of an unduly narrow footway within part of the public highway.

Accessibility to services and facilities

75. The development would be on the edge of Portchester's already quite intensively built up area and it would adjoin an area that is predominantly residential in character. The existing development in the area lies to the south of the M27 and is on either side of the A27 corridor, which essentially follows an east/west alignment.
76. As I have previously indicated there is considerable disagreement about the site's accessibility to local services and facilities by non-private motorised modes of travel. In that regard the appellant is of the view that the development would generate in the region of 650 pedestrian movements per day, while the Council places that figure at a little short of 300 movements. Central to that disagreement is whether the distance there would be between the new homes and places of work and education, shopping, leisure and public transport facilities (the local facilities and services) would be too far as to be accessible by walking trips.
77. Figure T2 in the originally submitted Transport Assessment (page 66 of CD15) identifies where the local services and facilities are relative to the appeal site. Many of those service and facilities are clustered around Portchester's

shopping/district centre. When regard is paid to the various tables within Appendix C of Mr Wall's proof of evidence it is apparent that many of the local services and facilities shown in Figure T2 would be at distances from the development that would exceed the 'acceptable walking distances' referred to in CIHT2000 (CD25).

78. The three proposed pedestrian routes, A, B and C, would variously provide egress and ingress from the development. However, routes A, B and C would be of varying levels of attractiveness. In that regard I consider route C would not be particularly attractive because the section comprising footpath FP117 would be unlit and that would affect its general utility after darkness, particularly for commuters on their return from Portchester railway station. Generally, the use of all three routes would entail walking trips that would exceed the CIHT2000 guidelines for travelling to and from town centres, while the railway stations in Portchester and Fareham would not be within a comfortable walking distances from the development. The access to bus stops in the area would exceed the 400 metre guideline recently reaffirmed by the CIHT in its 'Buses in urban developments' guidance of January 2018 (CD28).
79. So, I think it reasonable to say that the development would fall short of being particularly accessible by transportation modes other than private motor vehicles. In that regard the appellants' estimates for the number of non-private motor vehicle trips may well be quite optimistic. 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, something that the maps in Appendix R to Mr Wall's proof of evidence show. 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.
80. On this issue I therefore conclude that there would not be an unreasonable level of accessibility to local services and facilities for the occupiers of the development by a range of modes of transport. I therefore consider that the development would accord with Policy CS5 of the Core Strategy and Policy DSP40 of the DSP because it would not be situated in an inaccessible location and it would be well related to the existing urban settlement boundary for Portchester.

Effects on the designated habitats

81. The appellant, the Council and Natural England (NE) are agreed that the development would be likely to have a significant effect on the designated habitats, namely in-combination effects associated with: increased recreational activity in the Portsmouth Harbour Special Protection Area (SPA) and the Solent and Southampton Water SPA; and the increased risk of flooding in the Portsmouth Harbour SPA and Ramsar site and the Solent and Dorset Coast candidate SPA. Additionally, there would be potential for the development to have a significant effect either alone or in combination with other developments arising from nitrogen in waste water being discharged into the designated habitats.

82. Under the provisions of Regulation 63 of The Conservation of Habitats and Species Regulations 2017 (as amended) (the HRs), there is a requirement to undertake a screening assessment to determine whether a development alone or in combination with others would be likely to have a significant effect on integrity of the internationally important interest features that have caused a habitat to be designated. Having regard to the ecological information that is available to me, including the statement of common ground signed by the appellant, the Council and NE (CD13) I find for the purposes of undertaking a screening assessment that this development in combination with others would be likely to have a significant effect on the interest features of the designated habitats through additional recreational activity and the risk of flooding.
83. With respect to the matter of additional nitrogen in waste water being discharged into the designated habitats, I am content, on the basis of the nitrogen balance calculation included as Appendix 4 in CD13, that the development would not give rise to an increased discharge of nitrogen within the designated habitats.
84. Having undertaken a screening assessment and determined that there would be a significant effect on the designated habitats, I am content that mitigation could be provided so that the integrity of the qualifying features of the designated habitats would be safeguarded. The nature of the necessary mitigation has been identified in CD13 and would take the form of the payment of a contribution to fund management measures identified in the Solent Recreation Mitigation Strategy of 2018 and the imposition of planning conditions to avoid the development causing flooding in the area. The necessary financial contribution forms one of the planning obligations included in the executed S106.
85. In the event of this appeal being allowed I consider the imposition of conditions requiring: the incorporation of a sustainable drainage scheme within the development; the implementation of construction environmental management plan that included measures to preclude the pollution of the waters within the designated habitats during the construction phase; and a limitation on water usage for the occupiers of the development would be necessary and reasonable to safeguard the integrity of the designated habitats.
86. I therefore conclude that the development, with the provision of the mitigation I have referred to above, could be implemented so as to safeguard the integrity of the designated habitats. In that respect the development would accord with Policy CS4 of the Core Strategy and Policies DSP13 and DSP15 of the DSP because important habitats would be protected.

Other Matters

Housing Land Supply

87. The Council cannot currently demonstrate the availability of a five year housing supply (5yrHLS), with it being agreed that the current five year requirement is 2,730 dwellings. However, there is disagreement as to what the quantum of the 5yrHLS shortfall is when regard is paid to the supply of deliverable sites for homes, having regard to the definition for 'deliverable' stated in Annex 2 of the Framework. That definition stating to be considered deliverable:

'... sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular: ...
b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.'

88. The appellant contends that the current deliverable supply of homes is 1,323 dwellings, equivalent to HLS of 2.4 years, while the Council argues that the deliverable supply of homes is 2,544 homes, equivalent to an HLS of 4.66 years³².
89. That difference being attributable to the appellant having deducted 1,221 dwellings from the deliverable supply identified by the Council. That deduction being made up of: 761 dwellings associated with large sites without development plan allocations and not benefiting from a planning permission (inclusive of some with resolutions to approve); 100 dwellings on the brownfield register, but with no submitted application; 70 dwellings concerning allocated sites but only with a resolution for approval; 50 dwellings concerning allocated sites without a planning permission; and 240 dwellings forming part of the Welborne allocation that would not be delivered in the five year period because planning permission for that development has not been issued.
90. The 5yrHLS evidence put before me shows that there are a significant number of dwellings subject to applications with resolutions to grant planning permission that are subject to unresolved matters, including the execution of agreements or unilateral undertakings under Section 106 of the Act. In many instances those resolutions to grant planning permission are 18 or more months old and I consider they cannot be considered as coming within the scope of the Framework's deliverability definition. I therefore consider that the Council's claimed 4.66 years HLS position is too optimistic and that the appellant's figure of 2.4 years better represents the current situation.
91. The development would therefore be capable of making a meaningful contribution to the reduction of the current housing shortfall, with 215 dwellings anticipated to be delivered in the five year period between January 2022 and the end of March 2024³³.

Heritage effects

92. The development would be situated within the extended settings for: Portchester Castle, a Grade I listed building and scheduled monument; Fort Nelson, a Grade II* listed building and scheduled monument; and the Nelson Monument, a Grade II* listed building. The Castle is situated to the south of the site towards the northern extremity of Portsmouth Harbour. Fort Nelson and the Nelson Monument lie to the north of the site, off Portsdown Hill Road.
93. The designated heritage assets are of significance because of their importance to the military history of the local area. However, I consider the effect of the development on the significance of the heritage assets would be less than

³² Having regard to the figures quoted in paragraphs 1.18 and 1.19 in the Housing Land Supply SoCG (CD14)

³³ Table 1 in Mrs Mulliner's PoE

substantial, having regard to the policies stated in section 16 (Conserving and enhancing the historic environment) of the Framework. That is because the development would be read within the context of Portchester's extensive established built up area. Nevertheless, paragraph 193 of the Framework advises '... 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'. The less than substantial harm I have referred to therefore attracts great weight.

Planning Obligations

94. The S106 would secure the provision of 40% affordable housing within the development to accord with the provisions of Policy CS18 of the Core Strategy. To mitigate the development's off-site effects on the operation of the local highway network and demands on local transport infrastructure the S106 includes various obligations that would require contributions to be paid to fund appropriate works. There are also obligations relating to the, the provision of and the payment of maintenance contributions for public open and play space and the payment of a contribution for school facilities in the area. To minimise dependency on private motor vehicle usage amongst occupiers of the development the S106 includes planning obligations that would require the undertaking of improvements to the Cams bridge and implementation of a travel plan.
95. Those planning obligations would address development plan policy requirements and I consider that they would be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. While the planning obligations are necessary, of themselves there is nothing particularly exceptional about them.

Planning Balance and Conclusion

96. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
97. For the reasons given above I have found that the development with the implementation of the option 2 alteration to the Downend Road railway bridge would make inadequate provision for pedestrian access via Downend Road. I have also found that while the implementation of the option 3 alteration to the Downend Road railway bridge would make adequate provision for pedestrian users of Downend Road, the development would unacceptably affect the operation of this road because of the vehicle queuing and driver delay that would arise. I consider those unacceptable effects of the development give rise to conflict with Policy CS5 of the Core Strategy and Policy DSP40 of the DSP and paragraphs 109 and 110c). I consider that the elements of Policies CS5 and DSP40 that the development would be in conflict with are consistent with the national policy and are the most important development plan policies for the purposes of the determination of this appeal. I therefore consider that great weight should be attached to the conflict with the development plan that I have identified.

98. I have found that the accessibility to local services and facilities by modes of transportation other than private motor vehicles would not be unreasonable. That is something that weighs for the social benefits of the development. The development would be capable of being implemented in a manner that would safeguard the integrity of the off-site designated habitats and in that regard the development would have a neutral effect on the natural environment. In relation to these main issues there would be compliance with some of the development plan's policies. Nevertheless, the conflicts with the development plan that I have identified are of sufficient importance that the development should be regarded as being in conflict with the development plan as a whole.
99. There would be significant social and economic benefits arising from the construction and occupation of up to 350 dwellings, including the short term boost to the supply of market and affordable homes in the Council's area. There would be some harm to the setting of the nationally designated heritage assets in the area, however, I have found that harm would be less than substantial and I consider that harm would be outweighed by the previously mentioned social and economic benefits arising from the development.
100. I am of the view that the unacceptable harm to pedestrian safety and the operation of the public highway that I have identified could not be addressed through the imposition of reasonable planning conditions. I have assessed all of the other material considerations in this case, including the benefits identified by the Appellant, but in the overall planning balance I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
101. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

| | |
|---|---|
| John Litton | Of Queens Counsel instructed by Terence O'Rourke Limited |
| Tim Wall BA MSc MCIHT CMILT | Associate Partner of i-Transport LLP |
| Jacqueline Mulliner BA (Hons) BTP (Dist) MRTPI | Director and Head of national planning with Terence O'Rourke Limited |

FOR FAREHAM BOROUGH COUNCIL:

| | |
|--|--|
| David Lintott | Of Counsel instructed by the Council's legal officer |
| Vera Lamont BEng MICE FCIHT MCMi | Director with Mayer Brown |
| Andrew Burgess BA (Hons) MRTPI FRSA | Senior consultant with Adams and Hendry Consulting Limited |
| Richard Wright | Principal Planner (Development Management) |

INTERESTED PARTIES:

| | |
|-----------------------------|--------------------------|
| Councillor Nick Walker | Fareham Borough Council |
| Councillor Roger Price | Fareham Borough Council |
| Councillor Shaun Cunningham | Fareham Borough Council |
| John McClimont | Chairman Fareham Society |
| Brian Eastop | Local Resident |
| Anne Brierly | Local Resident |

INQUIRY DOCUMENTS (IDs) SUBMITTED AT OR AFTER THE INQUIRY

| | |
|-----|---|
| ID1 | Mr Lintott's opening submissions on behalf of Fareham Borough Council |
| ID2 | Mr Litton's opening submissions on behalf of the appellant, with appendices |
| ID3 | Statement of Councillor Walker and Councillor Sue Bell |
| ID4 | Statement of Mr McClimont, Chairman of the Fareham Society |

- ID5 Article by John Fruin 'Designing for pedestrians: a level-of-service concept'
- ID6 Junction visibility extract from Design Manual for Road and Bridges CD123 Revision 0 (August 2019)
- ID7 i-Transport drawings ITB12212-TR: 001A; 002A; 003A; 006A; and 007A and ITB12212-GA-104A annotated by Mayer Brown
- ID8 Mayer Brown additional statement of facts
- ID9 Vectos Model re-run by Mayer Brown output data and screen shots
- ID10 Queue Assessment Information (including data sheets) from i-Transport, response to rerun of Vectos Model undertaken by Mayer Brown
- ID11 Annotated services/facilities context maps of the footways at bridges/tunnels examples included in Appendix V of Mr Wall's Proof of Evidence
- ID12 Vectos comments on the Downend Road Railway Bridge Paramics Modelling undertaken by Mayer Brown in September 2019 further to the review comments being made by Systra
- ID13 Councillor's Cunningham's speaking note
- ID14 Mayer Brown Video file for the operation of Downend Road Bridge
- ID15 i-Transport Video file for the operation of Downend Road Bridge
- ID16 Mrs Mulliner's speaking note on housing land supply
- ID17 Copies of development plan policies CS4, DSP13, DSP15
- ID18 Final version of list of suggested planning
- ID19 Certificated copy of the executed Section 106 agreement
- ID20 Final version of the Inquiry Position Statement
- ID21 Mr Lintott's written closing submissions on behalf of Fareham Borough Council
- ID22 Mr Litton's written closing submissions on behalf of the appellant

APPENDIX FBC.14

Appeal decision letter - Land off
Station Road, Long Melford
APP/D3505/W/18/3214377



Appeal Decision

Inquiry Held on 6 - 9 November 2018

Site visit made on 9 November 2018

by Kenneth Stone BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2019

Appeal Ref: APP/A1720/W/18/3199119

Land east of Posbrook Lane, Titchfield, Fareham, Hampshire PO14 4EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Foreman Homes Ltd against the decision of Fareham Borough Council.
 - The application Ref P/17/0681/OA, dated 9 June 2017, was refused by notice dated 14 December 2017.
 - The development proposed is described as an 'Outline Planning Application for Scout Hut, up to 150 Dwellings, Community Garden, associated landscaping, amenity areas and means of access from Posbrook Lane in addition to the provision of 58,000 square metres of community green space'.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline with all matters reserved for future consideration with the exception of access. The access details are shown on the plan 'Proposed Site Access 16-314/003E' which along with the 'Site Location Plan 16.092.01E' are the plans that describe the proposals. An illustrative plan was submitted and the latest iteration was 16.092.02F. However, this was for illustrative purposes only to demonstrate one way in which the site could be developed but does not form part of the formal details of the application.
3. Prior to the commencement of the Inquiry the Council and the appellant entered into a Statement of Common Ground. The original application had been submitted with the description of development in the banner heading above. The parties agreed that there was no requirement for the Scout Hut and removed this from the illustrative master plan and amended the description of development to reflect the amended proposed development.
4. I am satisfied that the proposed alteration to the scheme, which does not amend the red line boundary and makes only a minor adjustment to the overall scheme, is not material. I am satisfied that there would be no material prejudice to parties who would have wished to comment on the proposals and that the amended illustrative plan was available as part of the appeal documents and therefore available for parties to view and comment on. I have therefore considered the appeal on the basis of the amended description which

read as follows: 'Outline application for up to 150 dwellings, community garden, associated landscaping, amenity areas and a means of access from Posbrook Lane.'

5. In the Statement of Common Ground the Council and the Appellant agree that an Appropriate Assessment would be required in the light of The People Over Wind Judgement¹. During the Inquiry a shadow Habitats Regulations Assessment document was submitted (APP4) to enable an Appropriate Assessment to be made. In this regard I consulted with Natural England to ensure that I had the relevant information before me if such an assessment were to be required. The main parties were given the opportunity to comment on Natural England's consultation response.
6. By way of an e-mailed letter dated 5 November 2018 the Secretary of State notified the appellant, pursuant to regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, that further information was required. The further information was publicised on 4 January 2019, a period of 31 days was given for the receipt of comments and the parties were given a period following the end of the publicity period to collate and comment on the matters raised.
7. I have had regard to all the Environmental Information submitted with the appeal including the original Environmental Statement, the Additional Information, the Shadow Habitats Regulations Assessment, the further responses and the parties' comments in reaching my conclusions on this appeal.
8. The Council has drawn my attention to a recent appeal decision, at Old Street, APP/A1720/W/18/3200409, which had been published since the Inquiry was conducted and in which similar issues were considered in respect of the Meon Valley. The parties were given the opportunity to comment on this decision.
9. The Government published a revised National Planning Policy Framework (the Framework), and updated guidance on how to assess housing needs as well as results of the Housing Delivery Test along with a technical note on 19 February 2019. The parties were given the opportunity to comment on how these may affect their respective cases. I have had regard to this information and the comments of the parties in reaching my decision.
10. I closed the Inquiry in writing on 19 March 2019.

Main Issues

11. In the Statement of Common Ground the appellant and Council agree that with the completion of a satisfactory legal agreement reasons for refusal e through to l would be addressed. No objections to the Unilateral Undertaking were raised by the Council and these matters were not contested at the Inquiry. It was also agreed in the Statement of Common Ground that reason for refusal d could be overcome by the imposition of an appropriately worded condition, and I see no reason why this would not be appropriate.
12. On the basis of the above the remaining outstanding matters and the main issues in this appeal are:

¹ The Court of Justice of the European Union judgement in the People over Wind and Peter Sweetman v Coillte Teoranta, case C-323/17

- The effect of the proposed development on the character and appearance of the area, including having regard to whether or not the site is a valued landscape and the effect on the strategic gap;
- The effect of the proposed development on the setting of 'Great Posbrook' and the 'Southern barn at Great Posbrook Farm' Grade II* listed buildings; and
- The effect of the proposed development on Best and Most Versatile Agricultural Land (BMVAL).

Reasons

13. The development plan for the area includes The Local Plan Part 1: Core Strategy (2011 -2026) (LPP1), The Local Plan Part 2: Development Sites & Policies (2015) (LPP2) and The Local Plan Part 3: Welbourne Plan (2015) (LPP3).
14. LPP3 specifically addresses a new settlement at Welbourne and does not include policies that bear directly on the effects of the development the subject of this appeal. Its relevance is however material in the context of the wider housing land supply issues in the area.
15. In terms of LPP1 policy CS14 seeks to control development outside defined settlement boundaries seeking to resist proposals which would adversely affect its landscape character and function. While policy CS22 advises land within strategic gaps will be treated as countryside and development proposals will not be permitted where it affects the integrity of the gap and the physical and visual separation of settlements.
16. In LPP2 Policy DSP6 further advises in respect of residential development outside of defined urban settlement boundaries that it should avoid a detrimental impact on the character or landscape of the surrounding area. DSP5 addresses the protection and enhancement of the historic environment. In considering the impacts of proposals that affect designated heritage assets it advises the Council will give great weight to their conservation and that any harm or loss will require clear and convincing justification, reflecting the statutory and national policy positions.
17. Policy DSP40 in LPP2 includes a contingency position where the Council does not have a 5 year supply of housing land. It is common ground between the parties that the Council does not have a 5 year supply of land for housing albeit the extent, length of time this may persist and consequences are disputed. I address these latter matters further below however insofar as the parties agree that the Council cannot demonstrate a five year supply of housing land the contingency position in policy DSP40 is engaged and this advises that additional sites outside the urban area boundary may be permitted where certain criteria are met.
18. An emerging draft Local Plan, which in due course is anticipated to replace LPP1 and LPP2, was launched for consultation in autumn of 2017 but has now been withdrawn. At the time of the Inquiry I was informed that a further review is to take place following revisions to the National Planning Policy Framework and the Government's latest consultation in respect of housing figures. The Council propose to consult on issues and options relevant to the progression of the Council's new development strategy following the outcome

of the Government's recent consultation. Consultation on a new draft Local Plan is not now anticipated until the end of 2019.

19. The Titchfield Neighbourhood Plan 2011 – 2036 (TNP) is also emerging; it was published for consultation in July 2018 with a further draft submitted to the Council for a compliance check, in October 2018, prior to consultation as the submission draft. At the Inquiry it was confirmed that further documents were submitted to the Council and that the TNP complied with the Statutory requirements. The Council undertook Consultation on the submission draft between November 2018 and January 2019 but at this point in time the plan has not yet been submitted for independent examination. The TNP includes a plan identifying the strategic gap, the Meon gap, and the Defined Urban Settlement Boundary (DUSB) as well as housing policies which review the DUSB (DUSB 1) and address windfall sites (H1), affordable housing (H2), Local Need (H3) and Development Design (H4).

Character and Appearance, including Valued Landscape and Strategic Gap

20. The appeal site is an area of some 6.6 ha of open grazing field on the east side of Posbrook Lane. The land gently slopes from its north-west corner towards its eastern edge. The site is segregated from Posbrook Lane by a hedgerow but for the most part the site is open with little demarking fences, trees or hedge rows. There is some evidence of a previous subdivision of the site on a modern fence line however only limited post foundations remain and generally the whole site has a reasonably consistent grazed grassland appearance.
21. To the north, the appeal site abuts the settlement edge of Titchfield at an estate called Bellfield. The urban edge is open and harsh with little by way of softening landscaping. Towards the south-western corner the site abuts a cluster of buildings that includes the farmstead of Posbrook farm and which includes two Grade II* listed buildings (the Farmhouse and the southern barn). The boundary between these is screened for the most part by a substantial tree and hedgerow belt. Beyond these and towards the south are open agricultural fields. To the east the site slopes down to the Titchfield Canal, valley floor and River Meon beyond.
22. The Meon Valley is a major landscape feature that runs through the Borough and slices through the coastal plain. The parties agree that the site is located within the Lower Meon Valley Character Area but disagree as to the finer grain character type as detailed in the 1996 and 2017 Fareham Landscape Assessments. The appellant points to the 2017 Assessment identifying the western part of the appeal site as being identified as open coastal plain: Fringe Character with a small portion of the site being open valley side. The Council contend that the whole site is more appropriately identified as open valley side.
23. The difference in opinion and identification relates to the influence of the urban settlement boundary, the topography of the site and other landscape features in the surroundings. The fact that the 2017 classification is based on somewhat historic data does call into question the accuracy at the finer grain. There is some evidence in terms of photographs and on site that the site was subdivided and that there may have been different practices implemented which resulted in parts of the site having a different appearance and therefore leading to a different classification at that stage. On site I was firmly of the view that the site was of an open character with little in the way of field boundaries, hedges or other landscape features to different areas of the site.

Whilst there was a break in the slope this was minimal and did not change the characterisation from a gentle slope. There were minor variations across the site and I was not persuaded that this was such a feature that would change the character type of the site. Finally, in the context of the urban settlement edge influence it is undeniable that it is there. There is a lack of screening and there is a harsh and readily visible urban edge. This however is a distinct break with the open rural field which then flows to the open agricultural fields beyond the farmstead cluster and the lower valley floor below. In my view in the wider context the urban influence is given too much weight in the appellant's assessment and in association with the sub division of the site into smaller fields adds to the reduced weight given to the effect of the proposed development.

24. The proposed development would result in the provision of a suburban housing estate of up to 150 units on an open field that would substantively change the character of the field. The field appears, when looking south and east, as part of the broader landscape compartment and part of the Lower Meon Valley landscape. Views back towards the site would result in the perception of the intrusion of housing further into the valley and valley sides to the detriment of the character of the valley. The characteristics of the site are consistent with those of the Meon Valley and representative of the open valley side which includes sloping landform, a lack of woodland with views across the valley floor and is generally pastoral with some intrusive influences of roads or built development.
25. The visual effects of the development would be evident from a number of public footpaths both through and surrounding the appeal site as well as along Posbrook Lane, to the south and from the valley floor and opposite valley side. The further encroachment of built development into the countryside would detract from the rural appearance of the area.
26. The potential for landscaping to screen and reduce the visual effects and to a certain extent provide some positive contribution was advanced by the appellant. Whilst additional landscaping along the proposed urban edge would produce an edge that was more screened and in effect a softer edge than present is undeniable and would of itself improve the appearance of the existing urban edge. However, this needs to be weighed against the loss of the open field separation of elements of built development and the creeping urbanisation of the area. Whilst planting would assist in reducing the direct line of sight of houses in the longer term there would still be effects from noise, activity, illumination in the evening along with the localised views that would inevitably and substantively change.
27. I would characterise the landscape and visual effects as substantial and harmful in the short to medium term, albeit this would reduce in the longer term, I would still view the adverse effect as significant.
28. There is some dispute as to whether the site is a valued landscape. The Lower Meon Valley is a significant landscape feature and both parties assessed the site against the box 5.1 criteria in Guidelines for Landscape and Visual Impact Assessment. In this context it is a reasonable conclusion that both parties accept that the Lower Meon Valley has attributes that are above the ordinary. There is some debate as to whether the appeal site contributes to these or is part of that as a valued landscape. On the basis of the evidence before me I

have no difficulty in accepting that the Lower Meon Valley is a valued landscape in the context of the Framework and this is a conclusion consistent with my colleague in the Old Road decision. From my visit to the site and the evidence presented to me I am of the view that the appeal site shares a number of those attributes including the nature of the rural landscape and topography, its scenic quality and that it is representative of the valley sides character type. The site does form part of the broad visual envelope of the Lower Meon valley and part of the landscape compartment and therefore should be considered as part of the valued landscape.

29. Turning to the issue of the strategic gap. The appeal site is located in the Meon Valley strategic gap. The purpose of the strategic gap as identified in policy CS22 is to prevent development that significantly affects the integrity of the gap and the physical and visual separation of settlements. Whilst the Council sought to broaden this out to include the setting of settlements that is not how the development plan policy or indeed its policy justification is written. This states the gaps help to define and maintain the separate identity of individual settlements and are important in maintaining the settlement pattern, keeping individual settlements separate and providing opportunities for green corridors. To go beyond these factors in assessing the development against policy would be introducing tests that are not within the development plan.
30. The proposed scheme would extend the urban edge of Titchfield further into the gap than it presently is. There would however be no perception of coalescence or indeed any visual reduction of the separate settlements (I do not see the cluster of buildings as a separate settlement in this context). There would be no demonstrable reduction in the physical separation and the gap's integrity would not be significantly affected. Whilst there would be a minor outward extension in the context of the settlement pattern and separation of settlements the proposed development would be minor and would not result in a significant effect.
31. Overall for the reasons given above I conclude that the proposed development would result in material harm to the character and appearance of the area. This would result in harm to a valued landscape. There would however be no significant effect on the strategic Meon Gap. Consequently, the proposed development would conflict with policies CS14 and DSP6 which seek to protect the character and appearance of the area of land outside the defined urban settlement boundary but would not conflict with policy CS22.

Setting of 'Great Posbrook' and the 'Southern barn at Great Posbrook Farm' Grade II listed buildings*

32. South of Titchfield on the east side of Posbrook Lane there is an historic farmstead that includes the listed buildings of Great Posbrook and the southern barn at great Posbrook farm. Both of these are Grade II* which puts them in the top 8% or so of listed buildings in the Country. They are a significant and invaluable resource.
33. The list description for Great Posbrook identifies it as a C16 house altered in the C19 with evidence of elements of C17 and C18 interior details. There is some question mark over the precise dating of the origins of the building with the Council pointing to evidence that it dates from early C17. While the alterations have created two parallel ranges the earlier T shaped form is unusual and is of particular architectural importance because of its rarity. The

main parties' experts agree that the building is of considerable historic interest due to its fabric, architectural composition and features.

34. The list description for the southern barn identifies it as a late medieval aisled barn. However, the Council point to more recent dendrochronology which indicates that it is likely to be late C16 or early C17 with the eastern end being C18. It is a substantial historic barn with considerable vernacular architectural interest being a good and relatively rare example of a high status English barn. Its size and scale demonstrating its association with a high status farm.
35. The listings make reference to other buildings in the cluster forming the farmstead including a store shed, small barn, cartshed and pigsties but note that these are of local interest only. The main listed buildings together with the buildings of local interest form an early farmstead with a manorial farmhouse, significant barn and numerous other buildings. There have been recent interventions as part of enabling development which resulted in the demolition of modern farm buildings the conversion of some of the historic buildings and the construction of new buildings to provide for additional residential occupation on the site. Much of the new building footprint was related to original buildings in an attempt to reinstate the historic arrangement of farm buildings in a courtyard pattern.
36. The significance of the listed buildings and the farmstead derives from the age, architectural quality, size, scale and relationship of buildings. There is a functional relationship with the adjoining land which was likely farmed as part of the farm holding and reasonable evidence to suggest that there may be an associative link with Titchfield Abbey which adds and contributes to this significance. There has been some more recent and modern infill development and recent housing within the farmstead adjacent and in the wider setting which has a negative impact and detracts from the significance. The wider setting of the site within a rural landscape assists in understanding the scale and status of the land holding, sets the farmstead in an appropriate open rural agricultural setting and separates it from the close by settlement of Titchfield. This contributes to the overall significance of these assets.
37. The proximity of the settlement of Titchfield and the exposed urban edge already have a negative impact on the wider setting of the heritage assets bringing suburban development close to the farmstead and reducing the wider rural hinterland.
38. The appeal site is formed by open land that wraps around the northern and eastern edge of the cluster of buildings within which the farmstead is set. It lies between the southern edge of Titchfield and the northern edge of the cluster of buildings and abuts the northern and eastern boundary of the farmhouse.
39. It is common ground that the proposals would not result in physical alterations to the listed buildings. There would be no loss of historic fabric or alterations to the architectural quality or form of the actual buildings. Similarly there would be no direct alteration of the farmstead.
40. Both parties also agree that the proposal would be located within the setting of the listed buildings and the farmstead. There is also agreement that the proposal would result in harm to the setting of the listed buildings by virtue of built development being closer to the buildings and reducing the rural setting of the buildings. Whilst both parties accept that the harm would be less than

substantial in terms of the Framework, the dispute arises in respect of the level of that harm. The appellant broadly contends that there are limited aspects where the effect would be perceived or experienced and with appropriate landscaping the effect would be reduced over time such that it would fall at the bottom end of the spectrum of less than substantial harm, albeit acknowledging that some harm would be occasioned. The Council on the other hand would put the harm more to the middle of the range that would be less than substantial and contend there are a number of areas where the perception would be significant, that the landscaping may reduce the effect over time, but not remove it, that the noise, activity and illumination associated with a suburban housing estate would further add to that impact and that the effect of changing that land from open rural land to suburban housing would fundamentally alter the setting and obliterate some of the functional and associative links with the adjoining land, albeit different degrees of weight were ascribed to the various elements of harm.

41. There is no dispute that the site would result in the introduction of housing on the area of land adjacent and bordering the farmstead and main farmhouse. This would bring the settlement of Titchfield up to the cluster of buildings and in effect subsume that once separate element into the broader extent of the settlement. This would reduce the connection of the existing farmstead and listed buildings to the rural hinterland and obscure the separation from the nearby settlement. The character of that change would be noticeable and harmful. It would be perceived when travelling along Posbrook Lane when leaving or entering the village and would be readily appreciated from Bellfield and the adjacent existing settlement edge. There are also public footpaths running through the land. These would be both static and kinetic views when moving along and between the various views. This would be a significant and fundamental change.
42. When viewed from the south, along Posbrook Lane and the public footpaths, travelling towards the farmstead and Titchfield the size and scale of the barn are fully appreciated, there are views available of the manorial farmhouse within these views and together the site is recognisable as a distinct farmstead. Whilst the urban edge of Titchfield is also visible it is appreciated that there is a degree of separation. The proposed development would intrude into these views and in the short to medium term would be readily distinguishable as suburban housing. In the longer-term landscaping may reduce this negative effect by the introduction of a woodland feature at its edge, which the appellant argues is reflective of the historic landscape pattern in the area. However, this would introduce a sense of enclosure around the farmstead and listed buildings that would detach them from the rural hinterland and reduce that historic functional connection with the adjoining open land. Whilst there is evidence of small wooded areas in the historic mapping these were freestanding isolated features and not so closely related to areas of built development. The point of the historic pattern in the area is the farmstead with open land around that was once farmed by the manorial farm and which would not have included such features in such proximity to the main farmstead.
43. There would also be views of the relationship between the farmhouse and the proposed development in views on the public paths to the east. Again, these would be significant and harmful in the short to medium term. There may be some reduction in that harm as landscaping matures but even with dense planting and the softening of the existing urban edge it will be an undeniable

fact that suburban development has been undertaken and that there is no separation between the settlement of Titchfield and the historic farmstead including the listed buildings.

44. For the reasons given above I conclude that there would be harm to the setting of the listed buildings and historic farmstead. I would characterise that harm as less than substantial as this would not obliterate the significance of these historic assets. The proposal would however have an adverse and harmful effect on the setting of these assets which would affect their significance given the contribution that the setting makes to that significance. The urbanisation of the remaining area that separates the farmstead and listed buildings from the settlement is significant and whilst the rural hinterland remains to the south and west the dislocation from the existing built up area is an important and fundamental component of that setting that would be lost as a result of the development. The effect is therefore significant and would not in my view be at the lower end of the less than substantial scale as contended by the appellant but more in line with that suggested by the Council. The proposal would therefore conflict with development plan policy DSP5 which seeks the protection and enhancement of heritage assets and is consistent with national policy.
45. These are two Grade II* listed buildings and the Framework advises that great weight should be given to a designated heritage asset's conservation, any harm should require clear and convincing justification and assets should be conserved in a manner appropriate to their significance. I also have regard to my statutory duty in respect of listed buildings and their setting. The courts have also held that any harm to a listed building or its setting is to be given considerable importance and weight. These matters are reflected in my planning balance below, which includes the Framework's 196 balance.

Best and Most Versatile Agricultural Land

46. The appellant undertook a survey of agricultural land and this assessment is provided in appendix SB3 of Mr Brown's proof. This identifies the limited amount of Grade 3a land (4.1 Ha) that would be affected by the development and sets this in the context of Fareham. In my view this does not trigger the sequential test in the Framework footnote 53 as significant development.
47. It is accepted that whilst there is a loss of BMVAL and that this is a negative to be weighed against the scheme it would not of itself amount to such that would justify the dismissal of the appeal. This is a point that was not refuted by the Council who accepted that it may not justify dismissal but should be weighed as a negative factor in the overall balance against the development.
48. I have no substantive evidence to depart from those views and the approach adopted is consistent with that of a colleague in an appeal at Cranleigh Road (APP/A1720/W/16/3156344).
49. The appellant's report concluded that given the grade of land, the small scale and the overall comparative effect on such land in Fareham, whilst it is a negative, it should be afforded no more than limited weight. I concur with that assessment for the views given and therefore ascribe this loss limited weight in my overall planning balance.

Other Matters

50. The Council and appellant agree that the Council cannot demonstrate a 5 year housing land supply. Time was spent at the Inquiry considering the extent of the shortfall based on, amongst other matters, the correct buffer and the correct household projection base date to use. The publication of the Housing Delivery Test results confirmed that Fareham is a 5% buffer Authority. The government also confirmed that it is the 2014 based household projections that should be used as the basis for calculation of the five-year requirement under the standard method. On this basis both parties agree that the minimum five-year requirement would be 2,856 in the period 2018 to 2023.
51. The updated position of the parties is thus a 3.08 years supply taking the appellants position or a 4.36 years supply if the Council's position were to be adopted. I have been provided with further supply evidence in relation to the Old Street Inquiry which calls into question some of the supply side dwellings included in the Council's figures which were permitted since April 2018. Excluding these the appellant suggests the Council's figures would drop to 4.08 years supply.
52. Whichever figures are adopted it is clear that the Council cannot identify a five-year supply of available housing land and that the shortfall is significant. The provision of additional housing in an area where there is a significant housing shortfall in my view translates into a significant positive benefit for the scheme in terms of the overall planning balance.
53. The appeal site is located where there is potential for a significant effect on a number of European designated wildlife sites which comprise Special Areas of Conservation (SACs), Special Protection Areas (SPAs) potential Special Protection Areas (pSPAs) and Ramsar sites. The proposal has been subject to Habitats Regulation Assessment and a shadow Appropriate Assessment process by the appellant. Given the requirement for further publication of environmental information in association with the Environmental Statement consultation was undertaken with Natural England as the Nature Conservation Body to ensure there was no further procedural or administrative delay at the end of the process. However, given the conclusion of my assessment of the effect of the development on the wider landscape and the designated heritage assets I am not minded to allow the appeal. On this basis an Appropriate Assessment does not need to be carried out, as it is only in circumstances where I am minded to grant consent that such an assessment is required to be undertaken. Moreover, in the interim the Framework, paragraph 177 has been amended to advise that it is not the requirement to conduct Appropriate Assessment but the conclusion that following that assessment there is an identified likely significant effect on a habitats site where the presumption in favour of sustainable development does not apply. In these circumstances this matter does not therefore affect the approach to my planning balance.

Benefits of the Scheme

54. As noted above the provision of housing in an Authority area where the Council cannot identify a five-year housing supply is a significant benefit of the scheme. The Statement of Common Ground signed by the parties makes it clear that there is a significant need for affordable housing. The provision of 40% of the total number of units provided as affordable housing, secured

through the planning obligation, is therefore also a significant positive benefit of the scheme.

55. The appellant contends that there would be between 360 and 465 direct, indirect and induced jobs created by construction. It is further contended that there would be an on-going £4.1m gross expenditure per annum from future residents. It is further contended that the landscaping and ecological mitigation would improve the appearance of the harsh urban edge currently created by Bellfield. These are benefits that accrue from this development and are therefore reasonable to add as positive contributions in the planning balance. They are of a scale which reflects the scale of the development.
56. For these reasons the social benefits from additional housing and affordable housing are of significant positive weight, the economic benefits are of moderate positive weight, and the environmental benefits are of limited positive weight.

Planning Obligation

57. A completed Unilateral Undertaking (UU) dated 8 November was submitted to the Inquiry before the conclusion of it sitting. The UU secures matters related to transport including the site access, travel plan and construction traffic management as well as a contribution towards sustainable transport. The UU also secures public open space provisions, including contributions; environmental and habitat obligations, including commuted maintenance and disturbance contributions and the transfer of a bird conservation area; an education contribution and obligations to protect or provide on site routes for the public. These are in effect mitigation measures or matters directly related to the development and do not amount to positive benefits.
58. The appeal is to be dismissed on other substantive issues and whilst an obligation has been submitted, it is not necessary for me to look at it in detail, given that the proposal is unacceptable for other reasons, except insofar as it addresses affordable housing.
59. In respect of affordable housing the UU secures 40% of the housing as affordable units with the mix, tenure and location controlled by the undertaking. I have already identified this as a benefit of the scheme which will be taken into account in the planning balance.

Planning balance

60. I have concluded that the proposed development would result in material harm to the significance of two Grade II* listed buildings through development in the setting of those buildings. This harm is in my view less than substantial harm in the terms of the Framework a position also adopted by both main parties. Paragraph 196 of the Framework advises in such circumstances that this should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
61. I have identified the public benefits of the scheme above and these include the provision of additional housing in an authority where there is not a five year supply of housing land and the provision of affordable housing in an area where there is a significant need. I give these matters significant weight. Added to these would be the additional jobs and expenditure in the locality arising from construction activity and following completion of the development. Given the

scale of development these would not amount to small figures and I have ascribed this moderate weight. The proposed landscaping and biodiversity enhancements are a balance and required in the context of also providing a degree of mitigation I therefore only ascribe these limited positive weight.

62. The Framework makes it clear that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Furthermore it advises that any harm to the significance of a designated heritage asset should require clear and convincing justification. There is a statutory duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The courts have interpreted this to mean that considerable importance and weight must be given to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise in planning decisions.
63. Heritage assets are an irreplaceable resource and they should be conserved in a manner appropriate to their significance. The Farm House and Barn at Great Posbrook are both Grade II* and therefore are assets of the highest significance. The development of a substantial housing estate in the rural setting of these listed buildings, and farmstead of which they form part, would materially alter the relationship of the listed buildings and farmstead to the nearby village and wider rural hinterland. This would merge the existing distinct and separated grouping of buildings with the expanding village removing that degree of separation and obscuring the historic relationship with the village and wider countryside. I would not characterise this less than substantial harm as of such limited effect as 'at the lower end' within that spectrum as suggested by the appellant. Indeed, the setting contributes to the significance of these listed buildings and their appreciation from both distinct view points and kinetic views. The negative effect would have a measurable and noticeable effect on the existing physical relationships of development in the area and thereby the understanding of the historic development of those over time. The understanding of the high status nature of the house and barn, and their significance, is derived in part from an appreciation of the separation from the village, their setting within the wider agricultural and rural hinterland as well as their size, scale, architectural quality and relationship of the buildings to each other and the surrounding development.
64. On the basis of the above I conclude that the less than substantial harm I have identified, and to which I give considerable importance and weight, is not outweighed by the significant public benefits of the scheme. On this basis I conclude that the scheme should be resisted. As the scheme fails the paragraph 196 test this would disengage the paragraph 11 d tilted balance that would otherwise have been in play given the lack of a five-year supply of housing land.
65. The scheme would be subject to the requirement to carry out an Appropriate Assessment under the Habitats Regulations if I were minded to allow the appeal. At the time of submission of the appeal Paragraph 177 of the Framework required that the presumption in favour of sustainable development, in paragraph 11, would not apply where an Appropriate Assessment was required to be carried out. The latest iteration of the Framework has amended paragraph 177 to only disengage the presumption in favour of sustainable development where the development is likely to have a

significant effect on a habitats site. If an Appropriate Assessment has concluded the development would not adversely affect the integrity of the habitats site the presumption would not be disengaged. However, given my conclusions in respect of the impact on heritage assets and the other harms I have identified I am not minded to allow the appeal and therefore I do not need to carry out an Appropriate Assessment.

66. Whilst the presumption in favour of sustainable development is not disengaged by virtue of paragraph 177 of the Framework, paragraph 11 d, the so called 'tilted balance', is disengaged by virtue of my conclusions in relation to the effect on the heritage assets and the application of 11 d i. The proposal therefore is to be considered in the context of a straight balance. Section 38(6) requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the proposal would result in material harm to the character and appearance of the area, which is a valued landscape, to the setting of two Grade II* listed buildings and a minor adverse effect on best and most versatile agricultural land in the area. On this basis the proposal would conflict with policy CS14 in the LPP1 and DSP5, DSP6 and DSP40 in the LPP2.
67. The Authority cannot demonstrate a 5 year supply of housing land and policies which restrict housing development through such matters as settlement boundaries and gaps are out of date. They do not provide for the necessary housing to make provision for adequate housing in the area. However, those policies, which include CS14, CS22 and DSP6 do seek to protect the countryside and fulfil a purpose that is consistent with the Framework. The Council is seeking to address the shortfall and is making positive steps in that regard albeit there is dispute as to how successful that is. Nevertheless matters are moving forward and although there is still an outstanding shortfall, which even if I accept is as great as suggested by the appellant, is improving on historic figures and there appears to be greater opportunities for this situation to be improved further. I accept that Welbourne may well not be moving at the pace that has previously been suggested and not as quickly as the Council would suggest, but it is still moving forward and with a significant complex development of this nature matters will take time but once milestones are reached momentum is likely to quicken. Of particular relevance here is the determination of the extant application, which remains undetermined but continues to move forward. On the basis of the information before me the determination of this would be in the spring or middle of this year. Given the above I do not afford these particular policies the full weight of the development plan but I still accept that they have significant weight and the conflict with those policies that I have identified above still attracts significant weight in my planning balance.
68. I note that policy DSP5 reiterates national policy and reflects the statutory duty and is therefore accorded full weight and conflict with it, as I have found in this regard, is afforded substantial weight. The contingency of Policy DSP40 has been engaged by virtue of the lack of a five year housing land supply and it is for these very purposes that the policy was drafted in that way. On that basis the policy has full weight and any conflict with it is also of significant weight. In the context of the harms I have identified which relate to landscape, heritage assets and best and most versatile agricultural land these result in conflicts with specific criteria in policy DSP40 for the reasons given above in respect of those matters and therefore there is conflict with the policy. These

are two significant policies where weight has not been reduced and the proposal when considered in the round is not in accordance with the development plan taken as a whole.

69. The ecological provisions payments and additional bird sanctuary are primarily mitigation requirements resultant from the proposed development and its likely potential effects and do not therefore substantively add a positive contribution to the overall balance.
70. The impact on the significance of the Grade II* listed buildings is not outweighed by the public benefits of the scheme and therefore the additional harms related to landscape and BMVAL only add further to the weight against the proposal. The advice in the Framework supports the conclusions to resist the proposal. There are therefore no material considerations that indicate that a decision other than in accordance with the development plan would be appropriate.

Overall conclusion

71. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR

DOCUMENTS SUBMITTED AT INQUIRY BY APPELLANT

- APP1 Housing Land Supply Statement of Common Ground.
- APP2 Press Release dated 18 October 2018 from Fareham Borough Council.
- APP3 Appeal Decision letter APP/W3520/W/18/3194926.
- APP4 Habitats Regulations Assessment Screening & Shadow Appropriate Assessment prepared by CSA Environmental.
- APP5 Unilateral Undertaking dated 8 November 2018.
- APP6 Bundle of three Committee reports (P/17/1317/OA, P/18/0235/FP and P/18/0484/FP) confirming the Council's approach to Policy DSP40.
- APP7 Additional suggested conditions.
- APP8 Letter from Hampshire and Isle of Wight Wildlife Trust confirming their agreement to take on the land secured as the Bird Conservation Area in the Unilateral Undertaking.
- APP9 Closing submissions on behalf of the appellant.

DOCUMENTS SUBMITTED AT INQUIRY BY LOCAL PLANNING AUTHORITY

- LPA1 List of Appearances on behalf of the Council
- LPA2 Updated extract from 'The Buildings of England Hampshire: South', appendix 14b to Ms Markham's proof of evidence.
- LPA3 Conservation Area Appraisal and Management Strategy: Titchfield Abbey, Fareham Borough Council adopted sept 2013 – substitution for Core Document F11.
- LPA4 Appeal Decision letter APP/W1715/W/17/3173253.
- LPA5 Copy of Policies 1CO and 2CO from the Eastleigh Borough Local Plan.
- LPA6 Announcement from the Leader of Fareham Borough Council dated 5 November 2018.
- LPA7 S106 Obligations Justification Statement.
- LPA8 Opening submissions on behalf of the Council.
- LPA9 List of documents to be referred to during Evidence in Chief of Philip Brshaw.
- LPA10 List of documents to be referred to during Evidence in Chief of Lucy Markham.
- LPA11 Draft schedule of conditions.
- LPA12 e-mail from Strategic Development Officer Children's Services Department Hampshire County Council dated 8 November 2018.
- LPA13 Plan of route and points from which to view the site during the appeal site visit.
- LPA14 Closing submissions on behalf of the appellant.

DOCUMENTS SUBMITTED AT INQUIRY BY TITCHFIELD NEIGHBOURHOOD FORUM

- TNF1 Opening statement on behalf of Titchfield neighbourhood Forum
- TNF2 Email exchange with appellant regarding drainage dated 6 November including various attachments
- TNF3 List of documents referred to in Evidence in Chief of Mr Phelan
- TNF4 Closing Statement on behalf of Titchfeild neighbourhood Forum

DOCUMENTS SUBMITTED AT INQUIRY BY THIRD PARTIES

INQ1 Speaking note from Mr Girdler
INQ2 Letter read out by Mr Marshal on behalf of The Fareham Society
INQ3 Speaking note from Mr Hutcinson

DOCUMENTS SUBMITTED AFTER INQUIRY

PID1 Additional Environmental Information submitted by appellant under cover of letter dated 14 December 2018.
PID2 Copy of Press notice of publication of Additional Environmental Information.
PID3 Comments on Additional Environmental Information by Titchfield neighbourhood Forum.
PID4 Comments on Additional Environmental Information by Fareham Borough Council.
PID5 'Old Street' Appeal decision APP/A1720/W/18/3200409 submitted by Fareham Borough Council
PID6 Fareham Borough Council comments on 'Old Street' decision.
PID7 Appellant's comments on 'Old Street' decision.
PID8 Natural England's (NE) consultation response on shadow Habitats Regulation Assessment as Statutory nature Conservation Body.
PID9 Appellant's response to NE's consultation response (PID8) including an updated shadow Habitats Regulation Assessment.
PID10 Titchfield neighbourhood Forum's response to NE's consultation response (PID8)
PID11 Titchfield Neighbourhood Forum's comments on the Housing Delivery Test (HDT) results and the changes to the National Planning Policy Framework (the Framework).
PID12 Fareham Borough Council's comments on the HDT results and the changes to the Framework.
PID13 Appellant's comments on the HDT results and the changes to the Framework.
PID14 Titchfield Neighbourhood Forum's final comments on HDT and Framework
PID15 Appellant's final comments on HDT and Framework.

END

APPENDIX FBC.15

Appeal decision letter - Land East of
Posbrook Lane, Titchfield
APP/A1720/W/20/3199119



Ministry of Housing,
Communities &
Local Government

Stuart Carvel
Gladman Developments Ltd
Gladman House
Alexandria Way
Congleton
Cheshire
CW12 1LB

Our ref: APP/D3505/W/18/3214377
Your ref: n/a

1 April 2020

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY GLADMAN DEVELOPMENTS LTD
LAND OFF STATION ROAD, LONG MELFORD, SUFFOLK
APPLICATION REF: DC/18/00606**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Kenneth Stone BSc Hons DipTP MRTPI, who held a public inquiry between 25 June 2019 and 2 July 2019 into your appeal against the failure of Babergh District Council to determine your application for outline planning permission for the erection of up to 150 dwellings with public open space, landscaping and sustainable drainage system (SuDS), and vehicular access point from Station Road, with all matters reserved except means of access, in accordance with application ref: DC/18/00606, dated 8 February 2018.
2. On 25 June 2019, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted, subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission.
5. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing, Communities & Local Government
Andrew Lynch, Decision Officer
Planning Casework Unit
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Procedural matters

6. As set out at IR2, the Secretary of State has noted that minor amendments were made to Site Access drawing P19007-001A prior to the public inquiry, with minor changes to footway arrangements to reflect the granting of an unrelated planning permission on an adjacent site.
7. As the document was available for public inspection as part of the Highways Statement of Common Ground, and as no objections were made by parties to this document being considered during the appeal (IR3), the Secretary of State does not consider that the modifications to this document raise any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced. He has therefore considered the scheme on this basis.

Matters arising since the close of the inquiry

8. On 13 November 2019, the Secretary of State wrote to the main parties to notify them of a variation in the timetable due to the December 2019 General Election, and to afford them an opportunity to comment on Babergh District Council's Housing Land Supply Position Statement, published September 2019. A full list of representations received in response to this letter is at Annex A. Representations received in response to this letter were circulated to the main parties on 29 November 2019 for further comment, and then the final representations received were circulated for information purposes only on 9 December 2019.
9. The Secretary of State is satisfied that no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
10. On 13 February 2020 the 2019 Housing Delivery Test measurements were published. Babergh District Council's measurement changed from 88% (2018 measurement) to 123% (2019 measurement). As this does not result in a material change relevant to this appeal, the Secretary of State is satisfied this did not warrant further investigation or necessitate additional referrals back to parties.

Policy and statutory considerations

11. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
12. In this case the development plan consists of saved policies from the Babergh Local Plan Alteration No. 2 (BLP), adopted June 2006, and the Babergh Local Plan 2011-3031 Core Strategy & Policies (CS), adopted February 2014. The Secretary of State considers that relevant development plan policies include those set out at IR21 and IR 27.
13. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), the Rural Development & Core Strategy CS11 (Supplementary Planning Document) (RCDS SPD), the Dedham Vale Area of

Outstanding Natural Beauty (AONB) and Stour Valley Management Plan 2016-21 (DVSVMPP), and Babergh District Council's Housing Land Supply Position Statement (HLSPS) (September 2019). The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

14. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
15. In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Emerging plans

16. Emerging plans comprise the Babergh and Mid Suffolk District Council Joint Local Plan (JLP), and the Long Melford Neighbourhood Plan (LMNP). Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As both documents are at an early stage and will require further consultation before undergoing examination, the Secretary of State agrees with the Inspector at IR29 that the JLP carries limited weight in the decision-making process, and at IR31 that the LMNP carries little weight in the decision-making process.

Main issues

District-wide Housing Land Supply

17. The Secretary of State notes at IR425 that at the time of the Inquiry all parties agreed that Babergh District Council could not demonstrate a five-year supply of housing land, with the appellant calculating 4.11 years, and the Council calculating 4.86 years. He notes that the Inspector concluded it was in the region of 4.73 years (IR433), engaging the tilted balance set out at paragraph 11 of the Framework and attracting substantial weight in favour of the proposal (IR452).
18. In September 2019 Babergh District Council published the HLSPS. As set out in paragraphs 8-9 of this Decision Letter, the Secretary of State wrote to parties on 13 November 2019 to seek their views on this document.
19. Planning Practice Guidance (*Paragraph: 004 Reference ID: 68-004-20190722*) states that, for decision-taking purposes, an authority will need to be able to demonstrate a 5 year housing land supply when dealing with applications and appeals. They can do this in one of two ways:
 - using the latest available evidence such as a Strategic Housing Land Availability Assessment (SHLAA), Housing and Economic Land Availability Assessment (HELAA), or an Authority Monitoring Report (AMR);

- ‘confirming’ the 5-year land supply using a recently adopted plan or through a subsequent annual position statement (as set out in paragraph 74 of the National Planning Policy Framework).

20. In this case, the authority has not chosen to confirm its 5-year land supply.

21. The Secretary of State has carefully considered both the contents of the HLSPS, and the representations received from the parties in response to his letter. In the circumstances of this case, the Secretary of State considers that the HLSPS represents the most up to date evidence before him and agrees with its contents. He therefore considers that Babergh District Council can now demonstrate a housing land supply of 5.67 years.

22. The Secretary of State has also carefully considered the Inspector’s assessment of the most important development plan policies at IR444-450. For the reasons given there, he considers that, while elements of CS2 are inconsistent with the Framework and CS3 is out of date, when viewed in the round, the most important policies for determining this appeal identified in IR444 are not out-of-date. For this reason, and given his findings above in relation to housing land supply, the Secretary of State does not consider the tilted balance set out at paragraph 11 of the Framework to be engaged, and considers the appropriate weight for the delivery of housing to be that set out at paragraph 30 of this Decision Letter.

The need for housing locally

23. The Secretary of State notes (IR23-24) that CS2 and CS3 set out the district’s growth strategy, with CS2 identifying a settlement hierarchy and directing growth along that hierarchy, and CS3 setting out targets for growth, including a housing target, and allocating that growth within the existing settlement pattern and in “*new and balanced communities*”. Long Melford is identified as a “Core Village”, a second-tier settlement, and collectively the second and third-tier settlements are expected to take 1050 dwellings out of the 5975 total (IR24) across the plan period. The Secretary of State also notes that supporting text maintains the settlement boundaries set out in the BLP, with a review planned for when an allocations document was produced. He notes this document was not produced, and agrees with the Inspector that the production of the new JLP means it is now unlikely to occur (IR25).

24. Core Strategy Policies CS2 and CS11 require development proposals to identify a local housing need, and exceptional circumstances for development in the countryside, outside of towns/urban areas, core and hinterland villages. Development proposals must also satisfy the decision maker in relation to locally-identified needs for housing and employment, as well as specific local needs such as affordable housing (IR405). Supplementary guidance sets out more details out what this should include (IR409).

25. The Secretary of State has also noted the court judgement in *R (East Bergholt Parish Council) v Babergh DC & Aggett [2015] EWHC 3400 (Admin)* (henceforth the Bergholt judgement, or Bergholt), where the High Court determined that the reference to a local housing need in the context of Core Villages was the “*housing need in the village and its cluster, and perhaps in the areas immediately adjoining it* (IR406).

26. The Secretary of State has carefully considered the Inspector’s interpretation at IR446 of the Bergholt judgement, that development can take place outside the settlement boundaries set out in the BLP if they fulfil the requirements of CS11, and if the Council is satisfied the circumstances are exceptional and there is a proven local need (IR446).

27. The Secretary of State notes that while the appellant failed to submit such an assessment with the original application, they did as part of this appeal (IR407; IR410), as did Save our Skylark Fields (SoSF) (IR416-419), which was endorsed by the Council. He has gone on to carefully consider the Inspector's analysis of both the appellant's assessment at IR410-415 and of SoSF's assessment at IR416-418.
28. For the reasons given at IR410-418, the Secretary of State agrees with the Inspector that the approach adopted by the Appellant provides a more robust assessment of the potential need across the Core Village and functional cluster, and the adjoining area, and agrees with the Inspector at IR420 that a demonstrable local housing need has been identified.
29. The Secretary of State has also carefully considered the Inspector's analysis of the local need for affordable housing (IR421-422), and agrees that the appellant has demonstrated that there is also a local need for the affordable housing included in the proposal.
30. For these reasons, the Secretary of State agrees with the Inspector that the appellant has identified a need locally for both market and affordable housing, in line with the expectations of CS2 and CS11 (IR420). He considers the provision of homes to meet an identified need in this location attracts significant weight.

Impact on local character

31. As set out at paragraph 23 of this Decision Letter, the CS sets out a settlement hierarchy, while also importing the settlement boundaries from the BLP, albeit without that specific policy reference being formally saved (IR447). While the appeal site is outside the settlement boundary as set out in the BLP, due to this policy not being formally saved and the age of the policy the Secretary of State considers the settlement boundary to be out-of-date. The Secretary of State therefore agrees with the Inspector that, as Babergh is a second-tier settlement, the proposal would in general be in accordance with the spatial strategy and settlement hierarchy (IR453).
32. The Secretary of State notes (IR447) that the appellant has not demonstrated the exceptional circumstances required for developments in the countryside, conflicting with CS2. However, he agrees with the Inspector at IR448 that as this element of CS2 is not consistent with the Framework, which requires no such test, the weight given to this conflict should be reduced.
33. The Secretary of State has noted the Inspector's description of both the site and the surroundings at IR15-19, and the further details provided from IR353-361. He notes the site sits in the several local and national landscape types, and has carefully considered the analysis of these landscape types set out at IR353-357.
34. The site is part of the Stour Valley Project Area (SVPA), which in turn is covered by the Dedham Vale Area of Outstanding Natural Beauty and Stour Valley Management Plan (the DVSVMP). PPG advises local planning authorities to have regard to management plans for AONB in determining applications (IR360). However, the Secretary of State agrees with the Inspector at IR360-361 that the inclusion of the SVPA within the DVSVMP does not confer AONB status on the site. For these reasons, he agrees with the Inspector that the DVSVMP is a material consideration and that the degree of weight given is dependent on the facts of the case (IR361).
35. As the proposal would turn a greenfield agricultural site into a housing estate, the Secretary of State agrees with the Inspector at IR362 that it is the extent of harm from the

proposal that is the issue, rather than whether harm arises. He has gone on to carefully consider the Inspector's analysis of these issues at IR364-376.

36. For the reasons given at IR364-365, the Secretary of State agrees with the Inspector that nothing elevates the site to the status of a "valued landscape" in terms of paragraph 170a of the Framework.
37. The Secretary of State agrees with the Inspector at IR367 that, while the site may be included in the SVPA, and subsequently within the DSVMP, there is a lack of evidence to link the qualities of the site and its immediate surroundings with the key characteristics set out in the DSVMP.
38. For the reasons given at IR369-370, the Secretary of State agrees with the Inspector that the proposal would neither remove the embankment or impede its functions as a public walkway and nature reserve. He has also carefully considered the analysis of the different "gateways" at IR370, and agrees that the embankment's function in defining the historic core of the village would remain (IR371), and that the closing of the narrow gap in the built frontage along Station Road does not raise issues in terms of character or appearance.
39. For the reasons given at IR372-376, the Secretary of State agrees with the Inspector that changing an agricultural field to a housing development would be an adverse change to the site itself, but that due to the existing development along Station Road, the contained nature of the site, and the mitigation provided as the planting matures, this would only represent a moderate adverse impact to the site overall (IR372). For these reasons, he agrees with the Inspector at IR377-378 that the loss of the agricultural field would present a harmful visual effect, conflicting with CS11 (IR447) and CS15 (IR450), but with a limited impact on the wider area, which would be further lessened as the planting and landscaping in the proposal matures. For these reasons, the Secretary of State considers this conflict carries moderate weight against the proposal.

Impact on heritage assets

40. The Secretary of State has noted that the impact of the proposal on heritage assets did not form a reason for refusal, and that the Council did not object to the proposal on these groups (IR379). However, he notes that concerns were raised by Save Our Skylark Fields (SoSF) in their role as a party with Rule 6 status about the proposal's potential impact on a number of local designated and non-designated heritage assets, as well as the Long Melford Conservation Area.
41. Given this, he has noted the Inspector's list of the heritage assets to be considered at IR380, and he has carefully considered the Inspector's analysis at IR381-403 of the impact on these assets. For the reasons set out both at IR404 and in the conclusions for each individual asset, he agrees with the Inspector that there would no direct physical harm to any heritage assets or their settings, and agrees that the proposal therefore complies with the relevant policies in the development plan and the Framework on heritage.

Other matters

42. For the reasons given at IR434-435, the Secretary of State agrees with the Inspector that there would not be harm to the highways network.

43. For the reasons given at IR436, the Secretary of State agrees that the harm to skylark plots weighs neutral in the overall balance.
44. The Secretary of State agrees with the Inspector that the inclusion of land for a new early-years centre represents a significant benefit of the scheme, and for the reasons given at IR441 agrees that this should attract significant weight (IR454) in favour of the scheme.
45. The Secretary of State notes that the scheme would provide new footway connections and bus stop improvements. For the reasons given at IR440 he agrees these should be given only limited weight in favour of the proposal.
46. The Secretary of State notes that it was an agreed matter that the scheme would bring biodiversity benefits. For the reasons given at IR439 he agrees these attract moderate weight.
47. The Secretary of State notes that the scheme makes provision for public open space and a child's play area, and upgrades to existing public rights of way. For the reasons set out at IR442 he agrees these attract moderate weight in favour of the proposal.
48. The Secretary of States notes that there was disagreement about the weight to be attributed to the economic benefits of the proposal (IR443). He agrees that the benefits should not be discounted or ignored, and that identification and calculation of such benefits is not an exact science. As the economic benefits do not extend beyond the construction and future occupation of the scheme, the Secretary of State considers they carry moderate weight.

Planning conditions

49. The Secretary of State has given consideration to the Inspector's analysis at IR333-344, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

50. Having had regard to the Inspector's analysis at IR345-348, the planning obligation dated 2 July 2019, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR347 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

51. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with parts of Policies CS2, CS11 and CS15 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
52. The site is outside the settlement boundary, and would result in the development of a greenfield site into housing, which would cause visual harm. However, the settlement

boundary is out of date, and the visual harm would be confined to the site itself, with limited impact on the wider settlement. This carries moderate weight against the proposal.

53. The proposal would provide up to 150 new homes, including around 53 affordable homes. Although the local authority can now demonstrate a supply of housing land above 5 years, this figure is a baseline and not a ceiling. Relevant to this appeal, the appellant has demonstrated there is a local need in this settlement, in line with the expectations of the development plan, for both market and affordable housing. The Secretary of State recognises that there is now a five-year supply of housing land supply. However, in the light of the identified local need, and the Government's objective of significantly boosting the supply of homes (Framework paragraph 59), he considers that the housing delivery should carry significant weight. The proposal would provide land for a new early years centre, which attracts significant weight in favour. There would be economic benefits provided by the construction of the homes and from the new residents, which attract moderate weight. Improvements to existing public rights of way, public space and play areas, and biodiversity benefits each attract moderate weight in favour. Improvements to bus stops and footway connections attract limited weight in favour.
54. Overall, the Secretary of State considers that the material considerations in this case indicate a decision which is not in line with the development plan. Accordingly, he concludes that the appeal should be allowed and planning permission granted, subject to conditions.

Formal decision

55. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your appeal and grants planning permission, subject to the conditions set out in Annex B of this decision letter, for the erection of up to 150 dwellings with public open space, landscaping and sustainable drainage system (SuDS), and vehicular access point from Station Road, with all matters reserved except means of access, in accordance with application ref: DC/18/00606, dated 8 February 2018.

Right to challenge the decision

56. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
57. A copy of this letter has been sent to Babergh District Council and Save our Skylark Fields, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Andrew Lynch
Authorised by the Secretary of State to sign in that behalf

List of Annexes

Annex A - Schedule of representations

Annex B - List of conditions

ANNEX A - SCHEDULE OF REPRESENTATIONS

Representations received in response to the Secretary of State's letter of 13 November 2019

| Party | Date |
|--------------------------|------------------|
| Babergh District Council | 15 November 2019 |
| Gladman Developments Ltd | 17 November 2019 |
| Save Our Skylark Fields | 25 November 2019 |
| Gladman Developments Ltd | 2 December 2019 |
| Babergh District Council | 9 December 2019 |

ANNEX B - LIST OF CONDITIONS

- 1) Details of the access (with the exception of details of accessibility to/from the site as hereby approved), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall be begun not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 8104-L-04 and Site Access Drawing P19007-001A.
- 5) Prior to or concurrent with the first reserved matters application submitted, details of the mix of type and size of the market dwellings to be provided shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) All mitigation measures for Skylarks shall be carried out strictly in accordance with the approved details contained in the Technical Note: Skylark Mitigation Strategy (FPCR, April 2019), with the approved Skylark plots retained for a minimum period of 10 years from the date that development commences and no development shall commence until those plots have been provided.
- 7) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - i. Purpose and conservation objectives for the proposed enhancement measures;
 - ii. detailed designs to achieve stated objectives;
 - iii. locations of proposed enhancement measures by appropriate maps and plans;
 - iv. timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - v. persons responsible for implementing the enhancement measures;
 - vi. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 8) Prior to the commencement of development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.

9) Before the development is commenced, a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the local planning authority. The CMP shall include and address the following matters:

- parking and turning for vehicles of site personnel, operatives and visitors;
- loading and unloading of plant and materials;
- piling techniques;
- storage of plant and materials;
- programme of works (including measures for traffic management and operating hours);
- provision of boundary hoarding and lighting;
- details of the proposed means of dust suppression;
- details of measures to prevent mud from vehicles leaving the site during construction;
- haul routes for construction traffic on the highway network;
- monitoring and review mechanisms;
- details of delivery times to the site during the construction phase;
- location and nature of compounds and storage areas (including maximum storage heights) and factors to prevent wind-whipping;
- waste storage and removal;
- temporary buildings and boundary treatments;
- noise and vibration management (to include arrangements for monitoring, and specifically for any concrete breaking and any piling);
- litter management during the construction phases of the development;
- during any ground works/construction there shall be no burning of materials on the site;
- any external lighting associated with the development during any ground works/construction for the purposes of security and site safety shall prevent upward and outward light radiation.

Thereafter, the approved CMP shall be fully implemented and adhered to during all phases of the development approved.

10) A Construction Environmental Management Plan for Biodiversity (CEMPB) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The CEMPB shall include details of the following:

- i. risk assessment of potentially damaging construction activities;
- ii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- iii. the location and timing of sensitive works to avoid harm to biodiversity features;
- iv. responsible persons and lines of communication;
- v. use of protective fences, exclusion barriers and warning signs;
- vi. the containment, control and removal of Schedule 9 invasive species;
- vii. precautionary mitigation measures for small mammals (Priority Species).

The approved CEMPB shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

11) No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority. The

CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:

Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems;
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses;
- iii. Measures for managing any on or offsite flood risk associated with construction.

- 12) If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 13) If any dwellings are to be completed and occupied prior to the development as a whole being finished, a scheme to protect those occupants from noise and vibration shall be submitted to and approved in writing by the local planning authority and implemented prior to their first occupation. The development shall be carried out in strict accordance with the approved details.
- 14) Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:
- i. description and evaluation of features to be managed;
 - ii. ecological trends and constraints on site that might influence management;
 - iii. aims and objectives of management;
 - iv. appropriate management options for achieving aims and objectives;
 - v. prescriptions for management actions;
 - vi. preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - vii. details of the body or organization responsible for implementation of the plan;
 - viii. ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 15) The development shall be implemented and constructed in full accordance with the approved Arboricultural Assessment (FCPR, Jan 2018 Rev B).
- 16) Concurrent with the first reserved matters application submitted, a surface water drainage scheme shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be in accordance with the approved FRA (Flood Risk

Assessment & Outline Surface Water Drainage Strategy ref: 881308-R2(02)-FRA) and include:

- i. Dimensioned plans and drawings of the surface water drainage scheme;
- ii. Further infiltration testing on the site in accordance with BRE 365 and the use of infiltration as the means of drainage if the infiltration rates and groundwater levels show it to be possible;
- iii. If the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to Q_{bar} or $2l/s/ha$ for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the FRA;
- iv. Modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change;
- v. Modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year climate change rainfall event, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows;
- vi. Topographical plans depicting all exceedance flowpaths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system;
- vii. details of the implementation, maintenance and management of the surface water drainage.

Development shall be carried out in accordance with the approved details.

- 17) Prior to first occupation of any dwellings on the site, a footway improvement scheme to link the approved site access on Station Road to the footway link at Southgate Gardens shall be completed and made available for use by the public, constructed to details that shall have been previously agreed in writing by the local planning authority, in consultation with the local highway authority. Thereafter the footway shall be retained for use in the constructed and approved form.
- 18) Before the access is first used, visibility splays shall be provided as shown on Drawing No. P19007-001A with an X dimension of 2.4m and a Y dimension of 90m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 19) Prior to the occupation of the first dwelling, a scheme to deliver an upgrade to existing bus stops adjacent to the Long Melford Inn (including raised bus stop kerbs, bus shelters and real time bus information screens) shall be submitted to the Local Planning Authority for approval. The scheme shall include details of its implementation.
- 20) Within three months of the commencement of development, details of how superfast or ultrafast broadband infrastructures will be delivered to every household in the development, subject to network capacity being available, shall be submitted to and approved in writing by the Local Planning Authority. The approved superfast and/or

ultrafast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.

- 21) At least a 10% reduction in the predicted carbon emissions of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in carbon emissions over Approved Document Part L 2013 (as amended) of the Building Regulations 2010. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority concurrent with the first reserved matters application(s). The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
- 22) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority.
- The scheme of investigation shall include an assessment of significance and research questions; and:
- i. The programme and methodology of site investigation and recording;
 - ii. The programme for post investigation assessment;
 - iii. Provision to be made for analysis of the site investigation and recording;
 - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v. Provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;
 - vii. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the local planning authority.
- 23) No dwelling shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 22 above and the provision made for analysis, publication and dissemination of results and archive deposition.
- 24) Details for a scheme to divert or under-ground the existing high voltage overhead electricity lines, including details of its implementation, shall be submitted and approved as part of the Reserved Matters application. This shall be between points A to B, C to D and D to E as identified on plan Ref OHC-001 Rev -.



Report to the Secretary of State for Housing, Communities and Local Government

by Kenneth Stone BSC Hons DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Date 26 September 2019

TOWN AND COUNTRY PLANNING ACT 1990

BABERGH DISTRICT COUNCIL

APPEAL BY

GLADMAN DEVELOPMENTS LTD

Inquiry Held on 25 – 28 June & 2 July 2019

Land off Station Road, Long Melford, Suffolk.

File Ref: APP/D3505/W/18/3214377

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TABLE OF ABBREVIATIONS

| | |
|--------------|--|
| AH | Affordable Housing |
| AONB | Area of Outstanding Natural Beauty |
| ASoCG | Archaeology Statement of Common Ground |
| BDC | Babergh District Council |
| BLP | Babergh Local Plan Alteration No.2, June 2006 |
| BUAB | Built Up Area Boundary |
| CD | Core Document |
| CIL | Community Infrastructure Levy |
| CS | Babergh Local Plan 2011-2031 Core Strategy & Policies, Feb 2014 |
| DSoCG | Drainage Statement of Common Ground |
| DVSVMP | Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Management Plan |
| ELP | Emerging Local Plan |
| Framework | National Planning Policy Framework |
| GDL | Gladman Developments Limited |
| HLS | Housing Land Supply |
| HSOCG | Housing Statement of Common Ground |
| HSSA | The Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk |
| JLP | Babergh and Mid Suffolk District Councils Joint Local Plan |
| LMFC | Long Melford Functional Cluster |
| LMFC (Part) | Long Melford Functional Cluster (Part) |
| LMFC (Whole) | Long Melford Functional Cluster (Whole) |
| LMNP | Long Melford Neighbourhood Plan |
| LPA | Local Planning Authority |
| PPG | Planning Practice Guidance |
| PRoW | Public Right of Way |
| PSoCG | Planning Statement of Common Ground |
| RDCS SPD | Rural Development & Core Strategy Policy CS11, Supplementary Planning Document |
| SCC | Suffolk County Council |
| SOSF | Save Our Skylarks Field Group |
| SV PA | Stour Valley Project Area |

File Ref: APP/D3505/W/18/3214377**Land off Station Road, Long Melford, Suffolk**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gladman Developments Ltd against Babergh District Council.
- The application Ref DC/18/00606 is dated 8 February 2018.
- The development proposed is described as 'the erection of up to 150 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Station Road. All matters reserved except means of access.'

Summary of Recommendation: The appeal be allowed

Procedural Matters

1. The appeal was recovered for decision by the Secretary of State for Housing, Communities and Local Government by a direction, under section 79 and paragraph 3 of schedule 6 of the Town and Country Planning Act 1990, dated 25 June 2019. The reason for the direction was that the proposal involves residential development of over 150 units or on sites of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed, and inclusive communities.
2. The planning application was submitted in outline form, with approval sought for access at this stage. It was confirmed that the access details submitted were only in so far as the point of access to the site but not the internal access arrangements within the site. A location plan, FPCR 8104-L04 (CD1.2) and a site access plan P17068-004A (CD1.8) were submitted with the application. An updated Site Access drawing P19007-001A was attached to the Highways Statement of Common Ground which provided minor amendments, described as footway arrangements to the north of the site's access arrangements, following the granting of planning permission of the Former Downs garage site (an adjacent site).
3. There were no objections raised to this plan being considered during the appeal by any party and it was available for public inspection as part of the Highways Statement of Common Ground (HSoCG). It does not substantively change the scheme and the Highway Authority were a party to the Statement. The amended plan is also referred to in the general Planning Statement of Common Ground (PSoCG) between the District Council and the Appellant in describing the details of the proposal for which permission is sought. It's inclusion as a plan to describe the development would not prejudice the cases of any party. I have therefore considered this plan as forming part of the scheme and this was confirmed at the opening of the Inquiry. A development Framework Plan 8104-L02_J (CD1.3), which was further updated to Rev K (CD 2.5), was submitted for illustrative purposes but is not a plan for which permission is sought. I have therefore considered the scheme on this basis.
4. The appeal is in respect of the failure of the local planning authority to give notice within the prescribed period of its decision on an application for outline planning permission. The Council considered the application at its Planning Committee on 12 December 2018 where it resolved that in the absence of an

- appeal it would have refused planning permission. The putative reasons for refusal covered 4 grounds related to:
- Harm to the open countryside;
 - Lack of demonstration of a locally identified housing need;
 - Failure to demonstrate no adverse impact on protected and/or priority species; and
 - Failure to demonstrate no adverse impact upon surface water run-off.
5. A number of these matters were addressed before the Inquiry commenced through Statements of Common Ground between the Appellant and Suffolk County Council (SCC) related to Highways (HSoCG), Drainage (DSoCG) and Archaeology (ASoCG) and on General Planning Matters (PSoCG) between Babergh District Council (BDC) and the Appellant (GDL) and these are detailed in the Agreed Matters section below.
 6. Save Our Skylarks Field Group (SOSF) served a statement of case in accordance with Rule 6(6) of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, and took a full part in the proceedings of the inquiry.
 7. At the submission of proofs SOSF submitted evidence to address matters related to the following:
 - General planning, Local and neighbourhood plan and local housing need;
 - Landscape and heritage;
 8. On the basis of the foregoing I set out in a pre-Inquiry note dated 17 June 2019, (INSP 1) the main issues that I had identified at that stage, as well as those matters on which I wanted to ensure I had a full understanding of the parties' position, amongst other matters. The main issues identified were:
 - The effect of the proposed development on the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape;
 - Whether the proposed development would preserve the Grade I listed Church of the Holy Trinity, the Grade I listed Building known as Trinity Hospital, Rodbridge House and Barns, Grade II Listed Buildings, the Roman Villa NE of Rodbridge House, a Scheduled Monument, Melford Hall Park and Garden and Kentwell Hall Park and Garden Grade II* Registered Parks and Gardens (including listed buildings) or their setting and the Long Melford Conservation Area and the former railway line;
 - Whether there is a locally identified need for housing in Long Melford and the surrounding area.
 9. The Inquiry sat between 25 June and 2 July 2019. I conducted an accompanied site visit on the 2 July 2019. I also undertook unaccompanied site visits before the Inquiry opened and during the Inquiry period. SOSF also identified some additional locations that they wished me to visit and I visited those unaccompanied after the accompanied visit on 2 July 2019.

10. Following the close of the Inquiry the Council have drawn to my attention to the publication of a draft Housing Land Supply Position Statement, for a 4 week consultation period ending on the 16th August. They have noted this represents the Council's annual update following the 2018 update attached to the Annual Monitoring Report AMR in July 2018. It is further noted that it demonstrates a land supply figure (with 5% buffer) of 5.78 years although accepting that it is a draft document which is subject to consultation and potentially subject to change. The other parties were given an opportunity to comment.
11. The Appellant observes that it is a draft document and not the Council's adopted position; the document contains figures delivery times and lead in times that are not fact but subject to opinion and discussion; expected completions on sites in this document are subject to change; the Council's position at appeal was different to their last AMR and it is not clear what sites have come into the supply and what has come out. Also the Appellant notes there is no disagreement between the parties on the data in April 2018 tested at the Inquiry but only on how it was interpreted.
12. SOSF believe moderate weight should be given to the document as it appears to be prepared in accordance with the appropriate guidance.
13. Given the draft and untested nature of the document at this stage it has very limited weight. Weight may increase as it progresses towards the Council adopting the document and the Secretary of State will need to be aware of the latest position at the time of his decision.
14. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the Council, the Appellant and SOSF are included as inquiry documents: in delivery they were subject to some minor amendments.

The Site and Surroundings

15. The appeal site is described in the PSoCG between the Appellant (Gladman Developments Limited (GDL)) and Babergh District Council (BDC).
16. The appeal site is located to the east of Station Road in Long Melford. It is approximately 8.23 ha in area and comprises one entire field and part of a second field in agricultural use. A hedgerow runs along part of the boundary between the two fields.
17. On the site's north western boundary is the Railway Walks Local Nature Reserve. A Public Right of Way (PRoW) (Footpath 40), the Melford Walk, runs through the Nature Reserve. A PRoW (Footpath 2) runs inside the site along the northern boundary of the site. Water Lane, which is also a PRoW, is adjacent to the northern site boundary. Footpath 2 and Water Lane can be accessed from the Melford Walk and from Roman Way on the edge of the village.
18. The site access is to be taken from Station Road to the west of the site. There are existing properties adjacent to the south-western corner of the site.

19. The site generally rises from Station Road towards the east with a high point towards the south east. The former railway line embankment separates part of the western boundary of the site from Station Road and a vacant development site, the Former Downs garage site, that is presently hoarded. The embankment is heavily wooded and covered with scrub vegetation on its banks reducing visibility of the site from the north west and village centre. The remaining Station Road frontage is limited in length and includes a gate and low boundary hedging beyond which the rising agricultural fields are visible. Further to the south along Station Road and adjacent part of the southern boundary are residential properties. Beyond the site to the east, south east, north and north east lies countryside with large undulating fields contained by hedgerows, including hedgerow trees.

Planning Policy and Guidance

Development Plan

20. The development plan for the purposes of this appeal consists of saved policies from the Babergh Local Plan Alteration No.2, June 2006 (BLP) and the Babergh Local Plan 2011-2031 Core Strategy & Policies, February 2014 (CS).
21. The PSoCG (at Paragraph 2.2.1) sets out those policies that the Appellant and Council consider to be relevant to this appeal. Furthermore, in the light of the putative reasons for refusal the Council has identified further policies it considers most important for the determination of this appeal; those being Policies, CS1: applying the presumption in favour of sustainable development in Babergh, CS2: Settlement Pattern Policy, CS11: Strategy for development for Core and Hinterland Villages and CS15: Implementing Sustainable Development in Babergh. All of which were from the CS. Added to this list the Appellant draws attention to policy CS3: Strategy for Growth and Development. SOSF in their evidence and closing do not seek to introduce or rely on other policies than these identified CS policies. On this basis I have concluded that these are the policies most important for the determination of this appeal and set these out below.

The Core Strategy

22. Policy CS1 entitled applying the presumption in favour of sustainable development in Babergh is an over-arching policy that applies the national policy requirement in this local context. It was drafted having regard to the 2012 National Planning Policy Framework and applies the presumption as then formulated. The presumption in favour of sustainable development has evolved and is now as set out in the latest 2019 Framework at paragraph 11.
23. The Council's Strategy for Growth is set out in policies CS2 and CS3. CS2 identifies the settlement pattern and states that most new development (including employment, housing and retail etc) in Babergh will be directed sequentially to the towns/urban areas, and to the Core Villages and Hinterland villages. This being subject to scale and location of development which will be dependent on local housing need, role of the settlement, capacity of existing infrastructure and environmental constraints. Long Melford is identified as a Core Village. The policy further notes that Core Villages will act as a focus for development within their functional cluster. In respect of the Countryside it is stated that outside of the settlements identified development will only be permitted in exceptional circumstances.

24. Policy CS3 states employment and housing growth will be accommodated within Babergh's existing settlement pattern and in new mixed and balanced communities. In respect of the number and distribution of new homes the policy advises that provision will be made for 5,975 new dwellings between 2011 and 2031 in the District with 1,100 to be provided between 2011 – 2016 and 4,875 between 2017-2031. The target is to be achieved through existing commitments, windfall and provision for new dwellings in identified locations. In terms of this appeal the relevant location is the allocation for Core & Hinterland Villages which are identified as accommodating 1,050 dwellings.
25. Policy CS11 sets the strategy for Core and Hinterland Villages and states in respect of Core Villages that proposals for development will be approved where they score positively against CS15 and various matters are addressed including, landscape, environmental and heritage characteristics; the locational context of the village and development; sequential approach to site selection; locally identified need; locally identified community needs; and cumulative social, physical and environmental impacts from development. Paragraph 2.8.5.7 in the preceding text refers to Built Up Area Boundaries (BUABs) and notes '*The BUABs defined in the 2006 Local Plan Saved Policies and later in a future DPD for Site Allocations, provide a useful starting point when considering the relationship of proposed development in relation to the existing pattern of development for that settlement and for defining the extent of its developed area and a distinction between the built up area and the countryside. Policy CS11 intentionally provides greater flexibility for appropriate development beyond these, for identified Core and Hinterland villages subject to specified criteria*'. The future DPD for Site Allocations referred to has not been produced and given the Council is now in the process of preparation of a new local plan is unlikely to be. Moreover, policies HS02 and HS03 from the BLP which referred to the BUABs have been replaced by CS policies CS2, CS11 and CS15 as identified in Appendix 1 of the CS.
26. Finally, policy CS15 entitled implementing Sustainable development in Babergh is a policy that the CS notes brings together the elements of sustainable development and the principles of good design. It goes on to note that the principles behind the policy are relevant to all new development whether large or small, whether it is a domestic extension or a new supermarket, urban or rural, business or residential. As such it will be applied in a proportionate way depending on the scale and exact nature of the proposal. The policy contains some 19 individual criteria along with other wider statements.

Babergh Local Plan

27. Only a limited number of policies have been identified from the BLP as relevant to this decision these being HS31, CR07 and CR08. Policy HS31 requires residential development proposals on sites over 1.5 hectares to provide 10% of the site as public open space. CR07 requires development in the countryside to provide a high standard of landscaping which must reflect the characteristics of the locality and CR08 requires hedgerows of amenity and landscape significance to be retained or suitable mitigation provided.

Emerging Plans

Babergh and Mid Suffolk District Council Joint Local Plan (JLP)

28. During the Inquiry I was informed that BDC (25 June) and Mid Suffolk District Council (27 June) had resolved to proceed to public consultation on the Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (Reg 18). The Authorities both agreed to consult on the draft plan for a period of ten weeks beginning on 22 July 2019.
29. The emerging plan is at an early stage of the process, consultation has only just begun on the preferred options let alone comments received or examination. Given the advice in paragraph 48 of the Framework only limited weight can be given to the policies in the emerging plan. However, matters may have moved on by the point of decision by the Secretary of State and he may wish to inform himself of the up to date position.

The Long Melford Neighbourhood Plan (LMNP)

30. The pre-submission draft of the Neighbourhood Plan has been the subject of consultation between January and February 2019. The plan has yet to be subject to Strategic Environmental Appraisal and further consultation is planned for summer 2019. I was informed during the Inquiry that a housing allocation, LMH9, in the plan, which allocated part of the appeal site adjacent Station Road for housing, was to be reconsidered and proposed for deletion. It would appear that further changes to the plan are potentially to be proposed. The anticipation was that such alterations and further consultation could be undertaken before the end of the year.
31. Given the advice in the Framework and as the Neighbourhood Plan is still at a relatively early stage and potentially to be amended before a referendum, little weight in the decision-making process should be given to it at this stage. This is not a point of dispute between the parties, although SoSF contend it demonstrates a strong public view of the acceptable development in the area and contains important background information.

Other documents

Rural Development & Core Strategy Policy CS11 (Supplementary Planning Document)(RCDS SPD)

32. This is an adopted supplementary planning document that provides guidance on the interpretation and application of Policy CS11 in the CS and the various factors to be taken into account. It is a material consideration, although not part of the development plan.

Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Management Plan 2016-2021 (DVSV MP)

33. Section 2.1 contains the purpose of the document which is to set out the management objectives for the Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project Area (SV PA). It has, in part, a statutory function as a management plan for an AONB as required by Section 89 of the Countryside and Rights of Way Act 2000. It goes on to state that the management plan is set in the context of national and local policy and strategy

and supports those policies and strategies that seek to advance the purpose of the AONB designation.

34. The AONB is some 90 sq km (the fourth smallest AONB in England) whilst the SV PA is some 302 sq km running from the western AONB boundary to near the Cambridgeshire border. The document sets out the natural beauty and special qualities of the AONB in some detail but these relate only and directly to the AONB. At section 2.6 it is noted that beyond the AONB boundary Local Authorities took a decision to offer an 'AONB service' to the Stour Valley Project Area. This however cannot be taken as to give the status or equivalence of the national designation of AONB to the rest of the SV PA. Much of the document is focussed on the AONB its special qualities and natural beauty with comparison or connection made with the remainder of the SV PA. As a management plan for the AONB it fulfils a statutory requirement. Beyond the AONB it is a policy document which provides advice around the quality of the area but cannot be equated to or afforded the same weight as a statutory requirement. It is not a planning document, is not a supplementary planning document and indeed sits outside the suite of such documents.
35. On the basis of the above and given that the appeal site sits outside the AONB area I have treated the document as a material consideration to which I have given some weight in assisting in assessing the special quality and value of the area.

The Proposals

36. The application was submitted in outline with all matters, except for access, reserved for future determination. The proposal is for up to 150 dwellings with 35% being provided as affordable housing. In respect of the access arrangements it was clarified that this was in respect of the principle access to the site from Station Road as detailed on plan P19007-001A attached to the HSoCG.
37. The development Framework Plan 8104-L02_J (CD1.3) submitted with the application and further updated to Rev K (CD 2.7) illustrates one way in which the development could be undertaken. It indicates a spine road accessing at Station Road and running through the centre of the site off which short spurs would be taken. A strong landscape buffer is identified around part of the southern, eastern and northern boundaries. Along the western boundary, adjacent to the Melford Walk raised embankment, an amenity grass land area incorporating a SUDs attenuation pond, children's play area and a suggested footpath route. As illustrated the green infrastructure would account for some 2.7 hectares.

Agreed Matters

38. As noted earlier, various Statements of Common Ground were concluded between SCC, BDC and GDL. These covered general planning matters, Highways, Drainage and Archaeology. The SoSF were not a party to the SoCGs and where they presented contrary evidence this is set out as necessary under the section setting out their case.

39. It is agreed that:

- The site is in the countryside, comprises agricultural land and is not within any nationally or locally designated area.
- Long Melford is a Core Village where the CS directs growth within its functional cluster depending on needs and other factors;
- The proposal will provide 35% affordable housing, which would equate to 53 units if 150 dwellings were constructed.
- There are no objections on agricultural grounds.
- There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets and no items of significant interest were found during trial trenching or anything that would prevent development of the appeal site.
- The habitats within the site supported commonly occurring flora, with no rare or notable plant species recorded on-site. any loss of habitat being unlikely to result in a significant impact to local biodiversity.
- There is no objection from the Council's Ecology Consultee (Place Services, Essex County Council) regarding ecology subject to mitigation and enhancement measures.
- A total of 4 skylark plots (two plots per Skylark territory lost) should be provided within nearby arable land for this development and maintained for a period of 10 years. This can be secured by condition.
- The Council will not contest Reason for Refusal 4 (that related to surface water run off) at Inquiry as there is no outstanding objection from the Council's consultee.
- It is agreed that a number of economic benefits would accrue from the appeal site over its lifetime including (if 150 dwellings are built out) an estimated: Construction spend of £15.8 million; Support 136 FTE construction jobs; GVA of £5.4 million; New resident expenditure of £4.6 million; New Homes Bonus payments; Council Tax Payment payments.
- It is agreed that the Council cannot demonstrate a five-year supply of housing sites, at the time of the Inquiry.
- The proposed development is located within Flood Zone 1, where the Framework sequential risk based approach to the location of development seeks to direct housing.
- Neither the Environment Agency nor the Lead Local Flood Authority object to the proposals subject to conditions being attached.
- The foul sewerage system has available capacity for flows from the proposed development.
- There is no objection on heritage grounds nor would the appeal scheme pose any adverse impact upon any designated heritage asset.

- The parties agree that a safe and suitable access to the development can be achieved off Station Road.
- The site is considered to be well related and accessible by walking to the services and facilities in Long Melford.
- There are nearby bus stops providing access to the primary bus service - Bury St Edmunds to Colchester via Sudbury. It provides regular services throughout the day allowing for trips to be made to larger centres for commuting and leisure purposes.
- The appeal proposals will provide Public Open Space including provision of a new Children's Locally Equipped Area of Play.
- It is agreed that air quality, dust and noise are not considered to have a significant impact on new or existing residents, subject to appropriate planning conditions.
- Babergh operates a CIL policy and most matters necessary for payment are covered by this schedule to make the development acceptable in planning terms. Any matters arising not covered by the Council's CIL policy may be included in a Section 106 obligation for this Inquiry. There are no grounds to reject the proposal because of any unacceptable adverse impact on local services and infrastructure. The proposal complies with Policy CS11 in this respect.

The cases put by the parties

40. I have set out the cases of the parties relying on the opening and closing statements. The closings were made in the normal sequence with the Appellant having the final say and there are therefore responses made to points in the other parties' closings included in the Appellant's closing remarks.

The Case for Gladman Developments Ltd

41. The material points are:

The shortfall in the housing land supply.

42. It is common ground that the Council cannot demonstrate a five year supply. The Council's case is that it has a 4.86 year supply, the Appellant's is that supply stands at 4.11 years.
43. The parties have produced a Statement of Common Ground which illustrates the differences. It is agreed that the only 5 year supply period which can reliably be assessed is the period 1st April 2018 to 31st March 2023. This is because data is not available to allow for supply from 1st April 2019 to be considered properly. It is this need to use a base date more than a year in the past which provokes much of the dispute between the parties on this topic.
44. The first difference comes from the assessment of the requirement. The Babergh Core Strategy was adopted on 2nd February 2014, more than five years ago, and so paragraph 73 of the NPPF requires the standard methodology to be used to establish the housing requirement.

45. The first step is to calculate the household growth over a ten year period starting with the "current year". The Council say the current year is 2019 and so use that as the first year of the ten year period. It is indeed 2019, but as the NPPF requires a Council to be able to show a 5 year supply at any point, it clearly assumes that the base date of the calculation will be the current year. The current year clearly means the year containing the base date. To use 2019 as the current year in this case would mean that there is a temporal mismatch between the calculation of the requirement and of supply. It is clearly right to contend that the base date for the supply calculation and first year used in assessing housing growth must be the same. The Council point to the terms of the guidance on the Housing Delivery Test. That is produced for a different purpose and cannot help in this regard. It also pointed out that policy and guidance has shifted over time and calculations will change over time. That is obviously right, but that does not support the Council's approach. That is because the approach advocated produces changes which do not flow from revisions to guidance, but simply flow from when a calculation is carried out in relation to the same base date. The Council's approach means that for a five year supply calculation with a base date of 1st April 2018, the requirement would be different depending upon whether you calculated requirement on 31st December 2018 or 1st January 2019. That approach cannot be what is intended.
46. The Appellant argues that the Council considers that its approach is supported by the decision of Inspector Mr Baird in South Gloucestershire and that in fact, when read, the decision clearly supports the Appellant's position. In that case, the inquiry took place in 2019, but the base date for the supply calculation was in 2018. The case is comparable to the issue here. There was a dispute about which of 4 possible scenarios to use to determine the requirement under the standard method: Scenario 1 used 2018 as the first of the ten year period of household growth and scenario 4 used 2019. The Inspector said that whilst scenario 4 was "technically correct it does not allow for a like-for-like assessment of the position thoroughly tested at the inquiry" and he used scenario 1 for reasons of consistency. The Appellant argues that Mr Baird therefore accepted the precise point which the Appellant urges here. The requirement and the supply have to be comparable in temporal terms. Use of a ten year period from 2018 produces an annual figure of 298 units.
47. The LPA claims no support from Mr Baird's decision.
48. Step 2 in the calculation is to apply the relevant affordability adjustment. The same dispute arises. The Council uses the latest affordability ratio available in 2019, the Appellant uses that which applied at the base date. The issue is the same and the Appellant considers it is right on this issue for the same reasons, producing an uncapped annual figure of 434 units, rounded.
49. The next step is to consider the cap which applies. The PPG requires the figure derived from step 2 to be capped at 40% of whichever is the higher of (i) the projected ten year housing growth derived in step 1, or (ii) the "average annual housing requirement figure set out in the most recently adopted policies". It is the second of these comparators for the capping process that creates the issue here. Unfortunately, the PPG does not address the position where the plan has a stepped requirement. The Council takes the entire plan period average; The Appellant uses the annual figure in the plan for the period 2016 to 2031 (325 units per annum). In relation to this issue, the Appellant argue that a

consideration of the purpose of the cap clearly points to the Appellant being correct. The purpose of the cap is to limit the increase that a local planning authority has to deal with. Since 2016, the Council is supposed to have been providing dwellings at 325 per annum and so the increase produced by the standard method will be an increase over that figure, as 325 is the figure the Council would be working to, in the absence of the standard method and was working to before the NPPF revisions. It follows that the logic for using 325 as the second possible comparator is compelling. When that is the comparator, the 434 figure derived from the household change as adjusted for affordability is higher than the 298 figure derived from household change. As a result, the increase is capped at 40% above the 325 figure: $325 \times 1.4 = 455$. The uncapped annual standard method figure (434) is not higher than the 455 figure and so 434 is the figure to use. When an agreed 5% buffer is applied, the five year requirement is 2,276 units.

50. The supply has to be tested against this figure. The supply also has to be tested by reference to the question of whether there was clear evidence of non-delivery at the base date (for those types of sites in sub-paragraph (a) where deliverability is presumed unless contrary evidence is available) or whether there is clear evidence of delivery at the base date (for those types of site in sub-paragraph (b) of the NPPF definition of "deliverable", where deliverability has to be demonstrated).
51. In conducting the exercise of assessing supply, it is crucial to be rigorous about maintaining focus on the position at the base date. That is because, if focus is not maintained:
 - a. There is a risk that the question of whether the clear evidence existed at the base date of the calculation can be overlooked. Deliverability has to be tested as at the base date. A laxer approach can mean that, for example, type (b) sites which were included in the supply without the necessary clear evidence of deliverability being available at the base date stay in the supply because the Council retrofits evidence available now to the base date when it was not then available; and
 - b. The base date is effectively shifted forward in time for the purpose of the sites discussed, without considering what consequent other effects would flow from updating the supply position and also meaning that, in this case, the Council is effectively testing whether it has a supply of 3 years and 10 months worth of housing from June 2019.
52. These consequences have been forcefully warned against in an appeal decision at Woolpit. The Council's witness was the witness at Woolpit and clearly disputes the decision, but the decision was not challenged and stands.
53. In respect of the LPA's comments on post base date information the Appellant does not object per se but objects to the lack of evidence at the base date.
54. The Appellant's case on supply is straightforward. For the three sites which had outline planning permission at the base date, the only evidence which the Council has produced of their deliverability is post base date information. It produces no clear evidence of deliverability which was in the Council's possession at the base date. It cannot rely on later information to allegedly "validate" an earlier decision without producing the clear evidence of delivery which his later evidence

“validates”. The later evidence is not evidence of validating a judgment, but justifying it for the first time post base date. The Appellant contend the Council is making the very same error which was made at Woolpit. There is no evidence that those sites were deliverable at the base date and all 120 units from those three sites ought to be removed from the claimed supply.

55. The same is true about the Brantham Regeneration site. The residential element of that scheme which is in issue is 145 units. The residential element of that scheme was permitted in outline (the permission was hybrid) and so the Council has to show that there was clear evidence of delivery at the base date. The same issue, but compounded, arises in relation to this site. It is the same because the Council relies entirely on post base-date information to prove deliverability. There was no such clear evidence at the base date. But it is compounded because when the point was made by the Appellant in the hearing session, the response was that as the site had been granted reserved matters approval (on 21st June 2019, three days prior to the inquiry opening), the burden was now on the Appellant to show that the site was not deliverable, the point being that the site had shifted from type (b) to type (a) in the NPPF glossary definition. A more blatant example of category shifting after the base date could not be imagined.
56. The Council have not taken the Woolpit decision on board and are repeating the same errors made in that case, but on a less gross scale. The Council’s claimed supply (2,134 units) falls to be reduced by $120 + 145 = 265$ units, giving a five-year supply of 1,869 units. Against the requirement for 2,276 units, that is a 4.11 year supply, or a shortfall of 407 units.

Whether there is a locally identified need for housing in Long Melford.

57. Policies CS2 and CS11 of the Core Strategy both require local need to be shown for development outside of, among other places, Core Villages such as Long Melford. The reference to need in policy CS2 is a very general one and applies to all types of development, not just housing. Policy CS11 draws attention to housing and employment need and also to specific local need such as affordable housing. The policies do not prescribe what degree of need has to exist nor do they prescribe any time period over which the need has to exist.
58. The Council complains that no needs assessment was provided with the application. That is a non-point. Such an assessment was not a validation requirement and the application was validated. An assessment is before the inquiry in the form of the submitted evidence. The Council have not objected to that evidence being admitted, have not sought an adjournment, have not produced much evidence of their own on the topic and have not sought to rebut the assessment in any detail. Their stated approach is to “remain unsatisfied” about the existence of a local need but do not present evidence to demonstrate an absence of local need; policy CS11 indicates that this is now a matter for the decision maker.
59. The Council themselves point to the High Court’s decision in the case of R (East Bergholt Parish Council) v Babergh DC & Aggett [2016] EWHC 3400 (Admin). In that case, the High Court determined that the reference to local need in policies CS2 and CS11 meant, in the case of the Core Villages, “housing need in the village and its cluster, and perhaps in areas immediately adjoining it.”

60. The Appellant's evidence follows the approach required by the East Bergholt case. Crucially, only the Appellant has attempted this exercise. The Council and SOSF both provide figures for the parish of Long Melford only. That is the wrong approach, because it excludes need arising in the rest of the functional cluster. In any event, the Neighbourhood Plan's calculation of need suffers from problems.
61. First, as stated at the inquiry, the Parish Council and the District Council both say that they obtained the figure from the other, which cannot be right.
62. Second, the calculation of need in the Neighbourhood Plan is not at all robust, at least for the purposes of policy CS11. As regards the approach of accepting a share of the District's housing need, the Neighbourhood Plan errs by using a figure derived from the population of Long Melford's parish, not the functional cluster. The Neighbourhood Plan also uses a figure derived from what is called a "Housing Needs Survey". That survey is no such thing, is defective and wholly unreliable because:
 - a. It asks for views on development and other issues, and does not investigate need;
 - b. It asks some very leading questions; and
 - c. The gross need figure claimed in the plan does not appear in the plan or its evidence base, nor is there any explanation for why the plan proposes to take half of that gross figure as the net need, nor any justification for it as a ten year figure and there is no reference to which types of housing the claimed figure encompasses.
63. The Appellant assesses the question of need by reference to what it calls (i) part of the Long Melford Functional Cluster and (ii) the whole of the cluster, referring to them as LMFC (part) and LMFC (whole). LMFC (part) comprises the three parishes which fall exclusively within the cluster. LMFC (whole) comprises all of the parishes which lie within the cluster. Some of these parishes also lie within neighbouring functional clusters. Whilst some pipeline development in overlapping functional clusters outside those parishes may help to meet needs within them, no party presented any evidence to suggest that this would be at any scale, and it is thus right to look at need across both LMFC (whole) and LMFC (part) in drawing conclusions on the scale of need in assessing CS11.
64. The need figures have to allow for pipeline sites in the various parts of the cluster. The position is that there are 196 units in the pipeline in the parish of Long Melford, 208 in the LMFC (part) and 433 in the LMFC (whole). This is an update to the figures in the Appellant's evidence, as small sites in the pipeline were not available when the evidence was prepared.
65. Two methods are used to address need: a "top down" and a "bottom up" approach.
66. The top down approach looks at providing the LMFC with a share of District wide need, based on the cluster's population, not that of just Long Melford parish. When that exercise is done using the Council's standard method District wide requirement figure, the gross need arising in LMFC (part) is 306 dwellings to 2031 or 424 dwellings to 2036; and for LMFC (whole) is either 631 or 874, according to the end year of the period considered. When pipeline supply in LMFC (part) (208 units) and LMFC (whole) (433) are allowed for, there is unmet need

of 98 units in LMFC (part) to 2031 and a need for 216 units to 2036. The top down approach using the SHMA's objectively assessed need figure similarly demonstrates a need. For LMFC (whole) there is a residual need of 198 units to 2031 and 441 units to 2036. The top down approach demonstrates a clear need for both areas of the cluster.

67. The bottom up approach uses POPGROUP software to address need using the population and applying an affordability uplift drawn from that required by the standard method in the PPG and migration assumptions based either on a share of migration into the District (scenario A) or a share of the District wide population growth rate (scenario B). It was explained that whilst such assessments become cruder the smaller the geographical area considered, the Appellant was content that the LMFC (part) and LMFC (whole) were sufficiently large areas to mean that no materially anomalous consequences flow from applying these approaches, and this bears more than adequate comparison with the fixed percentage shares used in the evidence of The Council and SoSF in their attempts to present assessments of need in the Long Melford Parish. The outcomes are:

a. Bottom up scenario A:

- i. A gross need in LMFC (part) of 167 dwellings to 2031 and 178 dwellings to 2036, with no residual need allowing for supply; and
- ii. A need in LMFC (whole) of 547 dwellings to 2031 and 648 dwellings to 2036, with a residual need of 111 units to 2031 and 212 units to 2036;

b. Bottom up scenario B:

- i. A residual need in LMFC (part) of 83 dwellings to 2031 and 145 dwellings to 2036;
- ii. A residual need in LMFC (whole) of 257 dwellings to 2031 and 432 dwellings to 2036.

68. The upshot is that the Appellant's evidence shows that:

- a. As regards the LMFC (part), all but one method of calculating need reveal a residual need for dwellings to 2031 and 2036; and
- b. As regards the LMFC (whole) all methods of calculating need show that a residual need exists whether addressed to 2031 or 2036.

69. The criticisms levelled by the LPA and SOSF are unfounded. The use of the part cluster addresses criticisms that parishes outside the cluster overlap with it. The criticism that the needs assessment does not take account of the settlement strategy in the development plan is misconstrued and confuses need with how the need should be met. Need is need. Also to criticise the assessment as it does not take account of the population in the neighbourhood plan is misconceived as they are not relevant for the purposes of determining need.

70. There is also evidence of local affordable need. There are 53 registrations of households on the Council's Housing Register by people who are in housing need and who have a local connection to Long Melford and not merely a desire to live there. People have to prove they are in need in order to be placed on the register. These are people in need now. The Rule 6 party points to affordable

units which form part of recently built or permitted schemes in Long Melford, and the Council adopted that point after the Council's planning witness gave evidence (but not before or during his evidence) to suggest that affordable need has been met. However:

- a. The latest note from the Council establishes that not all locally arising need would be met by current schemes in Long Melford;
 - b. The draft Neighbourhood Plan proposes a site for 100% affordable housing, close to Kentwell Hall, and so the Parish Council must accept that unmet need exists in Long Melford; and
 - c. The mix of affordable housing sought by the Council through the planning obligation takes into account the mix that would already be provided by the existing schemes, and so there is an element of need arising from the provision of a suitable mix to consider.
71. The Appellant maintains that there is good evidence of unmet affordable need arising from people with a demonstrated connection to Long Melford.
72. There is thus a proven local need for housing, assessed in accordance with the East Bergholt case. The requirements of policies CS2 and CS11 in this regard are clearly met.

The effect of proposed development upon the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape.

73. There is clearly a considerable amount of individual professional judgment involved in assessing the landscape and visual effects of proposed development. Professionals' judgments will always differ to a greater or lesser degree.
74. The Appellant acknowledges that the appeal scheme would cause some adverse character and visual effects and contend that judgments were explained in a methodical way.
75. The appeal site does not form part of a valued landscape. That is for a number of reasons. First, the revised NPPF adopts a different approach to valued landscapes from that in the 2012 NPPF. Paragraph 170(a) requires decision makers to protect and enhance, among other features, valued landscapes and then goes on to say:
- “(in a manner commensurate with their statutory status or identified quality in the development plan).”
76. Those words must mean something. The NPPF does not qualify the reference to statutory status and identified quality in the development plan. It does not require protection or enhancement “in a manner commensurate with any statutory status or identified quality in the development plan”. The words are clear and firm. They require valued landscapes to have statutory status or qualities identified in the development plan. The appeal site has neither statutory designation nor is it in the Special Landscape Area. The initial reaction to the revised NPPF and the judgment of officers in the committee report to the question of whether the appeal site is a valued landscape were both correct. The legal advice of the Council suffers from the defect, if the summary of it in

evidence is complete, of not explaining what the words in brackets in paragraph 170(a) of the NPPF are there for.

77. In any event, conducting an assessment in accordance with the criteria in Box 5.1 of the GLVIA 3rd Edition shows that the appeal site does not form part of a valued landscape. There is no merit in rehearsing all of the differing judgments of the three landscape witnesses, but the following points are relevant.
78. The Appellant addresses the appeal site and its immediate context. The Council and rule 6 party both address larger areas. The Appellant's approach is right for the reasons given in oral evidence: if the net is cast too widely, aspects of the landscape are brought into account which have no relationship to the site under consideration. For example, references to Constable and Gainsborough can provide no cultural associations with the appeal site. Nor can the fact that Beatrix Potter was a visitor to Melford Hall really assist in assessing the value of the appeal site and whether it forms part of a valued landscape. Some of the ingredients of the Council's and Rule 6 party's assessments are overstated. The area has undergone substantial field amalgamation, as perusal of the historical maps show and the A134 by-pass and railway both adversely affected the condition of the agricultural landscape and field pattern.
79. It is also necessary to be careful as regards the factor in the Box 5.1 exercise that relates to representativeness. The GLVIA3 makes it clear that it is here referring to:

"Whether the landscape contains a particular character and/or features or elements which are considered particularly important examples."
80. That is the approach which the Appellant take. An approach which simply asks whether the appeal site is representative of its surroundings misses the point. That approach means that the more homogenous the landscape under consideration, the more a particular site is more likely to be representative of it, supposedly elevating the landscape's value. The Council's approach means that, to take an extreme example to make a point, a landscape which was uniformly bland and degraded would end up having enhanced value because each site within it represented that blandness and degradation.
81. It is always wise to take a metaphorical step back at the end of an assessment and ask whether it just looks right. To assess the appeal site as of high value, the top end of the scale for both the Council and rule 6 party is unrealistic given the nature of the landscape around Long Melford, particularly its north and west. If the appeal site is top of the scale of value for a non-designated landscape, then you would have to say the same thing about the landscape in the north of the village, in the Registered Parks. That is a clear indication that the assessment of the appeal site's value is overstated, unless it is, in truth, an assessment which is too influenced by the value of more distant landscape such as that north of the village.
82. The appeal site has a sloping topography, but it is not particularly complex topography, nor does the topography lead to heightened visibility. It seems to be common ground that the site is visible only in close proximity or from a limited range of points at distance. No landscape witness has drawn attention to any middle distance views which would be obtained. The Appellant's Zone of Visual Influence (ZVI) is a good general indication of where visibility may be obtained,

subject to topography, vegetation and built form. The Council's point that the ZVI is materially wrong by failing to include locations such as Windmill Hill and The Green is an unfair criticism given the notes to the ZVI say views may be obtained from other places and the Appellant's evidence addresses views from such other places in any event. Of particular note is the lack of any significant visibility between the appeal site and the historic core of the settlement. There are some views from The Green to the appeal site, but they are distant and most of the appeal site is obscured by trees. The church tower and the Hospital can be seen from parts of the appeal site, but not from places lawfully accessible to the public.

83. The appeal site draws its character from its surroundings. These are not limited to the agricultural land to its east and south, but its character is also informed by the proximity of residential development on the east side of Station Road to the south, as well as the development at Roman Way, the dismantled railway, power lines, as well as Back Lane and Water Lane. The site does not draw character from the concealed archaeology at Rodbridge Roman Villa. The site draws no character from the historic settlement, which is separated from the appeal site by a considerable amount of intervening modern development.
84. Although Long Melford is referred to a number of times in the character appraisal for NCA86, the references are to matters such as the street pattern, church, timber buildings, Melford Hall and similar aspects of the historic settlement. There is no reference to the setting of the settlement or anything that can be applied to the appeal site. The character exists despite the modern development in the settlement. The additional opportunity for the NCA expressly recognises that new development will take place.
85. The appeal site lies on the boundary of two landscape types in the Suffolk Landscape Character Assessment: the Ancient Rolling Farmlands and the Rolling Estate Farmlands. The boundary across the site is indicative only and the character description in the assessment is not intended to be definitive for a particular site, both of these points being made clear in the assessment. The site shares some similarities with both types, but cannot logically be fully representative of both.
86. The Rolling Estate Farmlands is the type that contains Long Melford itself. The section of the assessment on sensitivity and change makes it clear that the cores of villages in this type are generally on valley sides and so development on slopes is not uncharacteristic of the type. The assessment warns that development in this landscape type has the potential to have a profound effect upon the valley floor and the development management guidelines flag up the need for LPAs to alert applicants to unacceptable impacts at an early stage. The LPA did not flag up any such concern, presumably in the light of the advice given by Place Services who accepted the LVA's conclusions in full. The guidelines explicitly state that the impacts of developing on valley sides can be mitigated by planting within and around the development.
87. The appeal scheme performs well against this guidance. The chief risk from development in this type, that of adversely affecting the valley floor, is avoided by this scheme, as accepted by the Council's landscape witness. That is as a consequence of the general lack of visibility of the appeal site from the valley floor landscape. The appeal site is also separated from the valley floor by intervening development.

88. The Ancient Rolling Farmlands Development Management guidelines also recognise the role that planting can play in reducing the impact of development, albeit in the context of agricultural buildings. There are no guidelines expressly applicable to residential development.
89. Babergh and Mid Suffolk Councils have produced joint guidelines for development. Some key points not addressed by the Council include Paragraph 2.3.3 of the guidance:
- a. Provides general guidance to avoid ridge tops, upper valley slopes and prominent locations. The Council accepts that this guidance is complied with as regards the ridge tops and the upper valley slopes. There is an issue as regards the prominence of the location, which SOSF also has concerns about;
 - b. It expressly refers to the screening, filtering, softening or integrating effect of existing mature planting, which it is agreed is provided to some degree by the vegetation on the railway embankment; and
 - c. It advocates not breaking the skyline. The appeal scheme accords with that guidance save when a viewer is so close to the development that the skyline has to be broken by a house. In all but the closest views, the appeal scheme would sit below the skyline.
90. The 2015 guidance recognises that new planting can be used to assimilate development: see its section 2.5 for general guidance and section 2.12.2 which gives detailed guidance for development at the outskirts of villages, including references to whether the proposal “can be” physically and visually contained. The same section of the guidance also requires a judgment to be formed about whether the proposal would be a logical extension to the settlement and whether it is well related to the settlement and does not encroach into the open countryside. All new development on greenfield land at the edge of settlements will, to some degree, encroach into the countryside, as that is what the greenfield site is, but that, of itself, cannot make the development unacceptable. It must be a question of judging the residual effects of the scheme under consideration. Here, the scheme would be well contained by the embankment, Water Lane and existing housing to the south together with the substantial planting areas available within the 8.23 Ha site. The Appellant’s evidence about the nature of planting possible within the site, and its effects in softening the development was not challenged. Up to 150 units could be accommodated on about 5.45 Ha of land, leaving 2.78 Ha for Green Infrastructure. Further, paragraph 2.12.2(vi) of the guidance requires the visual relationship of the development to the settlement to be assessed. This is a useful reminder that the relationship to the settlement is not to be assessed in plan form or from the point of view of an aviator. It is the relationship as it would be perceived by someone moving around the landscape which matters.
91. The 2015 guidance provides 7 key design principles for the Ancient Rolling Farmlands. The first says that there are significant sized areas of landscape providing wide panoramic views, with the potential for any form of development to be visually intrusive “if it has been designed without sufficient screening, appropriate landscape design plan or appropriate siting”. The appeal scheme would not conflict with this guidance. The Council’s landscape witness accepted in cross-examination that development need not be invisible to be acceptable. The scheme would not be unacceptably visually intrusive, as set out later in these

submissions. Principle II is about settlement separation and the scheme complies with it by avoiding any coalescence. Principle III is about materials and does not apply here because Long Melford is not a settlement in this landscape type. Principles IV and V are irrelevant to the appeal scheme. Boundary treatment would be locally characteristic, as principle VI requires and principle VII is met through the planning obligation. Conditions would provide further control.

92. There are four Key Design Principles for development in the Rolling Estate Farmlands. The first is again about settlement separation and the appeal scheme accords with it. The appeal site is not part of the estate or parkland landscape and so principle II is probably irrelevant, but the Council would have control over the planting style and layout at reserved matters stage. Principles III and IV do not apply.
93. The appeal scheme complies with the Key Design Principles set out for both landscape types applicable to the appeal site.
94. The Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk ("HSSA") is also instructive. The Council deals only partially with this document, relying upon what the assessment says for the settlement as a whole. It is inadequate to consider only the whole settlement without considering what the Assessment has to say on a more refined basis. That is because, as the Appellant explained, there must be an element of relativity to the consideration of questions such as the sensitivity, susceptibility and value of the landscape.
95. The HSSA's content for Long Melford is helpful and supports the Appellant's position rather more than it does that of the Council or Rule 6 party. It deserves reading in full, but it explains that modern development has taken place but that the characteristics of the historic settlement are still well-defined and have been preserved. The HSSA identifies key views. The first five have nothing to do with the appeal site or its vicinity, and the sixth is unevidenced, for the reasons explained below in relation to heritage matters. On susceptibility, the assessment says that the settlement is highly susceptible to change. It describes the cause of that susceptibility by reference to the four compass points. In relation to the east, it describes the eastern boundary being formed by the RPG at Melford Hall at the north end, and the disused railway at the southern end. It describes the land to the south east in these terms:

"This land to the south-east is less susceptible to change in relation to receptors. However, the railway has been cut into the landscape and the spoil appears to have been piled to the west of the railway. This has created a visually impermeable bund along this section of the settlement boundary which also creates a physical barrier to anything other than isolated areas of pedestrian access. The settlement boundary as it is currently formed also preserved the historic line of the railway."

96. There are two points to be made about this:
 - a. It points to the land in the vicinity of the appeal site as being less sensitive; and
 - b. The references to the effect of the railway seem to be focussed on the places where the railway was cut into the landscape and spoil heaped to its west. That is not really apt to describe the area of the appeal site, where the line is on an embankment.

97. When dealing with the potential for enhancement, the HSSA recommends seeking contributions to enhance the interpretation of the dismantled railway "if development is proposed in this area." It is the recommendations of the HSSA which are key and which, disappointingly, the Council did not engage. Those recommendations could not be clearer. Development to the north of the village should be strongly resisted. Development along the western boundary of Long Melford would be on higher ground than the land to its west, which raises issues about the height, density, location and extent of development. This recommendation is clearly about development on the western boundary and the attempt to apply it to the settlement generally, in the cross-examination of Mr Holliday, was misplaced. Finally, development of Long Melford towards the south or of Sudbury towards the north has the potential to create coalescence and this too should be "strongly resisted". What is obviously missing is any recommendation about development to the east or south east. There is no mention of development having to be given careful thought, still less resisted. That chimes well with the discussion of susceptibility and the references to potential enhancement. If the dismantled railway was as important a containment for Long Melford as the Council and SOSF contend, that it would have been addressed in the recommendations of the report. It speaks volumes that it is not. This is the only landscape or heritage document which was not prepared for this inquiry which makes mention of the railway. There is thus nothing in any assessment document which supports the contention that the railway is a barrier to development which must not be crossed.
98. SoSF's assessment that there are six character areas in Long Melford corresponds well to the HSSA and to the Appellant's assessment. It's area of "Rolling Open Farmland" to the south of Long Melford can only be much less sensitive to development than the "River Valley" or "Historic Parkland and Village Green" areas around the village.
99. The Dedham Vale AONB and Stour Valley Management Plan 2016 to 2021 is a curious document insofar as it relates to the Stour Valley Project Area. It is a document which is justified as regards the AONB, indeed the management plan is a statutory requirement as regards the AONB and the AONB designation proves the quality and value of the AONB. But the absence of designation from the Project Area means that the qualities of the AONB cannot be translated onto the full project area, as the document seems to do. The AONB is small, some 90sq km. The Project Area is much larger, at 302 sq km. The Management Plan is not a landscape character assessment of the Project Area. It is not of value. It does not assess the value of the Project Area; it merely asserts it. The Project Area started as a landscape restoration project and its role has expanded over time: see the unchallenged evidence of Mr Holliday at his paragraph 3.60. Its origin as a restoration project means it is particularly important for the current quality and value of the Project Area to be explained. The document does not do that. Neither Ms Bolger nor Ms Finch could point to any document which set out any detailed explanation of the value or quality of the Project Area. The closest that the Plan ever gets to assessing the value and qualities of the Project area is at section 2.9 on pages 19 and 20, where there is a "Statement of Significance". Having set out the special qualities of the AONB, the document merely asserts on page 20 that:

"Much of the Stour Valley Project area shares similar characteristics to the Dedham Vale AONB, particularly the area nearest the AONB."

100. That is a wholly opaque assertion. It accepts that not all of the Project Area shares the same qualities, but there is no clue where they are, except that they tend to be closest to the AONB. One will search in vain for any reasoned explanation why the Project Area is 302sq km in extent, why its boundaries are what they are and how the extent of the area either side of the river included for inclusion in the Project Area was selected, tested and arrived at. As regards the Project Area, it is a most unsatisfactory piece of work. The fact that it was consulted upon does not remedy these defects.
101. The AONB and Project Area must not be equated in status, but the Management Plan comes close on numerous occasions to doing just that. The Vision Statement at section 2.10 treats the AONB and Project Area together. Similar elision of the AONB and Project Area can be seen in section 3.1.4 and in the 'policies' in sections 3.1.5, 3.2.2 and 3.2.7.
102. A document which asserts but does not establish value, or point one to where such an assessment can be found, is not a reliable basis for establishing landscape value. The Appellant is right to say it has no status as planning policy or guidance. Whilst it is clearly a material consideration to take into account when assessing the value of the landscape, it's weight must be negligible, given that it fails properly to deal with the very issue which the Council relies upon it for. It is accepted that Inspectors have taken it into account. The Inspector at Bures Hamlet took it into account as part of a more extensive evidence base on value – that site was in the area proposed for expansion to the AoNB and which had been addressed by Alison Farmer Associates. The Inspector does not ascribe any stated amount of weight to the Management Plan. The Appellant does not agree with the conclusion of the Steeple Bumpstead Inspector in paragraph 47 of her decision to give that site's inclusion in the Management Plan significant weight as an indicator of value, both for the reasons just set out, but also because the Inspector herself notes that not all parts of the Project Area will have the same quality. If that is so, then the simple fact of inclusion in the Project Area cannot, of itself, be a reliable guide to landscape quality or value.
103. The draft SHELAA is an unreliable guide to the appeal site's suitability for development from a landscape and visual point of view. That is because it was probably not written by a landscape architect, and because it did not address the appeal site's 8.23 Ha but a much larger area of 29.45 Ha, a point not at all clear from the Council's written evidence and which had to be clarify orally in chief. It is surprising that the Council seems to attach more weight to the SHELAA than the site specific consideration of the proposal by a landscape architect in Place Services, the very body which produced the HSSA in 2018.
104. The Built Up Area Boundary (BUAB) is immaterial in landscape and visual terms. It was a tool for decision making from a spatial planning point of view. There is no evidence it was devised as a result of a landscape character appraisal.
105. The Appellant has taken into account the effect of the appeal scheme on landscape types, as the GLVIA recommends. All landscape witnesses look at the effect of the proposal at a more localised level. The Appellant makes it plain it addresses the site and its immediate context as the most refined level of assessment, as looking at site level changes only tells you the unsurprising conclusion that changing a greenfield site to a housing scheme will create major change. All greenfield development is likely to have such an effect at the level of

the site itself. The council's sole assessment of the significance of landscape change is expressed at a local level. It is difficult to be clear whether the Council is comparing like with like. The Council addresses value at the level of the site and "immediately surrounding landscape", but in its box 5.1 assessment takes in wider elements. The stated assessment of susceptibility refers to "the site" only. The overall conclusion on sensitivity is expressed by reference to "the site". The expressed judgment on the magnitude of change is expressed without reference to any area and the overall judgment on significance is stated as a major adverse effect "on the landscape". If one asks what area of the landscape would undergo that major adverse change, answer comes there none, either in the written proof or in cross-examination. Unless this is a judgment about the most localised of effects at site level, it is clearly overstated.

106. SOSF's assessment of both landscape and visual effects is undermined by its admission that it has not separated character and visual effects and that it has only looked at the elements of the landscape which would be worst affected. It's evidence is partial both in terms of being incomplete and biased.
107. The Appellant's evidence explains the various areas to which the various conclusions relate, allowing them to be understood and tested. The appeal scheme would take place south-east of the dismantled railway, but that is not a strong objection to the scheme. Some development has already taken place in the general vicinity of the site, east of Station Road and south of the site, making development on the appeal site limited in its effect. There is no particular need for development to be limited to the north-western side of the embankment. That submission is supported by SOSF's own material. Given how it defines each of the three types of gateway and given also that it's assessment of the gateways on the southern approach to Long Melford is that both the initial and intermediate gateways exist south of the site, the contention that the site is an important division between settlement and countryside is seriously undermined by SOSF's own material.
108. The appeal scheme would avoid breaking the skyline and the choice of the eastern boundary means that only the lower part of the slope would be developed, limiting effects to an acceptable degree. An appropriate new edge would be created as part of the scheme in a way compatible with the various pieces of local guidance suggest. The Council's fear of a "raw" edge to the development is groundless given the extent of area available for planting, the illustrative material and the degree of control that the Council would have at reserved matters stage. The scheme would have acceptable landscape effects.
109. In terms of visual impact, the impacts of the scheme are best assessed on site. The scheme's greatest effects would be on the site or in its immediate vicinity, as is inevitable. No incongruous views would occur and the development would not impact visually upon any relationship with the historic parts of the settlement when seen from the closest viewpoints. New housing would be seen from the Melford Walk but it would still be a "secretive world" as the Council draws attention to it as and housing would not "sandwich" the Walk as both the Council and Rule 6 party emotively contend. There is no reason why the view of the church from Mills Lane should be interfered with, given the means of managing vegetation height and controlling lighting on the site through reserved matters and/or conditions. There are no significant middle distance views. Longer distance views would be perfectly acceptable. The scheme would be seen in the

context of extant development, and would rest below skylines in all such views. Appropriate materials could limit effects. A site visit to the more distant views about which the Council and SOSF express concern will show that their assessments of impact are overstated. The appeal scheme would have to be positively looked for rather than making itself at all obvious to the viewer. The visual effects of the appeal scheme would be perfectly acceptable.

The effect of the proposed development upon designated and undesignated heritage assets.

110. The Council have no objection to the scheme on heritage grounds and it is common ground between the Appellant and the Council that the appeal scheme would cause no harm to the significance of any designated heritage asset. No consultee with heritage responsibilities or expertise objects to the proposal on heritage grounds. Nor is there any expert evidence before the inquiry that establishes that there would be any harm to any heritage asset, whether designated or not.
111. Only SOSF objects to the appeal scheme on heritage grounds. It's evidence wholly fails to adopt the correct approach as recommended by Historic England guidance on setting, containing a five step analysis of:
- a. Identifying the assets which may be affected;
 - b. Identifying the significance, if any, that each asset derives from its setting and the contribution the site under consideration makes to setting and thus to significance;
 - c. Identifying the effect of the proposal upon significance through the effect on its setting;
 - d. Considering how to avoid or minimise harm; and
 - e. Forming an overall judgment on harm.
112. SOSF's evidence only succeeds in relation to the basic first step. The rest of it's evidence fails to adopt the correct approach, as accepted in cross-examination. It never sets out how each asset derives significance from setting or how the appeal site contributes to significance. It seems to equate a visual impact on a viewpoint within an asset's setting as harm to the significance of the asset. The approach is fundamentally wrong and the evidence is completely unreliable as a result.
113. The Appellant's evidence, on the other hand is clear, compelling and robust. It approaches the relevant issues in the correct manner, in accordance with the relevant guidance.

The Church of the Holy Trinity.

114. The church is a grade I listed building and is plainly a designated heritage asset of the highest importance. It is a most impressive building. It plainly derives much of its significance from its fabric. It does derive some significance from its setting, but the elements that contribute to significance are limited to the churchyard, the settlement it served and serves and The Green, from where it is best appreciated. The church was not designed to have view out from the building. There are views of all or part it from an extensive area. There is no view

of the appeal site from the southern face of the church – that has been established during the oral evidence. As the Appellant pointed out, if the view to the south from the church was so important, then the powerful church would have been unlikely to have allowed the Hospital to be built where it was. The appeal scheme can be seen from the church tower, but churches are not designed to give views from the tops of their towers. The appeal site forms a very minor component of a 360 degree view. The appeal site is not prominent and there is no reason to think people go up there (having had to arrange to do so) to see the appeal site.

115. The church is visible from the upper parts of the appeal site and there is a view over the appeal site to it from Mills Lane. But these are not designed views. Churches are often prominent from the wider landscape, but the church serves people, not landscapes. Views between the appeal site and church, in either direction, do not contribute to the church's significance. The appeal site does not contribute to the significance of the church through setting.
116. It is because churches are so often visible in the wider landscape that the Historic England guidance deals with views of churches specifically. It tells us that church towers and spires are often widely visible, but development is unlikely to affect significance unless the development (i) competes with the church, as a tower block or turbine might, or (ii) the development impacts upon a designed or associative view. Neither situation applies here. Affecting a view of the church does not, of itself, affect the church's heritage significance. SOSF, and to a still greater degree, Objectors, equate visual impact with heritage harm. The appeal scheme, depending on its layout, might block some views of the church from locations which are not publicly accessible, but it might also open other up to legitimate public view from newly public places in the appeal site. There is no reason why the view from Mills Lane should be obscured and no reason why any impact on views of the floodlit church caused by any light spilled from the appeal site would impact upon the church's significance.
117. The appeal scheme would cause no harm to the significance of the church.
118. SOSF totally fail to explain why views of the church from ground or tower level contribute to its significance. It fails to explain why the assessment of visual impact of the appeal scheme on the experience of a person on the tower top (which is plainly overstated), would have any effect upon the significance of the asset. The error of the approach is revealed still further by the fact that differing levels of effect are given according to whether considering views from ground level or from the top of the tower. The judgment should be whether the appeal scheme would affect the significance of the asset. That is one decision with one outcome, not multiple decisions with multiple outcomes.
119. Mr Russell's approach is even more erroneous. One only has to state his conclusion that the impact on view of the church from and across the appeal site upon setting is "maximum adverse, catastrophic" and therefore as bad as effects can be, to realise how misconceived it is. He could not express himself in more extreme terms.

Trinity Hospital.

120. The Hospital is a grade I listed building and therefore of the highest significance. Built in 1573 to accommodate poor inhabitants of the village, it

derives most of its significance from its fabric. There is some limited visibility of the site from the asset and the asset can be seen from the upper parts of the appeal site, but there is no current or historic functional historic link between the appeal site and the hospital. The asset derives some significance from its setting, but that is limited to the Registered Park and Garden within which it is located and where food for the inhabitants would have been grown. It derives some significance also from The Green and the settlement of Long Melford. It is surrounded by a high wall, which cuts off views from the ground floor of the building. The appeal site does not contribute to its significance and developing it would have no effect.

121. SOSF's evidence fails to explore whether the appeal site contributes to the significance of the hospital through setting. It equates some potential visibility of the appeal scheme with heritage harm. That evidence is unhelpful to a proper assessment of the impact of the appeal scheme.

Rodbridge House and Barns.

122. The House and Barns are both listed at Grade II. The buildings derive most of their significance from their fabric and draw some significance from the setting comprising the agricultural land with which it has a functional link and, less so, from wider agricultural land.

123. The appeal site has no clear intervisibility with these assets, there being glimpsed views of just the roofs of the barns from some parts of the appeal site, filtered by vegetation. There is no functional link between Rodbridge House and the appeal site and there is no evidence that there ever was. At the time of tithe apportionment, the two sites were in separate ownership and that was also the case in 1961. The site makes no contribution to the significance of these designated assets. As a result, developing the appeal site would have no effect upon the significance of these assets.

124. SOSF's written evidence contended that there was an impact on the farmhouse by reason of the impact of landscape planting at the appeal site obscuring views of the church. Such a point rested on two errors:

- a. That the planting would obscure the church. It would not, as shown by the Appellant's section; and
- b. That a view of the church made any contribution to the significance of the assets at Rodbridge House. It does not, as was accepted.

125. SOSF's heritage witness accepted in cross-examination that the appeal scheme would not adversely affect the significance of the assets at Rodbridge Farm.

The Roman Villa NE of Rodbridge House.

126. The remains of the villa are a scheduled ancient monument and thus of the highest significance. The remains are entirely underground and there is no indication of their existence at surface level, but its square courtyard plan has been identified through aerial observation of cropmarks. The asset derives the vast majority of its significance from the evidential value it holds in its archaeology, which has not been investigated (save for a very small part of the monument when the A134 by-pass was being constructed), and the illustrative

value of its floor plan. The site of the villa is not intervisible with either the other known villa site in Long Melford or the site of the Roman settlement as marked on the Suffolk HER. There are views over the appeal site, but not views of it, from the monument.

127. The villa's setting comprises agricultural land, the A134 by-pass and Rodbridge House and farm. The appeal site, as part of the wider landscape, makes no contribution to the significance of the asset as the historical extent of the landholding is unknown and there is no intervisibility between the two sites. The appeal site has been trial-trenched and contains no features contemporary with the villa. Developing the appeal site in the way proposed would thus have no effect at all upon the significance of the asset.
128. SOSF's evidence rests upon unsupported assertions that the villa was built by a wealthy person to be prominent in the landscape and to overlook the settlement. There is no evidence at all to support these claims. Roman villas had varying functions from farmsteads through to high status homes and religious sites. The purpose, function and appearance of this villa is unknown and must not be guessed at. It cannot even be inferred that the villa had external windows, let alone windows designed or intended to give views towards or over the appeal site or the settlement. It even seemed to be suggested at one point in cross-examination that if the landscaping at the appeal site were to interfere with a view of Holy Trinity church that that would detract from the significance of the villa. That is not correct, given the church obviously did not exist when the villa existed.
129. The Heritage and Settlement Sensitivity Survey for Long Melford makes the same types of unsubstantiated assertions when claiming that the view from the monument's site towards Long Melford contributes to a key view.

Melford Hall Park and Garden.

130. These assets can be dealt with shortly. They comprise a grade II* listed Registered Park and Garden and the grade I listed Hall, together with other grade II* listed buildings. These are assets of the highest significance, but the evidence demonstrates that the appeal site does not contribute to their significance and so developing the appeal site would have no impact upon their significance. No-one at the inquiry disagrees with that view.

Kentwell Hall Park and Garden.

131. The Hall is a grade I listed building and there is also one grade II* and one grade II listed building within the park. The park is registered at grade II*.
132. There is no evidence produced to the inquiry which contends that any of these assets would undergo any impact from the appeal scheme. The Appellant's assessment of these assets shows that the appeal site makes no contribution to the assets' significance through setting and so the appeal scheme would have no effect upon their significance. There is no contrary evidence.

Long Melford Conservation Area.

133. The Conservation Area contains 2 Registered Parks and Gardens, 188 listed buildings and 2 scheduled monuments. The Conservation Area is designated for the special interest of its character and appearance. It is thus the buildings and

- spaces within it which overwhelmingly provide its significance. There are long distance partial views of the site from The Green and the church tower. The Conservation Area derives some significance from its setting, but that is limited to:
- a. The illustrative value provided by the historic setting of the agricultural land to its west; and
 - b. The approaches from the north and west.
134. The appeal site is separated from the Conservation Area by a large amount of late twentieth century development of no special interest whatever and the Victorian railway embankment. This large amount of intervening modern development and the lack of significant intervisibility means that the appeal site makes no contribution to the significance of the Conservation Area through setting and developing the appeal site would thus have no effect upon its significance.
135. SOSF's evidence makes 3 fundamental errors in relation to the Conservation Area:
- a. As with the other assets, it makes no assessment of how the appeal site contributes to the significance of the Conservation Area through setting;
 - b. It equates an overstated visual impact with heritage harm; and
 - c. By looking at the effect on one viewpoint it singularly fails to consider the effect upon the asset as a whole, which should be the nature of the exercise.
136. In respect of the point regarding SOSF's photomontage it was pointed out that it was a montage that did not include any planting and only showed the housing.
- The dismantled railway line.*
137. This is not a designated heritage asset. Almost any historic feature can be a non-designated heritage asset. It is an asset of the lowest significance. Such significance as it has derives from:
- a. Its physical form, giving it some evidential, historic illustrative and communal value; and
 - b. A limited contribution from setting, limited to features of the former railway and also the settlements and industrial areas it linked.
138. Its wider setting, such as the land it passes through, makes no contribution to its significance.
139. For these reasons, whilst the appeal site lies within the asset's setting, it makes no contribution to the asset's significance. As a result, the appeal scheme would not affect the significance of the non-designated asset.
140. SOSF's case to the contrary again suffers from the defects of:
- a. Not explaining why the site being within the setting means that the site contributes to significance; and
 - b. Not explaining why a visual impact on the asset from within its setting would harm its significance.

Conclusion on heritage issues.

141. There is no reason to withhold planning permission from the appeal scheme on heritage grounds. Indeed, the evidence shows that there would be no harm to any designated or undesignated heritage asset. The balancing exercise required by paragraph 196 of the NPPF, as regards designated assets, and paragraph 197 as regards the non-designated asset, is not required in this case.

The effect of the proposed development upon highway safety.

142. Unusually, perhaps, for a development of this size which has generated some controversy, not a single person who has addressed the inquiry expresses any objection about highways or transportation issues. Concerns which had been expressed to SOSF were relayed, but made it plain that SOSF did not support them. Indeed, it is notable that SOSF's Statement of Case did raise highways issues, but SOSF were fair enough to volunteer the oral evidence that SOSF had consulted a transport professional who advised that such concerns were unsupported. SOSF therefore withdrew its points on highway safety prior to the exchange of evidence. It was also made plain that SOSF was not relying upon the verge parking as an objection to the scheme because, like the Appellant, SOSF had been advised that it was probably unlawful.
143. In those circumstances, it is not necessary to say any more about this issue. Reference should be made to the Appellants transport evidence, which remains as a written representation, together with the Transport Assessment. There is also a Statement of Common Ground with Suffolk County Council, the highway authority, which has no objection to the appeal scheme. The evidence addresses the relevant transportation issues and demonstrates that the development of the appeal site, with suitable mitigation, would not cause any highway safety concern and that the effects upon the local network's capacity would be far from severe. In doing so, it has properly addressed existing traffic levels, vehicle speeds and trip generation from the appeal scheme and all other relevant stages of assessing the effects of the scheme. The assessment is robust and no-one is claiming it is not. The site access and its requisite visibility splays can be provided on land under the Appellant's control or on highway land. Any impact of a new proposed footway upon parking on the eastern verge of Station Road should not be a concern, as such parking may well be unlawful and it affects only a small number of vehicles. Any disbenefit would be amply outweighed by the benefit of the new footway, particularly that it would provide for pedestrian access to the primary school. There is no safety or capacity reason to withhold planning permission.
144. The Appellant's evidence also shows that residents of the appeal site would have good access to Long Melford's facilities on foot or cycle and that other settlements can be suitably accessed by public transport. The closest railway station in Sudbury is accessible by cycle and provides access to a range of more distant destinations. The appeal scheme would also secure bus stop improvements close to the site.

Other Matters

145. Long Melford is a sustainable settlement. It has a good range of services and facilities and was the top scoring village for sustainability in the Council's evidence base for the emerging Local Plan. The appeal site is well placed to access those facilities on foot or cycle. It has access to other settlements by bus,

- with timings that allow for traditional working patterns to be catered for. Sudbury station is within cycling distance.
146. SOSF clearly have local support. They have a closed Facebook group with 400 members. But it has no formal membership. SOSF, as a body, comprises 8 people. They make the decisions. Clearly there are people who support their aims and have raised money to assist their cause, but it should not be thought that SOSF is a body which has a large membership or which represents local people in terms of taking their lead from them in respect of their attitude to the appeal scheme.
147. There is simply no evidence that building up to 150 units on the appeal site would materially harm tourism and visitor spend in Long Melford. There is no reason to think that building on the appeal site would deter a single person from visiting Long Melford for the first time or that if they chose to visit with the appeal scheme in place that they would be somehow be so repelled by the appeal scheme that they would never return.
148. Nor is there any evidence that the appeal scheme would harm the ecology of the Melford Walk LNR.
149. Granting planning permission would not present risks of the commitments offered by the Appellant being set aside by a later party, as Mr McDonald asserted. As someone with a professed 47 years of experience of the planning system, he should know that any later developer would be bound by planning conditions and the planning obligation. The risks of someone making an application for a material amendment to any permission or an application under section 73 of the Town and Country Planning Act 1990 are no greater than usual and if such applications were to be made, they would be assessed on their merits.
150. SOSF introduces harm to the Neighbourhood Plan process in closing that is a prematurity argument, there is no prematurity case made here in terms of paragraph 50 of the Framework. The Plan is insufficiently advanced to take a prematurity point.

Summary of Harm.

151. The only harm to be weighed in the planning balance comprises:
- a. The harm arising from the simple loss of a greenfield site;
 - b. The limited landscape and visual harm identified by Mr Holliday; and
 - c. Some limited harm caused by the loss of skylark plots, which would be suitably mitigated for by the provision of new plots on land nearby. (The Appellant has generously included this as no other party has asked for it to be weighed in the balance).

The Scheme Benefits.

152. The appeal scheme would create the following benefits.
153. It would provide market housing in a District without a five year supply. The Council seemed to be relatively unconcerned if the supply was 4.11 years, calling that a shortfall in supply which is not significant. It clearly is. Even if the Council

- is right on supply, it still lacks a five year supply. On any view of supply, the contribution of the appeal scheme to general housing need is a benefit of very significant weight.
154. The same is true of affordable housing. The Core Strategy identified affordable housing as a key priority for Babergh. Policy CS19 requires 35% of housing on all sites to be affordable. The Council is not meeting that target, as set out in the Appellant's evidence. The appeal scheme would make a contribution fully in accordance with the policy. The Council complaint that the Appellant is not proposing more than 35% provision is only relevant for the attitude to benefits which it displays.
155. The need for market and affordable housing exists at the more local level, as set out above. Contributing to that need is an important benefit of the appeal scheme. The LPA suggest that the development would be better directed towards an area with greater need or sustainability but have no evidence to identify any area of greater need or sustainability. The Appellant has assessed the proposal on its merits.
156. The Appellant's business model is that it promotes sites. It does not build houses. The Appellant has a clear incentive to assist the landowner to dispose of sites it promotes to housebuilders once planning permission is granted, as that is when the capital receipt from the site is realised. There is thus a powerful disincentive against landbanking the permission. It can be concluded that the Appellant would do all within its power to secure delivery from the site quickly. There is no evidence that this site would pose any difficulties in delivery, and the site could make a very valuable and prompt contribution to meeting local and District wide housing needs. The time limits in the conditions are deliberately suggested as shorter than the statutory limits to give effect to this.
157. Long Melford has an ageing population. Whilst it is not the case that the Appellant's advocates homogeneity of age profile, allowing more families to live in the village would be of benefit. More working age people in the village can help to sustain services and facilities and schools and add to the general diversity of the population. There is no public interest in reserving Long Melford for older people.
158. It is common ground with the Council that the appeal scheme, far from causing ecological harm, that it would bring net biodiversity gain. That too is an important benefit.
159. The appeal scheme would upgrade the bus stops on Station Road, nearest the site, to the specification sought by Suffolk CC. That would be of benefit to existing residents as well as residents of the appeal scheme.
160. The appeal scheme would create a new footway on the eastern side of Station Road for a length of 165m, to tie into the existing footpath at the southern end of the Roman Way development, again, to the advantage of existing residents as well as new ones.
161. Importantly, the appeal scheme would reserve land for a new Early Years Facility. Suffolk CC has obtained planning obligation contributions for such a use, to be spent in Long Melford, but has not found a site. Mrs Tipper raised, in her oral evidence, use of land at the Primary School but fairly made clear that this was an aspiration and that there were no firm plans. The appeal scheme provides

the only firm prospect for securing such a facility, subject to planning permission. This is a considerable benefit of the appeal scheme and would allow for the meeting of need which already exists, and not just the need generated by the appeal scheme.

162. The public open space, upgraded rights of way and children's play area could also be used by existing residents.
163. The scheme would bring economic benefits. It is true that there would be some displacement of some benefit if local people move to a new house within the local area, but that is not reason to dismiss these benefits or to materially reduce the weight to be given to them. Some of them are not subject to displacement: the construction of 150 units would be a net addition to the housing supply and not at the expense of other schemes. Even if concealed households in Long Melford moved onto the appeal site, they would spend money that they would not otherwise have spent by reason of moving to a new house and maintaining their own home, to give but one example.
164. The Council implicitly criticises these benefits as being merely what is to be expected for a scheme of this size and he says that there is nothing exceptional about them. That demonstrates his grudging approach to weighing the benefits and his desire to downplay them. The benefits are what they are and highly valuable for social, economic and environmental reasons.

The Development Plan.

165. Core Strategy policy CS1 relates to the 2012 NPPF version of the PFSD. That has been overtaken by the approach in paragraph 11 of the revised NPPF, which is the version of the tilted planning balance to be used in absence of a five year supply.
166. The appeal scheme would comply with the settlement hierarchy and strategy in policy CS2, as the Council's witness accepted. It's development management test for development in the countryside is out of date as the Council accepts that the requirement to demonstrate exceptional circumstances for development in the countryside conflicts with the NPPF. That conflict means that the policy must have the weight afforded to it reduced. To reduce the weight to the policy from substantial to significant as a result of the lack of a five year supply, which is the Council's approach, shows that it affords too great a weight to the policy with its defective development management test. The NPPF does not contain a blanket approach to development in the countryside, still less does it impose a test of exceptional circumstances for such development.
167. The plan's treatment of the Built up Area Boundaries (BUAB) is also curious. The BUABs were established by policy HS02 of the 2006 Local Plan – a policy superseded by the Core Strategy. No Core Strategy policy operates by reference to the BUABs. The supporting text of the CS at paragraph 2.7.5 says that the BUABs remain unaltered, suggesting that CS2 operates by reference to those boundaries. But Paragraph 2.8.5.7 of the Core Strategy calls them merely the "starting point" when considering the relationship of development to the settled areas. Further still, the BUABs were designed to accommodate needs to 2015, derived from the Suffolk SP. Of the sites in the Council's deliverable supply for the years 2018-2023 which have planning permission, over 88% of units with permission are on site outside the BUABs. This is a clear demonstration that the

Council does not apply the BUABs as a dividing line between acceptable and unacceptable development or that locations outside the BUABs are ones where a more onerous development management test applies.

168. Policy CS3 of the Core Strategy contains the housing requirement and is clearly out of date, given the NPPF's requirement to use a standard methodology figure for requirement now that the plan is over five years old.
169. Policy CS11 is in conflict with the NPPF given its reference to a sequential site selection process. The Council do not, in any event, rely upon that criterion of policy CS11 as any part of a putative reason for refusal. Given the Appellant's landscape and local need case, there is no reasons for the decision maker not to be satisfied about the relevant requirements of policy CS11.
170. CS15 is a long policy, but the Council only relies upon it in reference to its landscape case and only contends that criteria (i) and (ii) are breached by the appeal scheme, together with the requirement to protect, enhance, compensate or mitigate effects in relation to, among other things, the landscape. The appeal scheme accords with this policy. In its own terms, this policy accords with the NPPF.
171. The Council does not allege that any other policy of the Core Strategy would be breached and relies on no policies from the 2006 Local Plan.

Emerging Development Plan Documents.

172. The emerging Joint Local Plan is only at preferred options stage. As Mr Stroud put it, it has reached the first step of a journey. It deserves no more than limited weight, as its content has not even been commented on, let alone examined. The ambition to have the plan adopted by 2020 is plainly unrealistic.
173. The emerging Neighbourhood Plan is also at a relatively early stage. It is to undergo some further change and will have to be consulted upon again. It has yet to be examined for compliance with the basic conditions. SEA of the plan has not been completed. It too deserves limited weight, but contains, for the present at least, an interesting indication of the Parish Council's attitude to the development of the appeal site frontage in policy LMH9.
174. Whether the weight to be afford changes as they progress depends on when the Secretary of State makes their decision and the Appellant will deal with that as and when or if it arises.

The Planning Balance.

175. Given the Appellant's heritage case, there is no harm to heritage assets of any kind and the balancing exercises in paragraphs 196 and 197 of the NPPF do not have to be undertaken. The absence of harm to designated assets means that footnote 6 of the NPPF is not engaged and the tilted planning balance is engaged.
176. Because the tilted planning balance has been engaged by the absence of a five year supply, the recent decision in the case of Wavendon Properties Limited v SoSCLG and Milton Keynes Council [2019] EWHC 1524 (Admin) is not key to a decision in this case. In that case, the SoS decided that a five year supply existed. He found that one Local Plan policy and one Neighbourhood Plan policy were out of date. That led the Claimant to argue that as a most important policy for determining the application was out of date, the tilted planning balance was

engaged. Dove J rejected the argument, holding that what was required was a holistic view about what the most important policies for determining the application were, and then forming a view about whether, collectively, they are out of date. This case is different, because the absence of a five year supply is the trigger for the tilted planning balance, as made plain by footnote 7 of the NPPF. Although a view about policy weight still has to be made in this, as in all cases, there is no need to conduct the exercise required by Wavendon, as that applies when there is a five year supply and thus the only trigger for the tilted planning balance is when, as a matter of planning judgment, the most important policies for determining the application are out of date.

177. The only part of the Development Plan with which the appeal scheme does not comply is the development management test in policy CS2 so far as it requires exceptional circumstances to be met. Overall, the appeal scheme accords with the Development Plan, but even if the breach of an out of date part of the Development Plan were to be equated with non-compliance with the plan taken as a whole, the Council's lack of adherence to the part of CS2 which the proposal breaches, the development management approach to the countryside in the NPPF and the benefits of the scheme are powerful material considerations which indicate that a decision otherwise than in accordance with the Development Plan should be taken in this case.

178. Furthermore, a consideration of the benefits and harms shows that this is far from a case where the adverse effects of the scheme would significantly and demonstrably outweigh the benefits of the scheme. The harm is limited and the benefits extensive and compelling. SOSF turns the relevant test on its head.

Conclusion.

179. The appeal scheme represents much needed sustainable development in a sustainable location at a sustainable settlement. The landscape and visual harm it would create is limited and acceptable. There would be no heritage harm. The development ought to be allowed to proceed in the public interest.

180. The Appellant asks the Inspector to recommend, and the Secretary of State to decide, that the appeal should be allowed and that planning permission should be granted.

The Case for Berbergh District Council

181. The material points are:

The Issues

182. At the outset of this inquiry the following were identified as the main issues in dispute:

- (1) The effect of the proposed development on the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape.
- (2) Whether the proposed development would preserve the Grade I listed Church of the Holy Trinity, the Grade I listed Building known as Trinity Hospital, Rodbridge House and Barns (Grade II Listed Buildings), the Roman Villa NE of Rodbridge House, a Scheduled Monument, Melford Hall Park and Garden and Kentwell Hall Park and Garden Grade II*

Registered Parks and Gardens (including listed buildings) or their setting and the Long Melford Conservation Area and the former railway line.

- (3) Whether there is a locally identified need for housing in Long Melford and the surrounding area.

183. In addition to these main issues, the following matters have a significant bearing on the determination of the appeal.

- (a) The latest position in respect of the emerging Development Plan and the weight to be afforded to it.
- (b) The latest position in respect of the emerging Long Melford Neighbourhood Plan and the weight to be afforded to it.
- (c) The shortfall in the housing land supply.
- (d) The effect of the proposed development on highway safety.
- (e) The benefits of the scheme which are to be weighed against any harm if found.
- (f) In terms of decision making, the appropriate 'balance' that should be undertaken.

184. The Council has raised no objection to the appeal scheme on highways or heritage grounds and will not address them. Its submissions will focus instead on the first and third main issues, and matters (a), (b), (c), (e) and (f) listed above.

(1) The effect of the proposed development on the landscape character and appearance of the area, including having regard to whether the site is part of a valued landscape

185. The parties agree on the likely effect of the proposed development on landscape character and the appearance of the area to this extent: the construction of up to 150 dwellings on over 5 hectares of agricultural land located on the rising valley side immediately adjacent to the former railway embankment, a long-established boundary between Long Melford and the countryside to the east, would be harmful, even after landscape planting had matured. It is the extent of that harm that is in issue.

186. It was suggested in the course of the inquiry that, there is a choice between the evidence of the parties' landscape witnesses, but this is not really the case. This is not civil litigation and it is not required to find for one side or the other. Instead, it is for the decision maker to form a view on the likely landscape and visual effects. The decision maker might share the views of one or other witness, or none of them, and might find their assessments helpful or not in understanding what is valuable in the landscape, but the conclusions reached will be theirs.

187. It is right to observe, however, that the differences between the parties' witnesses is due in large measure to the different values placed on the landscape as it is. The appellant sought to stress the influence of Station Road and the properties on it on the character of the appeal site, but the so-called urbanising influences are minor elements in the composition. The appellant also brought into

it's assessment a comparison between the area of the appeal site and other areas around Long Melford, which is not the purpose of the exercise. While an assessment of the effect of the appeal proposals on the public rights of way network was carried out, the treatment of the existing recreational value of the Melford Walk and nature reserve and the footpaths to the north of the site was perfunctory.

188. The Appellant also failed to grasp the significance of the site's location in the SV PA, and was confused as to the relevance of the DSVV MP (CD12.1). The Stour Valley Project is described in section 2.4 of the Management Plan (page 12) in the following words:

"The Stour Valley Project area, upstream of the AONB, follows the River Stour that predominately forms the boundary between Essex and Suffolk. The Project area is 302 square kilometres (around 181 square miles) running from the Western AONB boundary past Sudbury and Haverhill to near the Cambridgeshire border at Great Bradley. It extends three to four kilometres either side of the River Stour with extensions along the Bumpstead Brook, Belchamp Brook and River Glem.

The Project area is predominately rural and often demonstrates medieval settlement patterns. In places the growth of villages and changes to agricultural practices have altered the landscape but not fundamentally changed it. Many of the villages retain their historic centres and have timber framed buildings, imposing churches and village greens. Historic hamlets and isolated farm buildings are scattered throughout the landscape.

The area has many woodlands situated within the tributary valleys but much of the valley floor is given over to arable crops with the notable exception of Sudbury Common Lands where large tracts of water meadows remain as an important feature of the landscape."

189. Section 2.9 of the Management Plan contains a Statement of Significance, the purpose of which is to define the natural beauty, character and special qualities of the Dedham Vale Area of Outstanding Natural Beauty (AONB) and Stour Valley Project area. It provides the criteria against which impacts on the nationally designated landscape can be judged, and in effect does the same in relation to the Project area. It begins (at page 19) by describing the AONB:

"The Dedham Vale AONB is a subtle lowland river valley with an assemblage of features associated with this landscape still in place and intact. These features include a gently winding river and tributaries; gentle valley sides with scattered woodlands; sunken rural lanes; picturesque villages with imposing churches and historic timber framed buildings; scattered farmsteads and agricultural buildings; small fields enclosed by ancient hedgerows; riverside grazing meadows with associated drainage ditches and visible and hidden archaeology providing evidence of human habitation over previous millennia.

The area remains an overwhelmingly agricultural landscape, free of incongruous development and large scale industrial developments. Despite some intrusions of human activity in the twentieth and twenty first centuries, the area retains a rural charm and tranquillity and is

largely free of infrastructure associated with modern life. The essential character of the Dedham Vale AONB was established in the middle of the previous millennium and has remained intact despite social, technological events. ...”

Then the key components of the AONB are described, including these:

- A gentle and subtle lowland river valley with the River Stour gently meandering through it. The valley is cut down through boulder clays that overlay sands and gravels into clay deposits and Thanet and Reading beds. As the River Stour winds its way to the estuary the floodplain becomes dominated by grazing marshes that are made up of alluvium deposits and gravel terraces.
- The settlements of the area are largely historic and dominated by timber framed buildings around the village centres. Churches with impressive towers dominate the surrounding countryside. The rural character is further defined by scattered agricultural farmsteads and the visible and buried archaeology of the area.
- The routeways around the AONB broadly follow the valley contours as they characteristically wind their way around the landscape. Other routes link the flood plains to the higher land and are often steep, sunken and bounded by banks with ancient hedgerows and wildflower rich verges.

190. At page 20, the Statement of Significance considers the Stour Valley Project Area:

“Much of the Stour Valley Project area shares similar characteristics to the Dedham Vale AONB, particularly the area nearest the existing AONB. The Stour Valley Project area is predominately rural with a medieval settlement pattern. The area has many of the characteristics associated with the AONB including the patterns of woodland on the valley sides, the River Stour running gently through it and a scattering of historic picturesque villages. Woodlands are situated within the tributary valleys and on the valley sides. Much of the valley floor has been given over to arable crops with the notable exception of the Sudbury Common Lands. Generally fields have been enlarged but some evidence of former boundaries can still be seen.”

191. Thus it is the similarity between the Project Area and the AONB that gives the former its significance. Having regard to the identified characteristics of the AONB set out above, it is evident that the appeal site and its surroundings, including Long Melford, share many of the features that contribute to the special qualities of both the AONB and Project area.

192. Turning to the Management Plan itself, it was subject to public consultation, and from the list of representatives on the Joint Advisory Committee and Partnership it is plain that the document is the product of long-standing engagement by a number of representative public bodies. It is a document that should be taken into account in planning decisions, and is particularly helpful in identifying landscape characteristics of value. For those who are confused about its status, the following passage from the Planning Practice Guidance might assist:

“Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area. As part of this, local planning authorities and neighbourhood planning bodies should have regard to management plans for National Parks and Areas of Outstanding Natural Beauty, as these documents underpin partnership working and delivery of designation objectives. The management plans highlight the value and special qualities of these designations to society and show communities and partners how their activity contributes to protected landscape purposes.

National Parks and Areas of Outstanding Natural Beauty management plans do not form part of the statutory development plan, but may contribute to setting the strategic context for development by providing evidence and principles, which should be taken into account in the local planning authorities’ Local Plans and any neighbourhood plans in these areas.

National Parks and Areas of Outstanding Natural Beauty management plans may also be material considerations in making decisions on individual planning applications, where they raise relevant issues.”
Paragraph: 004 Reference ID: 8-004-20140306

193. True it is that this guidance refers only to AONB management plans, but the reasoning is no less applicable to that part of the Management Plan dealing with the Stour Valley Project Area. In these circumstances the Council contends that the Project Area and Management Plan are factors that should be taken into account in assessing the site’s value. This is what the Inspectors did in the Colchester Road and Steeple Bumpstead appeals to which Ms Bolger refers and they were right to do so.
194. Finally, the Appellant and Council were some distance apart on the importance of the former railway embankment to the settlement pattern of Long Melford. For the Appellant the fact that the embankment provided a long-established, strong and readily understood edge to the settlement was of no consequence. The Appellant could see no harm in breaching the boundary, referring to houses along Station Road to the south as though they were comparable projections into the countryside (which they are not). It was contended “... The site boundary does not completely follow a historic field boundary, so the new boundary trees and hedges would establish a new landscape feature. This would be within a field that has been altered over the years and a valuable new feature and settlement boundary could be established”.
195. It is difficult to take seriously the assertion that proposed planting to the south and east along new boundaries lacking any landscape rationale would provide an effective settlement edge, or “valuable new feature”, in place of the former railway line. Instead, what the Appellant proposes is nothing more than a housing estate bolted on to the embankment, undermining its function as a settlement boundary and its enjoyment as a promoted walk and local nature reserve. Neither would the new woodland belts be “similar in form to the woodland established along Water Lane and the former rail line”: Water Lane is an ancient sunken lane and the former rail line sits atop the embankment.
196. On this issue, as on others, it is submitted that the Appellant’s evidence fails to engage with the features that are important to an appreciation of the existing

landscape. If you are looking for assistance in assessing the value of the landscape, the Council's evidence is much the surer guide.

197. On the discrete issue of whether the appeal site forms part of a valued landscape for the purposes of para 170(a) of the NPPF, I would simply point you to Ms Bolger's assessment at pages 37-38 of her proof. It may be that part of the difference in the parties' assessments comes down to whether designated landscapes are included (the Appellant) or excluded (the Council) in the scale of potential value, but whatever the methodological differences, it is submitted that this is a landscape of value, whether a "valued landscape" or not.

198. In summary, having regard to the nature, scale and location of what is proposed, it is submitted that major adverse landscape and visual effects are inescapable, contrary to policies CS11(i) and (ii), and CS15(i) and (ii) of the Core Strategy, and paras 8, 98, 127 and 170 of the NPPF.

(3) Whether there is a locally identified need for housing in Long Melford and the surrounding area

199. Policy CS11(iv) states that proposals for development for Core Villages will be approved where (among other things) locally identified need – housing and employment, and specific local needs such as affordable housing – is addressed to the satisfaction of the decision maker where relevant and appropriate to the scale and location of the proposed development. As the appeal scheme is for up to 150 dwellings adjacent to the village of Long Melford, it is entirely appropriate that the Appellant should be required to adduce sufficient evidence of local need such as to justify the development.

200. Paragraph 14 of the supplementary planning document Rural Development & Core Strategy Policy CS11 goes on to give the following guidance: "... Developers should therefore set out how the proposal meets these locally identified needs. This should include an analysis of the number and types of dwellings in the village, an assessment the need for housing in the village and the identification of any gaps in provision. Proposals should provide affordable housing in accordance with Policy CS19. Proposals should therefore be accompanied by a statement that analyses the local housing, employment and community needs of the village and how they have been taken into account in the proposal. It is anticipated that such statements should be prepared in consultation with the Council using evidence from a number of sources."

201. This policy requirement is consistent with national policy. NPPF para 77 states: "In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs". Para 78 states: "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities." Para 103 tells us that the planning system should actively manage patterns of growth in support of sustainable transport objectives. And para 170(b) requires planning policies and decisions to recognise the intrinsic character and beauty of the countryside. All of these strands of national policy seek to manage rural development so that it occurs where, and only where, it is needed.

202. Contrary to the requirements of the development plan, the application was not supported by any assessment of local needs. There was, moreover, nothing in the supporting material to suggest that it was a response to local circumstances

- or reflected local need. Instead, the Appellant relied on the need for housing in the district as justification for the scheme.
203. In the evidence given by the Appellant has attempted to demonstrate a need for the appeal scheme, notwithstanding a pipeline of 196 permitted dwellings in the parish and 433 permitted dwellings across the entirety of the functional cluster, and a proposed allocation of sites for 85 further dwellings in the Long Melford Neighbourhood Plan.
204. There are a number of weaknesses in the Appellant's evidence. First, the Long Melford Functional Cluster includes parishes whose needs would also be met by other Core Villages. It would be wrong in principle to expect Long Melford alone to meet the needs of all the villages in all the parishes that are said to fall within its functional cluster when there are other Core Villages that also serve some of those villages. The Appellant has made no attempt to apportion the needs arising between Core Villages and on this ground alone his assessment of need across the LMFC (whole) cannot be accepted.
205. The Appellant attempts to address this issue by also assessing the need arising in Long Melford and the three parishes which fall exclusively in the LMFC, but this brings into play the second error of approach.
206. The Appellant has calculated the LMFC population share of the need of the district as derived from the 2017 Strategic Housing Market Assessment (at para 7.6) and the standard method (paras 7.7-7.11). What he has not done is to have any regard to the settlement hierarchy and current spatial strategy in the Core Strategy, which plainly does not distribute new housing in the district purely according to population. The Core Strategy requires 1050 new dwellings to be delivered in the Core and Hinterland Villages to 2031. Core Strategy policy CS2 lists 10 Core Villages and 43 Hinterland Villages, yet the Appellant considers that from 2018 to 2031 the LMFC (whole) should deliver 631 new dwellings, and the LMFC (part) 306 dwellings. The Appellant's calculations simply ignore the development plan.
207. To achieve even higher numbers, the Appellant also calculates the LMFC population share of the SHMA assessment of need (even though SHMAs have been superseded by the standard method), as well as the LMFC population share of local housing need, to 2036. Looking further ahead obviously generates higher need figures, but again they pay no regard to the existing settlement hierarchy, distributional strategy or plan period. If we are to look at the period to 2036 then it is only right that we should have regard to the emerging spatial strategy in the Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (13 June 2019) ("EJLP"). Reflecting the draft strategy in that plan, there is a proposed requirement for 217 dwellings in the Long Melford Neighbourhood Plan area to 2036. Set against the pipeline of 196 dwellings and potential allocation of sites for 85 dwellings in the draft Neighbourhood Plan, there would be no significant residual need for further residential development in Long Melford for some time.
208. The Appellant has also attempted a "bottom-up" assessment (section 8), using two growth scenarios, resulting in a residual assessed need to 2031 for the LMFC (whole) in scenario A (share of migration) but not for the LMFC (part), and a residual assessed need for both the LMFC (whole) and LMFC (part) in scenario B.

209. None of this convinces. It applies district data to the level of the parish; it continues to use the LMFC (whole) population share without apportioning any need to other Core Villages serving the functional clusters; it ignores the wishes and aspirations of the residents of Long Melford; and it treats the current and /emerging spatial strategy as irrelevant.
210. The Appellant sought to add to the evidence of need by referring to the 9 May 2018 response of the Council's enabling officer (CD4.23), in which it was said: "The most recent information from Babergh Council's Housing Register shows 66 applicants registered who have a connection to Long Melford ...". The Appellant sought to suggest that the figure of 66 was the net figure taking into account affordable housing in the pipeline, but that is not what it says and it would be a nonsensical way to account for housing need.
211. An update has now been provided showing a total of 53 applicants on the housing register with a connection to Long Melford. While that is an indication of need at the moment, the need fluctuates from time to time, as it has over the past year. Of the 53 current applicants, up to 19 households with a local connection to the village could be assisted by the prospective rented accommodation at the Bull Lane development, and others would have an opportunity to bid for housing in the Ropers Lane development. In light of this, not even the current need for affordable housing warrants development on the scale proposed.
212. The burden of showing that there is a local need for 150 new dwellings falls squarely on the Appellant. For the reasons given, its evidence is flawed in approach and does not provide the justification needed to satisfy the development plan's requirements.

(a) The latest position in respect of the emerging Development Plan and the weight to be afforded to it

213. The emerging development plan in the form of the Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (13 June 2019) ("EJLP") was considered by the two local authorities on 25 and 27 June 2019. They both resolved that the draft should proceed to public consultation¹⁸ for a period of 10 weeks, beginning on 22 July 2019.
214. At present, the draft policies in the EJLP merit limited weight, given the early stage of the plan and the guidance in para 48 of the NPPF. In light of the decision of the Secretary of State to recover this appeal, it is possible that the EJLP will have reached a more advanced stage of preparation before the appeal is determined and the Council will wish to update the Secretary of State if this happens.

(b) The latest position in respect of the emerging Long Melford Neighbourhood Plan and the weight to be afforded to it

215. The pre-submission draft Long Melford Neighbourhood Plan ("DNP") was published for consultation in January 2019. In April 2019 Babergh District Council determined that the DNP requires an appropriate assessment for the purposes of the Conservation of Habitats and Species Regulations 2017.
216. At the time of this inquiry, the Council submits that the DNP should be given limited weight. As with the EJLP, if the DNP reaches a more advanced stage

before determination of this appeal, the Council will wish to update the Secretary of State accordingly.

(c) Shortfall in housing land supply

217. The Council accepts that it cannot currently demonstrate a five year supply of specific, deliverable housing sites. This is a change from the position shown in the Babergh and Mid Suffolk Joint Annual Monitoring Report 2017-2018, published in July 2018, which was of a 6.7 years' supply set against its Core Strategy requirement. This assessment of supply was based on the 2012 version of the NPPF, which has since been revised, as has the relevant Planning Practice Guidance.

218. The Statement of Common Ground on Housing Land Supply records the parties' current positions. The Council considers it can show 4.86 years' supply of housing sites. The Appellant contends for 4.11 years' supply. The difference between them is attributable to divergent approaches to the following elements in the assessment:

Calculation of local housing need

(1) The relevant 10-year period used to calculate the projected average annual household growth (step 1 in the standard method).

(2) The relevant median workplace-based affordability ratio used in adjusting projected household growth (step 2 in the standard method).

(3) The "average annual housing requirement" used to calculate the cap applied to the minimum annual local housing need figure (step 3 in the standard method).

Housing land supply

(4) The supply of dwellings from three sites with outline permission: Norman Way, Lavenham; Hadleigh Road, Sproughton; Chilton Woods, Sudbury.

(5) The supply of dwellings from the Brantham Regeneration Site.

(1) The relevant 10-year period used to calculate the projected average annual household growth

219. The Planning Practice Guidance states: "Set the baseline using national household growth projections (2014-based household projections in England, table 406 unitary authorities and districts in England) for the area of the local authority. Using these projections, calculate the projected average annual household growth over a 10 year period (this should be 10 consecutive years, with the current year being used as the starting point from which to calculate growth over that period) ...". Following this guidance, the 10-year period should be 2019-2029.

220. The Appellant prefers the period 2018-2028, essentially for the reason that the parties have agreed a base date of 1 April 2018 for determining the housing land supply and (the Appellant asserts) the guidance should be read in the context of the five-year period being assessed. Although at first blush it might seem logical to adopt the same starting year for the two calculations, there is an obvious

objection to it: it is not what the guidance requires. The passage from the guidance quoted above makes it perfectly clear that the projected average annual growth over a 10 year period begins with the current year. If the authors of the guidance had wished the starting point for the assessment of annual average household growth to be the same year as the first year of the 5-year housing land supply assessment they could easily have said so. The purpose of the standard method is to allow local housing need to be calculated in a relatively simple, formulaic manner, which may in some circumstances sacrifice accuracy for ease and predictability. It should also be borne in mind that the average annual household projection is not tied to the five year period of the housing land supply calculation. It is instead the increase in household growth averaged over 10 years, which inevitably introduces a degree of approximation in the process.

221. The difference between the parties bears this out. For the Council, the 10-year annual average household growth is 293.2 households; for the Appellant it is 298 households. As one would expect, this difference in the annual average of two 10-year periods beginning one year apart is not particularly significant. Nonetheless, where (as here) the guidance is clear about what is required, it is not appropriate to "re-interpret" it as the Appellant has done in the name of supposedly greater accuracy. The standard method is a relatively rough and ready approach to the assessment of local housing need and it is not improved by deviating from the guidance, as the Appellant seeks to do.

(2) The relevant median workplace-based affordability ratio used in adjusting projected household growth

222. The PPG begins its description of step 2 as follows:

"Then adjust the average annual projected household growth figure (as calculated in step 1) based on the affordability of the area. The most recent median workplace-based affordability ratios, published by the Office for National Statistics at a local authority level, should be used. ..."

223. The most recent median workplace-based affordability ratios are those for 2018, published in March this year. It is these the Council has used. The Appellant, however, has used the 2016 ratios, which were the latest ones published before 1 April 2018. The Appellant's rationale for using the 2016 ratios is: "... again my interpretation of the PPG is that the guidance should be read in the context of the five-year period being assessed, and the base date of that period. The District Council has stated that it considers that the most appropriate period to assess is 2018/19 to 2023/24 and thus the base date for the assessment is 1st April 2018. The guidance that dictates the use of the 'most recent' ratio should therefore be applied in the context of the base date, to calculate the LHN for the respective five-year period."

224. Here again the Appellant misconstrues the guidance so as to make it fit with its own view that there is a neat equivalence between the assessment of local housing need using the standard method and the calculation of the five year housing land supply. If the guidance had intended that the latest affordability ratios applying to (or published before) the first year of the five year housing land supply period be used, it could have said so. Instead, it states that the "most recent" should be used, without mentioning the calculation of housing land supply.

225. The Appellant's approach does not follow the guidance. And it compounds its error by insisting on using the 2016 affordability ratios, ignoring the 2018 ratios that were published after 1 April 2018. It does so because it confuses two quite different things: (a) the period of assessment and (b) proof of elements within the assessment. The fact that the period of assessment begins on 1 April 2018 does not mean, and the guidance does not require, that one should ignore evidence relevant to that period which emerges afterwards.

226. On the issue of the relevant affordability ratio the Council has followed the guidance and the Appellant has not. The Council's approach is correct.

(3) The "average annual housing requirement" used to calculate the cap applied to the minimum annual local housing need figure

227. Step 3 of the standard method provides:

"...Where the relevant strategic policies for housing were adopted more than 5 years ago (at the point of making the calculation), the local housing need figure is capped at 40% above whichever is the higher of:

a. the projected household growth for the area over the 10 year period identified in step 1; or

b. the average annual housing requirement figure set out in the most recently adopted strategic policies (if a figure exists)."

228. This raises the question, what is the average annual housing requirement figure set out in the Core Strategy? In relation to the number of new homes in the district, Policy CS3 of the Core Strategy states: "Babergh District Council will make provision for 5,975 new dwellings between 2011 and 2031 in the District. These dwellings are planned as follows: 1,100 between 2011 - 2016; and 4,875 between 2017-2031." Across the plan period the average annual housing requirement is 299 dwellings. Across the period 2017-2031 the average annual housing requirement is 325 dwellings.

229. Table A on page 25 of the Core Strategy gives a rounded-up figure of 300 as the "Future annual average growth rate = Total housing to provide for divided by 20 years", which is the only place where an annual average housing requirement is given in the document.

230. It is evident that the Planning Practice Guidance draws a distinction between an annual average requirement and a stepped requirement:

"How is 5 year land supply measured where authorities have stepped rather than annual average requirements? Five year land supply is measured across the plan period against the specific stepped requirements for the particular 5 year period. ..." (Paragraph: 033 Reference ID: 3-033-20180913)

231. The same is also evident in the Housing Delivery Test measurement rule book at paragraph 12:

"... EITHER the latest adopted housing requirement, including any unmet need from neighbouring authorities which forms part of that adopted housing requirement. This requirement will be the stepped housing

requirement (or the annual average requirement where there is no stepped requirement).”

232. It can be seen in both quoted passages that an annual average requirement is treated as different from a stepped requirement. In the present case the Core Strategy is more than five years old, so the assessment of housing land supply will in fact be based on the local housing need figure, but the distinction in guidance between an annual average requirement and a stepped requirement remains.

233. Interpreting the guidance in an internally consistent manner leads to the conclusion that where it refers to an “annual average housing requirement figure” it is referring to the total housing requirement for the plan period, divided by the number of years in that period. In the present case, this produces a figure of 298.75 (or a round 299) dwellings per annum.

234. This may appear a relatively mechanistic approach, but as has already been said the standard method provides a means of assessing housing need in simple, formulaic way. Adopting this approach, the Council has calculated that the applicable cap is 418.25 dwellings per annum. This is lower than the uncapped local housing need figure. Applying the cap, and a 5% buffer, produces a 5-year local housing need figure of 2196 dwellings.

(4) The supply of dwellings from three sites with outline permission: Norman Way, Lavenham; Hadleigh Road, Sproughton; Chilton Woods, Sudbury

235. The three contested sites at Lavenham, Sproughton and Sudbury all had outline planning permission on 1 April 2018 and were included in the Annual Monitoring Report published in July 2018. The Council has presented evidence showing that all three sites have a reasonable prospect of housing being delivered within the 5-year period of assessment, and indeed the Appellant conceded at the round-table session that there was clear evidence of deliverability at the date of the inquiry.

236. The Appellant’s objection is to the introduction of recent evidence of deliverability, which is said to constitute “an attempt to retrospectively justify the inclusion of all three sites in the supply”. It requires only a moment’s thought, however, to see that this is to misunderstand the nature of the exercise.

237. A five year housing land supply may be demonstrated in a number of ways: in a recently adopted plan; in an annual position statement; through annual monitoring reports; and (where it is disputed) through evidence given in an appeal. However it is done, the five year period will always begin at a point in the past. It is simply not possible to show a five year housing land supply instantaneously because even if the housing requirement or local housing need figure is readily ascertained, information relating to the supply of sites takes time to gather and in reality cannot be completed until after the start date for the five year period. In every appeal where housing land supply is in issue, there is a need to look back, to see what the position was at a certain point in time. The evidence showing what the position was as at 1 April 2018 (or any other point in the past) will inevitably come later.

238. The Appellant has taken the view (inspired, it appears, by the Woolpit decision) that it is wrong to have regard to evidence – be it affordability ratios or supply-side information – that emerges after the base date chosen for the start

of the five year period of assessment. That, however, is what the Planning Practice Guidance requires when assessing a five year housing land supply for the purposes of plan making –

“In order to demonstrate 5 years’ worth of deliverable housing sites, strategic policy-making authorities will need to provide robust, up to date evidence to support plan preparation.”

239. It is what every local planning authority does when producing its annual monitoring report, and it is difficult to see why an authority that may be required to demonstrate a five year housing land supply “at any point”, including at inquiry, should be denied the opportunity to provide up to date evidence going to either the need or the supply.

240. When the Joint Annual Monitoring Report was published in July 2018 it will have been based on evidence gathered after 1 April 2018, which is what one would expect. But it will also have been informed by the definition of “deliverable” in the 2012 NPPF and the guidance on deliverability in the Planning Practice Guidance at the time, which stated: “Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years”.

241. The revised NPPF was published on 24 July 2018. The relevant Planning Practice Guidance was updated on 13 September 2018. The change in both meant that local planning authorities are now required to assemble clear evidence of the prospect of delivery on sites with outline permission, including evidence of their current planning status, timescales and progress towards detailed permission. To do so in this case, the Council has provided the inquiry with up to date evidence showing just that on the three sites.

242. Neither the NPPF nor the Planning Practice Guidance applies a cut-off point to the admission of such evidence. The observation of the Inspector in the Woolpit case at para 70 that

“the Council has had to provide additional information to demonstrate that sites are deliverable as and when it has surfaced throughout the weeks and months following the publication of the AMR in an attempt at retrospective justification. It is wholly inadequate to have a land supply based upon assertion and then seek to justify the guesswork after the AMR has been published”,

is, with all due respect, both unfair (given that the AMR in that case was published before the NPPF and PPG were revised) and wrong (in that it assumes that proof of deliverability cannot be based on up to date evidence).

243. The Council accepts that in the present case it would be improper to introduce sites that did not feature in the supply as at 1 April 2018 and has not sought to do so, but where sites with outline permission were properly included in the supply at that point, it is entirely appropriate to refer to up to date evidence of deliverability on those sites. Having regard to that evidence, the contribution from the three sites in question should be included in the supply.

(5) The supply of dwellings from the Brantham Regeneration Site

244. The same arguments apply to the evidence concerning the Brantham site, a site with the benefit of a part outline/part detailed permission, which has now received reserved matters approval. This site, too, should remain in the supply.
245. For these reasons the Council submits that it has properly applied the guidance in assessing local housing need and evidenced specific deliverable sites equivalent to 4.86 years' supply. While any shortfall in the five year housing land supply is regrettable, it equates to 62 dwellings. In the past year the Council has granted permissions for 1,254 dwellings, and viewed in context it is submitted that the shortfall is modest and likely to be made up soon.
- (e) The benefits of the scheme which are to be weighed against any harm if found*
246. These are set out and considered in the proofs' of the planning witnesses of the parties.
247. The most significant benefits are the provision of market and affordable housing, which can be said to help meet the need for housing in the district, if not a local need. The Appellant seeks to add a gloss to this benefit by suggesting that there is an imbalance in the age profile of Long Melford residents, which (it asserts) the appeal scheme would help to right. There is, however, no evidence that the village's demographics threaten its vitality or cause any other problem that requires "alleviating".
248. As to the quantum of housing that might be delivered on the site in five years, The Appellant stated that "Most commonly on Gladman sites it takes 13 months from receipt of planning permission to commencement of delivery". Most Gladman sites took longer than 13 months to begin delivery of housing, with 20 months being the average, this was an odd and demonstrably untrue statement to make. While it is accepted that some housing would be delivered on site within five years, it would be less than the amount claimed by the Appellant.
249. Furthermore, although the provision of housing is a significant benefit of the scheme, it would be better directed to an area with greater need and/or greater sustainability.
250. Another matter to which the Appellant draws particular attention is the provision of an area of 0.06 hectares of land for a new early years setting, as requested by the County Council, which is said to be a significant benefit. The need for this land would be triggered, however, by the appeal scheme itself, which is why it is more properly seen as mitigation of the scheme rather than an additional public benefit.
251. While the other so-called environmental benefits of the scheme pale into insignificance compared with the harm to the landscape and appearance of the area, the Council accepts that in addition to new housing there would be other modest economic and social benefits.

(f) In terms of decision making, the appropriate 'balance' that should be undertaken

252. The Council considers that the policies which are most important for determining the application are up to date. However, given the current shortfall

in the housing land supply, the Council accepts that the “tilted balance” in para 11(d) of the NPPF is engaged and constitutes a material consideration.

Concluding submissions

253. Long Melford is a historic village set in an attractive, rolling, valued landscape in the Stour Valley. The proposed development would intrude into the countryside, relate poorly to the settlement and result in major adverse landscape and visual effects. The Appellant has failed to show that there is a need for the amount of housing proposed or that there is any other compelling reason why the development should proceed. It would be contrary to development plan and national policy and there are no material considerations that justify a departure from those policies. In terms of the tilted balance, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
254. Accordingly, the Council invites dismissal of the appeal.

The Case for Save Our Skylarks Field Group

255. The material points are:

Introduction

256. The main issues, namely, that of need, landscape and heritage impact, the Development Plan and its importance, coupled with consistency with the NPPF are considered followed by the alleged benefits and the planning balance.

Need

257. The starting point must be Policy CS11 which gives the strategy for development in Core and Hinterland Villages. This Policy amongst other things requires a number of matters to be addressed to the satisfaction of the LPA or decision maker. One such matter is locally identified need. This in short means “housing need in the Village itself and its cluster, and perhaps in the area immediately adjoining it” (Para 23 – R v Babergh District Council and others Ref: CO/2375/2016 – CS11.5).
258. The Appellant made no effort whatsoever to satisfy this requirement at the application stage. Moreover, even now their efforts do not stand up to close scrutiny or examination. SOSF contends that there is certainly no need now or indeed for many years to come and moreover that any long-term need should not be met by allowing this proposal. There are other preferable means of meeting this need.
259. The Appellant through its assessment of local housing need utilising both a top down and bottom up approach has suggested that the residual need to 2031 in LMFC (part) ranges from 95 dwellings (MS – table 8.3) to 197 dwellings (MS – table 8.1) and in the whole cluster a range between 197 (MS – table 8.1) and 343 dwellings (MS – table 8.3). SOSF contend that there are a number of flaws in this analysis all of which lead or are likely to lead to there being an over-estimate of need.
260. Firstly, an annual requirement of 434 dwellings has been assumed whereas the LPA have adopted an annual requirement of 418 dwellings. SOSF have not

engaged in the debate as to which party is correct but a finding in favour of the LPA will significantly reduce the need in the Plan period to 2031 (potentially 208 dwellings – 16 x 13 years).

261. Secondly, it is abundantly clear that some of the Hinterland Villages fall in to one or more of Core Villages. For example, Great Waldingfield falls not only into the Core Village of Long Melford but also the Core Villages of both Sudbury/Great Cornard and Lavenham (see map at page 19 – CD 7.1). There are other examples shown on this map of Hinterland Villages falling into one or more core villages. Thus, in assessing local need within the Long Melford cluster, it is necessary to ascertain to what extent the need arising in a Hinterland Village, included within another cluster, is being met elsewhere. This has not been attempted in any way whatsoever by the Appellants. It must therefore follow that the Appellant's assessment for the whole of the Long Melford cluster is almost certainly too high.
262. Thirdly, the Appellants have applied a 45% uplift within their assessments to reflect market and/or affordability factors. SOSF explained why this was inappropriate when looking at a Parish only. Indeed, the Appellant acknowledged that the use of district figures at Parish level was not particularly robust.
263. Fourthly, the Appellant has acknowledged that their assessment of the pipeline supply is an under-estimate. SOSF understand that they accepted during the round table discussion on need that within the pipelines supply for Long Melford (part) there were 208 units (an additional 12) but perhaps more importantly within the Hinterland Villages there were some 235 (i.e. an additional 86 units) giving total supply within the whole of the Long Melford cluster of 433 dwellings.
264. This is a very substantial number given the overall allocation within the Core and Hinterland Villages in Policy CS2 of 1050 dwellings. SOSF recognise that the annual requirement within that Policy was some 375 dwellings (4875 / 13) and the current annual requirement is not less than 418 dwellings but even so, it is contended that within the Long Melford cluster there is ample supply of land for housing.
265. Indeed, this is also demonstrated by the Appellant's own evidence using the agreed pipeline supply of 433 dwellings. It is the Appellant's own evidence utilising their 434 DPA that the requirements within LM (part) and LM (whole) is 24 and 49 dwelling per annum respectively. This therefore means that within LM (part) there is a supply of 8.6 years (208 / 24) and in respect of the LM (whole) there is 8.8 years supply (433 / 49).
266. It therefore follows that even using the Appellant's figures which for the reasons mentioned above are either not accurate or robust and must be treated with extreme caution. There is certainly no need for the proposed development currently and any need will not arise for many years. Moreover, importantly there is a far more preferable way to meet that need.
267. It is abundantly clear that Long Melford Parish Council have the intent to make a Neighbourhood Plan. This plan has started its journey towards ultimate adoption. Moreover, the intention is to do so as soon as possible, and this realistically should be within the first quarter of 2020. The whole community has been engaged within its production to date. To therefore allow a very substantial development now will be very damaging to this plan. It is likely, to essentially

destroy it and send the Parish back to the drawing board. This should not be allowed to happen particularly given the encouragement within national policy for Parish Councils to produce neighbourhood plans.

268. SOSF have themselves attempted to assess the need within Long Melford. They have looked at the overall requirement within BDC and have assessed what would be a proportionate and a fair share of growth to be accommodated within Long Melford. Their approach of establishing what is fair and proportionate fully accords with guidance (see page 5 CD 14.1). However, of significance the results of the analysis by SOSF have been endorsed by BDC. They should therefore be given substantial weight. Taking an annual requirement of 18 dwellings gives many years supply and certainly sufficient to the end date of the Plan 2031.
269. In conclusion therefore, SOSF invite you to conclude and report to the Secretary of State that;
- a. The Appellant has not clearly demonstrated a locally identified need as required by Policy CS11. This Policy is accordingly breached, and significant weight should be given to that breach.
 - b. On the evidence of the SOS and the LPA there is no doubt that there is currently no need and that any future need will be small given the number of extant planning permissions and moreover that such need should be met by other means namely through the emerging neighbourhood plan.
 - c. The Appellant's own evidence is flawed or unreliable in a number of respects all of which result in an over-estimate of need such that little or no weight should be given to it.

Landscape Impact

270. Again, as with the question of need Policy is the starting point. Policy CS11 requires the Appellant to address to the decision maker's satisfaction the local landscape, environmental and heritage characteristics of Long Melford. In addition, Policy CS15 stipulates the development "must respect the local context and character" and further, "respect the landscape, landscape features, streetscape/townscape, heritage assets, important spaces and historic views". This proposal is in fundamental conflict with these policy requirements in many ways.
271. The form of Long Melford is largely dictated by its landscape context. The topography of the village and its setting confine the village to a linear composition. This was something which was broadly accepted by the Appellant. Indeed, the Appellant accepted in cross examination that SOSF's assessment of what makes Long Melford special was a perfectly fair analysis. This included the essential linear character of the settlement.
272. This proposed development does not reflect this linear character. It is development in depth which climbs up the valley slope and will be seen as totally out of character to the settlement as a whole. It is no answer or justification for the Appellant to say that there has been infill in depth between the main street and the former railway line.
273. This is only correct to a very limited extent but in any event each development should be treated on its own merits. SOSF maintain that Long Melford retains its

essential linear character. Moreover, the former railway line has clearly provided for many years a defensible boundary to the Village and limited infilling has been entirely appropriate. Moreover, the majority of this infilling has been at a lower level than now proposed by the Appellant. The two are not comparable. Similarly, the contingent allocation within the emerging neighbourhood plan does not either support the Appellant's case. The contingent allocation would have fully respected the linear character of the settlement.

274. Whilst the former railway and its embankment has for many years been seen as a defensible boundary in contrast what is now being proposed is significantly different. There is simply no defensible boundary on most of the southern and eastern boundaries to the appeal site. They are no more than lines on a plan. Indeed, even now it is not entirely clear whether this boundary follows the 45m contour or is slightly below it. The Appellant's plans are contradictory which is clearly not helpful in assessing the overall impact. What however is clear is that there will be both close, medium and longer distance views of any development and hence an impact.
275. The development will be seen from Station Road and whilst this may not be crucial albeit that at present it gives a pleasant view of the countryside coming "into" Long Melford. There will, if this development is permitted, be fundamental change particularly for those using the former railway line. Users of the railway line would no longer have the experience of seeing the countryside but instead would be looking at a modern housing estate. This would also be true when using the local footpath network. Thus, their experience would be different and moreover it would be to their substantial visual detriment. Moreover, this development does not respect the former railway line as a landscape feature.
276. There are also views from Borley, Liston, Windmill Hill and The Green. These are best assessed as part of the site visit in due course. However, two points: Firstly, from these vantage points by and large the development will be seen climbing up the valley side which is uncharacteristic of Long Melford. This will be particularly so from The Green, have particular regard to viewpoint 2 – figure 17C of LF's evidence (appendix 4). The accuracy of this montage has not been challenged whatsoever. It can therefore be taken as accurately showing the extent of the development and its potential impact. This impact will be significantly greater in the winter months.
277. Turning to the potential views from Mills Lane of Holy Trinity Church. Both SOSF and the Appellant have produced sections. It was not put to SOSF that it's section was wrong. It was taken from a different position on Mills Lane. Moreover, as mentioned above there is uncertainty as to the extent of the appeal site. However, even the Appellant's own section shows that once the boundary trees reach maturity there will be an impact and loss of some views. This could perhaps be overcome by ensuring low level landscaping in some places, but this may well then expose views of the dwellings themselves.
278. All parties have examined the proposal against various character assessments etc. It has been helpful to do so in that it undoubtedly demonstrates the importance of the Stour valley and hence the need to take great care in permitting large scale development. All the evidence is not rehearsed or attempted to be summarised here. It ultimately does depend upon a judgement.

279. It follows from what is said above that this proposal in terms of landscape fails to respect the local context and character together with landscape features and as such therefore is contrary to both policies CS11 and CS15 of the Core Strategy.
280. Both SOSF and the Council have concluded that the overall effect on the landscape would be major adverse. This evidence has to be preferred to that of the Appellant. Also even the Appellant does not say that there will be no harm but merely as a matter of judgement in its opinion that harm will not be significant. Moreover, your attention is also drawn that in the original LVA and to a very large extent in the Appellant's own evidence it has underplayed, if not actually ignored the fact that the site is clearly visible from The Green and to that extent it cannot have taken this into account when making its ultimate judgement. In other words, the Appellant may well have failed taking everything into account in reaching its judgement.

Heritage Impacts

281. The heritage assets are well known. The issue between the Appellant and SOSF is whether the setting of an affected heritage asset makes a contribution to its significance. Further, the setting of a heritage asset is the surroundings in which a heritage asset is experienced (see generally paras 20 and 26 of The Setting of Heritage Assets CD13.3).
282. SOSF remain of the opinion that views to and from the conservation area, the hospital, the churchyard and The Green form a major part of their setting. The views are timeless and are a key to understanding and appreciating the significance of these heritage assets and the scene across the valley is probably the most iconic and well known within the village. The proposed development would be a jarring element towards the horizon. From the tower, the development would be at odds, reducing the ability to understand the very strong linear form of the village within the valley.
283. The Appellant tried to convince us that views to the church tower were unimportant, despite the fact that the church is specifically and perhaps unusually listed for its topography. Furthermore, topography is a specific matter listed within Historic England's guidance. What we say is that the church's dominance in the surrounding countryside, the sense of awe when approaching from the distance both now and throughout its long history are important. It is the recognition of the wealth and status of Long Melford both now and more particularly, in the past. It is the reminder of the cultural power asserted by the church. Views from the site and across from Mills Lane afford, we say, by far the best impressions of this power when approaching Long Melford, viewing the Church with its long and imposing southern façade. Such views are not commonplace and SOSF would say are indeed rare.
284. Similarly, the Appellant contested whether there was any harm to the setting of the Roman Villa on the basis of the lack of knowledge about its functional relationship with the village. The setting is now the only appreciable feature of this ancient monument. The site visit will illustrate both this and the obvious most likely aspect of this feature.
285. Turning to the former railway line, as a heritage asset, this has provided a very strong visual and physical settlement edge, allowing the village to retain its

linear form. As mentioned above, the proposal under consideration will fundamentally alter views of and from the railway line and to this extent therefore, there is an impact on its setting.

286. It is important that SOSF's evidence on heritage assets is put into context. As previously mentioned, Long Melford is a special place and heritage is one aspect which has to be considered. It is their case that this development will result in less than substantial harm to the significance of designated heritage assets and accordingly this harm should be weighed against the public benefits of the proposal. In other words, it is a negative factor to be put into the overall planning balance in due course. It also obviously follows that if there is any harm whatsoever then that would not accord with relevant development plan policy.

287. It would not be right to dismiss SOSF's evidence simply on the basis that it's witness holds no heritage qualifications. Clearly they are a person experienced in dealing with historical landscapes and moreover, as set out in evidence and explained in cross-examination, closely followed guidance provided by Historic England.

Interim Conclusion

288. This conclusion is that this development proposal is in fundamental conflict with important or significant policies within the Core Strategy. It is therefore contrary to the development plan as a whole. Furthermore, SOSF would contend that these policies are entirely consistent with the NPPF and should be given full weight.

289. It is also worth here just noting and reflecting upon the Appellant's responses in cross examination about the development plan and the policies within it. When asked on several occasions whether if the decision maker found that there was a breach of policy CS11 and CS15 it led to a conclusion that the proposal would be contrary to development plan as a whole. This was after all the approach taken by the LPA. This was a very simple question to which the Appellant could have agreed or acknowledged, but refused to do so. Perhaps the inability or failure to answer that simple question, somewhat taints the evidence as a whole.

290. The Appellant is in a very difficult, if not impossible position, as if the proposal is contrary to the development plan it needs to convince the decision maker that there are material considerations and/or benefits which outweigh the breaches of the development plan. It is necessary to bear in mind that we operate through a plan led system and significant weight should be given to the development plan.

291. The importance of a plan led system was emphasised by SOSF, who would have preferred to have seen a full application to allow the sustainability of the proposal be scrutinized more fully. Likewise, the need was emphasised to consider all relevant aspects in the round and not to dissect them into isolated or separate topics. Thus the importance of combining the overall landscape, heritage, need, economic and other aspects into one's overall conclusion was emphasised.

Benefits

292. Inevitably there will be benefits associated with a development proposal of this nature. SOSF however contend that they have been grossly exaggerated by the Appellant and are not nearly as significant as claimed. In overall terms there is relatively little weight to be given to the benefits.
293. Likewise, it is not disputed that given national policy to boost the supply of land for housing any development which delivers housing is to some extent a benefit. However, in this particular case that when there is no need for the development and the development is in the wrong place then little weight should be given to this factor.
294. Furthermore, SOSF contend that the Appellants have grossly overplayed the benefit derived from provision of affordable housing. There is undoubtedly affordable housing in the pipeline already and the Appellant's correlation of the number of households on the housing register as automatically denoting a need for affordable housing for those people, is not correct. SOSF firmly contend as a matter of law that anybody can put their name on the housing register, but it does not automatically follow that they are in need of accommodation. They may have suitable accommodation, but merely have an aspiration or preference to be a Local Authority or Housing Association tenant.
295. The Appellant's timescale for delivery is undoubtedly over optimistic. SOSF carried out a detailed analysis of the Appellant's evidence in this regard and advised the inquiry that the average time for commencement of delivery from the grant of planning permission was 21 months, here emphasising commence delivery not completion of actual housing itself. This evidence was unchallenged.
296. In addition, SOSF also explained why the economic benefits had been incorrectly assessed. Again, this evidence went unchallenged.
297. Finally, SOSF also contend that the Appellants have "overplayed" the possibilities of them providing land for the provision of an early years education facility. Firstly, it is abundantly clear from Suffolk County Council's CIL compliance statement that they wish to keep their options open and look at matters once a decision is known. Suffolk County Council do not say that the appeal site is the only place that an early years provision can be made. Indeed, they cannot say that because the discussions between SOSF and the Head Teacher of the primary school clearly show that the Head Teacher is interested in expanding the school and importantly there is scope to do so on site. Whilst this evidence is not in writing it nevertheless is reliable. This reduces the weight to this alleged benefit.

Conclusion

298. SOSF's overall conclusion are therefore as follows;
- a. The Development Proposal is contrary to the Development Plan and in particular the policies CS2, CS11 and CS15 of the Core Strategy.
 - b. Whilst policy CS2 may not be entirely consistent with the NPPF there is good reason to give it moderate weight in this instance, namely because the settlement boundary is the railway line – a long standing and logical, defensible, boundary.

- c. Policy CS11 into CS15 are both totally consistent with the NPPF and should be given full weight.
- d. This proposal for the reasons sets out above would have a major adverse impact on the landscape, harm the setting of a number of heritage assets and moreover there is no need for it. This development would not be beneficial to Long Melford.
- e. The benefits of the proposal come nowhere close to outweighing the significant harm in terms of both policy and landscape etc.
- f. The appeal must therefore be dismissed.

The Cases for Interested Persons

299. At the Inquiry three interested parties spoke. The material points raised in their evidence were as follows:

Mr Kemp

- 300. A local resident of Long Melford who has owned and run a number of businesses in the village over the years he also noted he had previously represented the community on the District Council and Suffolk County Council as well as having been a local magistrate.
- 301. Mr Kemp contended that over the years the village has welcomed careful development maintaining the rural character. Primarily these have been on flat land meaning most of the houses were hidden from view from the road into the village.
- 302. The Long Melford Economy is crucially dependant on the history and setting of Long Melford. People visit Long Melford because of its wealth of historic property and outstanding landscape. Maintaining the attraction of Long Melford is crucial. To expand a village too much, too quickly and beyond its accepted, natural boundaries to me spells disaster. Within the last 2 years we have accepted 200 houses in three major developments, two of which are on brown field sites. Unlike this site on a very visible rising agricultural field beyond the old railway track, which on all the maps Mr kemp had looked at is the determining boundary for development.
- 303. The field is crucial to maintain the rural setting of Long Melford and its historic buildings. The development would completely change the landscape and would ruin the rural aspect of the much loved Railway Walk (a local Nature Reserve) and other official and unofficial footpaths in the area, much used by dog walkers and others.
- 304. 150 houses would be a huge suburban development, twice the size of the largest of the three developments recently permitted in the village. Permission to build a huge development outside the natural boundary of the village of the old railway line will lead to further applications with development potentially continuing all the way up to he bypass. That would turn Long Melford into a town and completely ruin its attraction to residents and visitors.
- 305. This application is completely unacceptable and will be a blot on the landscape. Refuse the application for the reasons identified by others but also because

further development in an unacceptable rural location will turn this beautiful medieval village into a sprawling urban location.

Mr Kistruck

306. Has lived in the village for over twenty years opened a pottery and has been secretary and chairman of the Long Melford Business Association. Was involved in the Parish Plan 2006 and in the Neighbourhood Plan of 2018, managing the resident and household survey.
307. There are two great manor houses from the Tudor period, Melford Hall and Kentwell, together with Holy Trinity Church grouped at the north end of the village. There are still many buildings from the prosperous periods of the 18th and 19th centuries which contribute to the street scene as much as the medieval buildings do. In the 20th century most of the workshops gave way to independent retailers while Kentwell and Melford Hall opened their doors to tourists. The village became a high-quality shopping centre with a focus on antiques and works of art. The village now depends on visitors for its prosperity.
308. Visitors can be described as tourists and repeaters. Tourists come once or infrequently. Repeaters enjoy Long Melford well enough to come back again and again. Businesses in Long Melford benefit from the on-going custom and this attracts more repeaters who support and drive the businesses. This then also enhances the village for residents.
309. The attractions of Long Melford are set against the background of countryside; fields and trees are always just around the corner. There is still a 'Green-and-Country' look, but it is already crumbling.
310. Until a few years ago the main eastern approach, Bull Lane, had fields on both sides; now only on one. Gladmans proposal will do something similar for the southern approach, which is a busier road with at least three times the traffic of Bull Lane.
311. The southern approach along Sudbury Road has its own heritage of charm; the smart new buildings of the Nethergate Brewery, while on the horizon 'The Drays', majestic Victorian buildings. The Drays were constructed as the largest Maltings in Long Melford, placed beside the railway station to serve the London Market. The Old station is still there albeit the railway has gone. In the middle of Hall Street Victorian buildings stand among timber framed medieval houses. However the aesthetics of the natural environment are at least as important. To the east, Railway Walk is a treasure store with badgers burrowing in the cutting to the north and slow worm and other reptiles basking on the embankment at the other end, right under the swell of the Skylark Fields. Don't spoil it.
312. The results of a full survey of opinions was done last year for the Neighbourhood Plan. 1996 valid forms returned provides a 75% sample of the population. 90% were in favour of designating specific sites for future development, not a Nimby response.
313. In terms of how big developments should be 20 or less was the most popular. How big should houses be 70 % thought 2 bed were needed whereas 70% though 4 bed or larger were not needed. Affordable housing was seen as important by 90% with 75% of the survey agreeing that 35% + should be provided on developments, and 90% agreeing that some affordable housing

should be reserved for locals. Long Melford residents are seeking new homes that are affordable to them not just token offerings at a bit less than a calculated 'market price'.

314. This is an outline application there are therefore many opportunities for variation when a developer takes over the site. Even the promised affordable dwellings may fail if the developer or chosen Registered provider considers them not viable. The proposal is a trojan horse presented as a gift to penetrate the villages defences. Serious damage to our environmental assets will result. With the natural barrier of the Railway Walk finally breached further incremental applications will certainly follow and be impossible to resist until the bypass road provides the next obstacle. Long Melford is not against the right kind of development. There are proposals in place within the Neighbourhood Plan for development sites of the right size, in places where the majority of residents want them and with genuinely affordable housing that would be available to local people.

Mr Russell

315. A local resident of the area for forty years. Challenges three points in the LVA (Landscape and Visual Assessment) namely, the site is common place, has no scenic quality and is of no heritage value.

316. In making his comments Mr Russell noted he had regard to concepts and guidelines for cultural landscapes that stemmed from the World Heritage Convention, Ouseley J's principles that valued landscapes in paragraph 170 of the national Planning Policy Framework are not coterminous with designated areas; facts and arguments determine cases, and paragraph 171 of the National Planning Policy Framework that plans should allocate land with the least value. He also noted the 1981 Babergh Long Melford Survey which he described as setting the scene.

317. The site is on a hill of great significance to Long Melford as it is its natural boundary to the south. Rodbridge was a separate Roman settlement. The hill slopes down westwards to an area of land that has accommodated a Roman road, an Anglo-Saxon Mill and a notable 19th century railway settlement including a station, maltings and cottages.

318. The site was once part of Prowds field, part of the Melford Hall Manor estate; the development would affect the integrity and significance of the manor estate, a well preserved heritage asset of inestimable value. Beyond Prowds, above Water Lane and Back Lane, Middle Newe Close is visible from Station Road. This is Melford's only remaining view of its historic fields which would be lost to thousands every day. The view from Middle Newe Close is an authentic cultural landscape. In adapting the WHC Operational Guideline for valuing a property it has value if it is a good example with an adequate management system. The Babergh development Plan and Stour Valley management Plan would suffice to protect this landscape.

319. Babergh and other funding partners have committed to use The Dedham Vale and Stour Valley management Plan as a framework for maintaining its special qualities. This puts it on a par with the development plan.

320. The partners' commitment to the wider Stour Valley shows the Stour Valley is seen as a valued landscape. The fields near Melford Walk are indispensable to

Melford's heritage and are identified on the 1850 map. The bypass bisected Water Lane, Back Lane and Kings Lane. The development would impact a large area of the remaining land.

321. The site is a focal point in the landscape which affords views of the surrounding area these would be lost or damaged.
322. In a parliamentary debate it was noted that the presumption in favour of sustainable development does not, and should not, mean development at all costs. Any adverse impacts will still need to be taken into account.
323. The greatest adverse impact would be on the setting of the Holy Trinity Church in its landscape. The setting of a heritage asset is the surroundings in which it is experienced and its extent is not fixed. Views of this great church in this landscape must be of great significance. The contribution a setting makes to the significance of the asset does not depend on there being public rights or an ability to access that setting. The 1580 map shows Long Melford as a long narrow triangle with the church at the apex. The base is the Lane from Chapel Green to Back Lane and Water Lane. This triangle is illustrated by Lisa Finch's sight lines. The high point of the site under the power lines is between those sight lines. The development is slap bang in the middle of the prime setting of church and village. Loss of this setting would be maximum adverse (catastrophic).
324. The World Heritage Committee has emphasised the role of buffer zones to cope with new challenges and threats. Long Melford has a de facto buffer zone – the Special Landscape Area together with the undesignated land between the embankment and bypass. The site is a key part, essential to the setting of the church in its Stour valley landscape, the historic farming countryside along side Melford Walk and its local cultural landscape. The significance of Holy Trinity and its landscape is recognised in Sir Nikolaus Pevsner, English Heritage, Sir Simon Jenkins etc.

Written Representations

325. There were 7 letters of objection received by the Planning Inspectorate in respect of the appeal. These included an objection from James Cartlidge MP and an objection submitted by Lisa Tipper on behalf of Save Our Skylarks Fields Group, who appeared at the Inquiry as a Rule 6 party.
326. Over 750 objections were received by the Council at the time it produced its report to committee in respect of the application.
327. The main reasons for objection at that time are summarised in the report to committee (Appendix A to the BDC Statement of Case at CD5.1).
328. In general terms these were identified as: the site is outside village development limits; the Applicant's public consultation was inadequate; the access is too close to the Nature Reserve; the sewers in Station Road will be unable to cope; the development would result in the loss of high quality agricultural land; there would be a loss of rural landscape and green fields; the development would place excessive strain on infrastructure, including education, health facilities, highways, electricity, gas, telecoms; there would be a significant impact on wildlife, biodiversity, contrary to ecology regulations; and there would be an increased flood risk and stormwater management issues.

329. Concerns were also raised with regard to Parking and congestion in the village being exacerbated; that highway safety was an issue, particularly regarding the proposed access which it was suggested has limited visibility; and There would be increased traffic on country roads, in the region of some 270 additional vehicles.
330. The objections contended there is limited employment in the village; an alternative location should be considered as the Village is already at capacity with recent planning approvals; there would be a loss of privacy and loss of views with an adverse change to the character of the village; the Scale of the proposed development is disproportionate to the village Heritage impacts given the proximity to a scheduled monument and Long Melford Conservation Area; that no archaeological evaluation has been undertaken; and that the Village has the highest sensitivity rating in the Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk Districts March 2018.
331. Moreover, concerns were expressed that drainage requirements have not yet been proven and the viability of the proposed drainage works has yet to be identified; and that there will be a harmful effect on the Local Nature Reserve in terms of views out from it as well as on the Nature Reserve.
332. It was further contended that the Proposal is premature given the early stages of the Long Melford Neighbourhood Plan.

Conditions and Obligations

Conditions

333. An agreed schedule of conditions between the Appellant and Local Planning Authority was provided, in advance of the Inquiry, in response to my pre-inquiry note. This was updated during the Inquiry, prior to the conditions session, and was submitted by the Council as Inquiry document BDC9. In considering the conditions to recommend to the Secretary of State in the event that the appeal is allowed I have had regard to the advice in the relevant section of the Planning Practice Guidance. The conditions that are recommended are set out in Annex B and the following references to condition numbers are in relation to the conditions there. Minor textual changes to those in the schedule have also been made to ensure the conditions are precise and enforceable.
334. Conditions 1 to 3 inclusive are standard outline conditions which define the reserved matters that will be the subject of approval. Insofar as access is concerned the application provided details of accessibility to and from, but not within, the site and these are detailed on the site access drawing, which are secured through condition 4. Accessibility within the site would be covered as a reserved matter. Conditions 2 and 3 set 2 and 1 years as the respective time periods for submission and approval of the reserved matters and are less than the standard time limits to ensure that the eventual developer of the land brings forward the housing in good time given the agreed lack of a five year housing land supply.
335. Condition 5 is required to ensure control is exercised over the type and size of market dwellings to ensure the development would provide for the appropriate need in the locality.
336. Conditions 6, 7 and 8 are required to ensure the development includes appropriate mitigation for the potential impacts on ecology. With condition 6

- providing for skylark mitigation, condition 7 securing the proposed biodiversity enhancements and condition 8 providing for control over lighting of the development, in particular to safeguard foraging routes for bats.
337. Conditions 9 through to 13 inclusive are required to control construction activities in the interest of road safety, biodiversity and general amenity. Condition 9 has been amended to remove areas of duplication and a separate condition on HGV movements has not been included as this can be addressed under traffic management in condition 9. Condition 12 is required to ensure appropriate actions are undertaken in the event of contamination not previously identified being found and condition 13 is required to ensure adequate protection of the amenity of future residents if occupation of units occurs in advance of the completion of the development.
338. Conditions 14 is required to ensure a landscape and ecological management plan is provided to ensure a proper framework for the landscaping reserved matters is put in place and fully justified. While condition 15 is required to ensure the development is carried out in accordance with the submitted Arboricultural Assessment. Additional conditions on site levels, finished floor levels, hard landscaping, planting seeding etc are not necessary as these are properly matters to be considered in the context of the landscaping reserved matter.
339. Condition 16 is required to ensure the development is appropriately drained. A separate condition on a Sustainable Urban Drainage System (SUDS) components is not required as this would be part of the overall surface water drainage scheme and moreover there are specific SUDS requirements secured through the Unilateral Undertaking provisions, which would be duplication.
340. Conditions 17 and 18 relate to access and are part of the details for which permission is sought. The further details required are necessary in the interests of highway safety and to ensure proper accessibility to the site. Additional highways conditions, as suggested in the agreed list of conditions, related to discharge of surface water, details of estate roads, carriage way surfacing, parking, loading, refuse and electric charging points are all matters that are adequately addressed through reserved matters or are covered by other conditions.
341. Condition 19 is required to ensure the proposed upgrade to the nearby bus stops is secured. The information submitted demonstrates that the Council has previously secured funding for such improvements through the Community Infrastructure Levy and therefore it would be inappropriate to secure through the Unilateral Undertaking.
342. Conditions 20 and 21 are necessary to ensure appropriate infrastructure is secured for the new development in accordance with development plan policy and to meet objectives in the Framework.
343. Conditions 22 and 23 are necessary to ensure that buried archaeological remains are appropriately addressed and secured and there is no need for them to be amalgamated to meet the tests.
344. Finally, condition 24 secures details of a scheme for the diversion or undergrounding of existing over-head power lines. This is promoted by the developer as an improvement to the landscape and is required to ensure the benefits derived from the scheme in this regard would be secured.

Planning Obligation

345. A planning obligation in the form of a Unilateral Undertaking by the landowner to Babergh District Council and Suffolk County Council (Inquiry Document APP9) was submitted on the final sitting day of the Inquiry. It is dated 2nd July 2019 and signed by the Trustees of the Will of David Westropp Cutler deceased and is made pursuant to s106 of the Town and Country Planning Act, as amended (TCPA). The Deed is conditional on the grant of planning permission and the commencement of development, defined as any material operation (as defined in s56 of the TCPA) forming part of the development.
346. The Unilateral Undertaking secures a number of covenants through the schedules. Schedule 2 addresses the covenants to Babergh District Council and make provision for notification of the progress of development, the works to and transfer of open space, the submission, provision and management of a SUDS scheme and affordable housing. Schedule 3 contains the owner's covenants to Suffolk County Council including notification of the progress of development, a financial contribution for improvements to various footpaths, the provision and implementation of a Travel Plan, a financial contribution towards early years education and the potential for the transfer of land for the provision of an early years facility. Schedules 4, 5 and 6 set out provisions related to the specifics of matters related to the transfer of the open space, SUDS, early years land and a draft nomination agreement for the affordable housing.
347. Babergh District Council and Suffolk County Council have submitted statements of compliance with the Community Infrastructure Levy Regulations 2010 (CiL Regulations), setting out the policy justification for each of the obligations provided. In my judgement each of the obligations is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development proposed. I am therefore of the view that each obligation meets the requirements of CiL regulation 122 and the Framework paragraph 56.
348. Clauses in the Unilateral Undertaking regarding reference to the CiL regulations, including clauses at 3.2, may be out of date after the Regulations are amended. However, at the time of the drafting and the signing of the Undertaking and the Inquiry these are in accordance with the extant Regulations. Moreover, the amended Regulations remove any restrictions insofar as the pooling restrictions on contributions. I have not found any such impediments but, in any event, they would not longer be a bar to having regard to them if such had been contested.

Conclusions

349. Throughout my conclusions, numbers in [] are references to other paragraphs in my report. Those in () are to the parts of the documentary or oral evidence upon which my conclusion or inference is based.
350. The reason the Secretary of State recovered the appeal for his own determination is set out above. In short, this was related to the scale of the development and the objective to ensure an appropriate balance between housing demand and supply and high quality, sustainable, mixed, and inclusive communities. [1]

351. On the basis of the reason for recovery, the main issues I identified in advance of the Inquiry, and the evidence I heard at the Inquiry the main considerations in this appeal are [8]:

- the effect of the development on the landscape character and appearance of the area;
- the effect that the development would have on the significance of heritage assets;
- whether there is a locally identified need for housing in Long Melford and the surrounding area;
- whether proposals would be consistent with the Development Plan; and
- The effect of other considerations, including housing land supply, on the overall planning balance.

Landscape Character and appearance of the area

352. I have described the appeal site and surroundings above. This is generally agreed by the Appellant and the Council as is set out in the PSoCG. In general, SOSF did not have anything significantly different to say on this matter. [15-19]

353. The parties all identify that the site sits within National Character Area (NCA) 86 – South Suffolk and North Essex Clayland (details of which are set out in Appendix 4 to Ms Bolger’s evidence). In general this Area includes an open landscape of gentle clay ridges and valleys; an undulating plateau dissected by river valleys giving a topography of gentle slopes in the lower wider valleys; the agricultural landscape is predominantly arable with a wooded appearance; a dispersed settlement pattern; winding narrow and sometimes sunken lanes and a strong network of public rights of way. [84,]

354. Unsurprisingly given the extensive area of land covered by this landscape character area and general form of these characteristics many are evident in the site and surrounding area. The site is agricultural arable farmland, gently rising from Station Road towards the east and south east and forms the lower part of a valley side. There are sunken lanes to the north of the site and a wooded belt along the raised former railway embankment. There are public footpaths adjacent to the boundaries of the site to the east and north. [17-19, 84, 185, 195 272, 273 & 274]

355. The parties also agree that the site falls within the Rolling Estate Farmlands Character Type, towards the west, and the Ancient Rolling Farmlands Landscape Type (LT), towards the south and east, as defined in the Suffolk Landscape Character Assessment (provided at CD12.2). The key characteristics of the Rolling Estate Farmlands LT include gently sloping valley sides, an important foci for early settlement, plantations with some ancient woodlands and landscape parks. [85 & 86]

356. The greater part of the site is covered by the Ancient Rolling Farmlands LT the key characteristics of which include rolling arable landscape, dissected by river valleys, hedges, scattered and ancient woodland parcels, networks of winding lands and paths and dispersed settlement pattern villages often associated with village greens.[88]

357. There is a significant overlap and similarity in aspects of the Landscape Types and the LTs are not contained within rigid boundaries. There is therefore not a clear segregation on the ground and aspects of both LTs are visible on the site and immediate surroundings.[85]
358. The 'Joint Babergh and Mid Suffolk District Council Landscape Guidance' was published in 2015 (CD 12.3) to improve the quality of development coming forward in the countryside. It is advised that this study should be read in conjunction with the Suffolk Landscape Character Assessment. The Landscape Character Types cover the same geographical areas in both documents. [89]
359. The parties also draw attention to the Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk, March 2018 (CD13.4) and the Historic Landscape Character Assessment, 2008 to provide further information on establishing the historic characteristics of the surrounding area.
360. The appeal site is within the SV PA which is covered by the DVSV MP (CD12.1). It is a composite plan that includes reference to the management of an AONB, which is a statutory requirement. However, it goes beyond the extent of the AONB. The Planning Practice Guidance (PPG) advises that local planning authorities should have regard to management plans for AONBs and it was submitted that this advice was as applicable to this whole plan including the SV PA. However, there is a specific and legal identification of Areas of Outstanding Natural Beauty and the same degree of protection cannot be conferred on land not within them because of association. [99, 100, 101, 102, 188-193]
361. Whilst I accept that the management plan insofar as the Stour Valley may be a material consideration to which I give some weight that cannot be to the same degree or extent as it would be to an AONB. I recognise that other Inspectors have given weight (Appeal references APP/Z1510/W/17/3173352 – Steeple Bumpstead and APP/Z1510/W/18/3207509 – Bures Hamlet) to it along with the fact the land is in the SV PA in considering the value of land within the area. The approach I have adopted does not conflict with that approach. The inclusion of the SV PA within the DVSV does not confer AONB status on the land and the views of other Inspectors were case and site specific. The degree of weight attached is dependent on the facts of the cases and matters addressed in those decisions included site specific issues. [99, 100, 101, 102, 188-193]
362. Turning then to the landscape effects, it is the extent of harm that is at issue rather than whether harm arises. The parties ascribe different levels of harm and effect due in the main to weighting and judgement [105-107, 185, 187, 269, 278]
363. Much of the difference between the parties relates to a number of discrete conclusions; firstly, the value ascribed to the site, with the Council and rule 6 parties case based on a conclusion that the site is a valued landscape whereas the Appellant contends it is not; secondly, and linked to the value judgement, the contribution the location of the site in the Stour Valley Project Area should influence that judgement; and thirdly, the contribution or importance of the railway embankment as a defining feature in the landscape to act as an appropriate feature to contain and demark the settlement edge. [75, 77-81, 187-195, 273, 274]

364. All parties have undertaken an assessment of the value or contribution the site makes to the value of the landscape with reference to Box 5.1 of the Guidelines for Landscape and Visual Impact Assessment, edition 3 - GLVIA3. In my view the site is an arable agricultural field on the lower part of a rising valley side that is relatively contained by topography and tree belts along Water Lane and the former railway embankment. This results in the site being a relatively contained landscape element. The site is reasonable quality farmland typical of an agricultural field and area and is of moderate quality in terms of landscape and scenic value. The site does not contain particular features that are rare or representative. There are sunken lanes and tree belts adjacent, but these would not be lost as a result of the development. The site is not identified within any conservation designation. [77-81, 197, 271-274]
365. Whilst it is contended, by the Rule 6 party, that the site contributes to the significance of surrounding heritage assets this is not a point I agree with for the reasons set out below. There are public rights of way adjacent and within the site boundary and there is therefore some recreational benefit derived which I would ascribe as medium given the limited nature and connectivity around the site. The site is otherwise private land and is not used for significant recreational activity. The site, although part of the setting of Long Melford, is not particularly tranquil or wild given its proximity to the settlement and road network. Whilst it is suggested by Ms Bolger there are associations with landscape artists in respect of the wider landscape, no evidence is provided to provide a link with the site or its immediate surroundings. The site is not subject to any landscape designation in a development plan or any statutory protection. Overall, I would conclude that whilst it is evidently an area much appreciated by local residents there is nothing that would elevate it to the status of a valued landscape in the terms of paragraph 170a of the Framework. [77-81, 197, 271-274]
366. The site is located within the Stour Valley Project Area. There is a Management Plan which addresses the Area of Outstanding Natural Beauty of the Dedham Vale and the wider Stour Valley Project Area. The document makes a comprehensive assessment and identification of the key characteristics of the AONB. However, insofar as the wider area outside the AONB is concerned, the analysis is less analytical. It is noted that much of the wider area shares similar characteristics, particularly closest to the AONB. But not all the project area shares the same qualities. The project area covers a geographical extent of some 302 sq km with the AONB making up only a 90 sq km. The assessment of value of the AONB cannot be taken to be an assessment for the whole area as there must be differences in quality and value otherwise it would all be designated AONB. [99-102, 188-193]
367. There are proposals to extend the AONB but again this is in areas closest to the AONB boundary and not in the vicinity of the appeal site. Whilst I accept that some weight can be ascribed to the document in planning decisions to build a picture of the value of the landscape it is not by itself a decisive factor. Previous appeal decisions have made reference to the Management Plan and had regard to it. However, read properly these are in the context of site-specific matters and in the context of an overall conclusion. On the basis of the evidence before me I have had regard to the site's inclusion in the Project Area but given this limited weight of itself due to the lack of direct evidence to link the qualities of the site and its immediate surroundings to the key characteristics in the plan. [99-102, 188-193]

368. BDC and SOSF have placed significant reliance on the disused railway embankment as a substantial and important landscape feature in defining the settlement extent at this location. It is identified by those opposing the scheme as an important landscape feature that delineates and demarks the edge of the settlement and that to breach it would significantly undermine its function and potentially open the door to further development beyond the feature. [4, 193, 274, 275]
369. The raised embankment, which has now become a wooded walk and nature reserve, does contain development on the east side of Station Road. However, there is further development to the south a short distance beyond and there is only a narrow gap in the built frontage at this point. There is development on the opposite side of Station Road for the whole of this length. The closing of the street frontage is not of itself an issue in terms of the character or appearance of the area. A point re-enforced by the fact that in the published draft Neighbourhood Plan an allocation is identified which infills the gap on the Station Road Frontage, although not to the depth of development proposed in the appeal scheme. At the point of publication of that plan therefore the Neighbourhood Development Plan did not see the closing of the frontage as a critical concern to be resisted. [107, 194, 195, 274, 275]
370. At the Inquiry it was put in oral evidence by SOSF that the Neighbourhood Plan team were reviewing the document and that it would be proposed to delete this allocation however that has not been published, there has been no consultation on it and it has not been tested. Furthermore, in SOSF's evidence it sought to identify and categorise gateways into the village. Three such categories were identified; these being an initial an intermediate and an Historic gateway. From the south the initial gateway was identified as south of Nethergate Brewery; the intermediate gateway was identified around the maltings providing the first sense of arrival. The appeal site and the embankment are on the village side of these gateways. It is only the historic gateway, which is identified around Chapel Green, that the site sits outside. SOSF states from this gateway that there is an appreciation of the historic buildings and following which views of the historic core are revealed. The proposed development would not remove or physically encroach on the embankment. Its function as a nature reserve and public walkway would not be altered. [107, 194, 195, 274 & 275]
371. On this basis I conclude that the feature could be retained as an important natural asset, as a green corridor providing recreational landscape and visual benefits and that these would not be lost as a result of the proposed development. Its function to assist in defining the historic core of the village would remain and the gateway analysis would remain a valid interpretation and understanding of the approach to the village.
372. The proposed development would result in an existing agricultural field(s) being changed to a housing estate. There would therefore be change which would be adverse to the appeal site. The site however is contained by topography, by the former railway embankment, by wooded lanes to the north and by development fronting Station Road. It would be influenced by existing development on the west side of Station Road and by development further to the south on the east side of Station Road and would not appear as an isolated intrusion on the Station Road frontage. The overall effect on the landscape would

- be moderate adverse but would be mitigated by planting and landscaping as it matures. [105, 108, 151, 194, 19 & 198]
373. The proposed development would have some depth and would rise up the lower slopes of the valley side on which it would sit. It would rise to approximately 45m. This however would not significantly affect the overall impact and the rough guide is sufficient to enable a rational assessment of the effect. The development would be seen against the rising land behind and would not, except for the closest views within the site or standing directly in front of the site on Station Road, break the skyline. There would be limited views of the development from the valley floor given intervening development and the limited intermediate views would not be significantly affected. [83, 86, 87, 108, 272, 274 & 275]
374. Longer views from Windmill Hill, The Church of The Holy Trinity and the Green, around Liston and the other view points on my site visit demonstrated that the site is seen in glimpsed views against the backdrop of the rising topography and within wooded areas. The site does not hold a particularly prominent position and much of the effect would therefore be substantially mitigated by the landscape proposals for the development once matured. On this basis the development could be undertaken in a manner that would be consistent with the advice and guidelines in the Babergh and Mid Suffolk Councils joint guidelines for development and The Heritage and Settlement Sensitivity Assessment for Babergh and Mid Suffolk (HSSA). In particular, by avoiding ridge tops and upper valley slopes and prominent locations, by its integration through landscape proposals and their screening, filtering and softening effect, and by not breaking sky lines. This could be done without materially interfering with key views identified in the HSSA. [2, 94, 108, 109, 194-196, 276 & 277]
375. The urban form of the village as a long linear composition dictated by the topography would not be substantially altered. In effect, the village would still retain a linear form with a short extension. The development would rise up the valley side more than the development to the south and this would be visible but there would still be fields visible beyond and above and the landscape context of development set within a rural hinterland contained by topography and running primarily along the alignment of north south along Station Road would be retained. The historic core would be detached by the former embankment which would protect its integrity.
376. The views of the site enjoyed by users of the surrounding footpaths, including the former railway embankment, would be glimpsed views through existing vegetation. Presently these views are across open fields which would be altered to a housing development with open fields beyond. The effect would be adverse. But reduced by the screening from existing vegetation. There would be limited views from the sunken lanes given the changes in land levels and from the footpaths to the north views would be limited given the existing wooded areas. [107-109, 187, 194, 195, 274, 275 & 276]
377. I conclude that there would be a harmful visual effect through the loss of the agricultural fields but that this would be limited to the immediate surroundings and have a limited effect on the wider area which would reduce over time as planting matures.

378. Overall in terms of the effect on the landscape character and appearance of the area I conclude that the effect would be moderate and adverse reducing to minor adverse as planting and landscaping matured.

Heritage Assets

379. The effect of the proposals on heritage assets did not form a reason for refusal and the Council do not object to the scheme on the grounds of its effect on the significance of any designated, or indeed non designated heritage assets. SOSF have raised concerns in respect of the potential effect on a number of heritage assets [110, 111, 112, 279, 280]

380. The heritage assets that are potentially affected are: The church of the Holy Trinity; Trinity Hospital; Rodbridge House and Barns; The Roman Villa NE of Rodbridge House; Melford Hall Park and Garden; Kentwell Hall Park and Garden; The Long Melford Conservation Area; and the dismantled railway line. None of the assets are suggested to be directly physically affected by the proposed development rather it is the effect resultant from development in the setting of the assets that is suggested. Given the locations and relationships this is how I have considered the effect on heritage assets. I will deal with each of these in turn below. [114, 120, 122, 126, 130, 131, 133, 137, 282, 283, 284, 285]

The Church of the Holy Trinity

381. The Holy Trinity Church is without doubt an impressive building. The church was constructed in the mid to late 15th century with the Lady Chapel (at the eastern end) added in 1496, and the west tower constructed between 1898-1903. It is described as a fine example of late perpendicular architecture, indicative of the area's wool wealth in the Long Melford Conservation Area Appraisal. The Building is Grade I listed, a designated heritage asset of the highest significance. [114]

382. It derives much of its significance from its architectural quality, scale, location and presence providing evidential illustrative and aesthetic value. It forms a local landmark and can be seen from significant distances in the surrounding area however visibility is not the test of the contribution to significance albeit it may influence that. These values are best appreciated in reasonably close proximity to the church, the adjacent graveyard, the Green and the more immediate surrounding area. [114, 116, 282, 283]

383. Views out from the church provide for no significant views of the appeal site, although I was taken up the tower and the site was distinguishable from the top of the tower which afforded a 360 panoramic view of a wide and significant area. It is evident that the appeal site is not within a designed or key view out from the church and views southward at ground level are restricted by the proximity of the Trinity Hospital. Views towards the Church from the site are available. Mostly from the higher ground at the south east and from Mill Lane across the site. However again it is evident these are not designed views but are as a consequence of the prominence and scale of the building. [114, 115, 282, 283]

384. It was suggested this was a purposeful aspect to show the power of the church. However Historic England's The Setting of Heritage Assets advises that being tall, structures towers and spires are often widely visible across land but, where development does not impact on the significance of heritage assets visible in a wider setting or where not allowing significance to be appreciated, they are

unlikely to be affected by small scale development, unless that development competes with them. Given the degree of separation, the likely limited height of housing on a site set within a landscape which would not be competing with the height or prominence of the church, I do not take the mere inter-visibility as having an effect on the significance of the Holy Trinity Church. Even if I accept that it is within the setting the proposal would not affect the contribution that its setting makes to the significance of the Church. It would still be a church within a wider landscape which included a village in the intervening space and this development would be a continuation of the urban form of that village. [114, 116 282, 283, 286]

Trinity Hospital

385. Trinity Hospital is also a Grade I listed building again of the highest significance. It was originally constructed in 1573 as alms houses. The hospital was constructed with an outer walled garden and major renovations were undertaken in 1847, with further modern renovations completed in 1964 with the south and east faces of the garden wall rebuilt in 1981. [120, 282]
386. The hospital sits within an associated Grade II Registered Park and Garden which is bounded to the north by the church yard of the Holy Trinity Church, the village green to the east and south and residential development on Church Walk to the west. [120, 282, 286]
387. Its significance is principally derived from its architectural quality and historic fabric providing evidential value and illustrative value derived from it being an example of a hospital built for the poor. The more immediate setting of the park and garden contributes to this significance utilised for growing food used to help the poor of Long Melford. [120]
388. Views towards the site from within the Hospital and walled garden are limited and from just outside and adjacent the Green there are limited filtered views of the site comprising a small and not material part of the panoramic views towards the south. [120]
389. From the site the hospital is visible from higher parts of the site along with the church but these do not contribute to an understanding of the significance of the Hospital. Whilst some views may be obscured from within the site due to the built form of houses this would be limited in effect and other views could be created when considering landscaping and layout. [120, 121, 283 & 286]
390. Overall there would be no effect on the setting such that contributes to the understanding of the significance of the hospital.

Rodbridge House and barns

391. There is a collection of buildings which are designated heritage assets at Rodbridge House. Rodbridge House is a Grade II listed building built in the 17th or 18th century which derives its significance from the evidential value of its historic fabric and illustrative value as an example of building from around the 17th century. There are two barns - one late 17th to early 18th century having a timber frame and weatherboarding with the second an early 19th century barn constructed of red brick. They derive their significance from the evidential value of the historic fabric and illustrative value as examples of barns which have retained a good amount of their original fabric. [122]

392. The development would not have a direct effect and would not impose on Rodbridge House. There is a potential effect on the inter-visibility between Rodbridge House and the Holy Trinity Church through buffer planting to the south of the proposed site obscuring views of the Church impacting on the ability of the Church to be appreciated from this location. However, this would not affect the significance of Rodbridge House or barns and landscaping is a reserved matter. There is no associative link between the site and the lands associated with Rodbridge farm and any views to the site from the house would be limited and filtered. There would remain agricultural land in the vicinity of the house. [122, 123, 283]
393. The proposed development would not result in harm to the understanding of the significance of Rodbridge House and barns.

The Roman Villa NE of Rodbridge House

394. The Roman Villa NE of Rodbridge House is a scheduled Monument and therefore of the highest significance. The Villa was identified by aerial photograph which identified a square courtyard and associated smaller building in a crop mark. There are no above ground remains or earth works for an observer to understand. This is one of two Roman Villas located at Long Melford The Roman Settlement of long Melford is some 300m north-west of the Scheduled Monument. [126]
395. There will be no direct effect on the integrity of the scheduled monument itself. There is no documentary or conclusive evidence as to the nature of any relationship between the scheduled monument and the Roman Town. There would have been limited visibility between the two given surrounding topography and the route of the Roman Road south of the settlement is unknown. Excavations and trial trenches undertaken in evaluating the appeal site have not identified any contemporaneous finds including ditches and there has been no evidence to suggest a functional relationship with the site. There is no evidence to suggest that an understanding of the relationship between the two would be compromised by the development of the site. [126, 127, 128, 283]
396. The development would result in development some distance from the scheduled monument of because of the sloping ground and intervening landscaping there would be very limited visibility of it from within the monument area. There is no associative link to the appeal site and any built development would also be seen in the context of other modern built development. [126, 127, 128, 283]
397. There would be no harm to the significance of the scheduled monument.

Melford Hall Park and Garden & Kentwell Hall Park and Garden

398. Melford Hall Park and Gardens include a Grade II* listed registered park and garden and the Grade I listed Hall together with other Grade II* listed buildings. Kentwell Hall is Grade I listed building and there is also a Grade II* and Grade II listed building within the park; the Park is registered as Grade II*. [130, 131]
399. No evidence was presented to the Inquiry which disagreed with the Appellant's witness's evidence or sought to challenge the evidence that the appeal site does not contribute to the significance of these assets as part of their setting and

therefore that the appeal scheme would have any effect on these assets. [132]
This is my own conclusion.

The Long Melford Conservation Area

400. The conservation area is designated for the special interest of its character and appearance. The Appellant considers it is the buildings and spaces within it which overwhelmingly provide its significance. Ms Finch highlights the Green, Grade I Melford Hall, Holy Trinity Church and the Trinity Hospital as a major part of the overall value and legibility and grandeur of this part of the village and that the Church and Hospital form a key aspect of the Conservation Area and the effects on these buildings needs to form part of that assessment. However, these are only part, albeit an important part, of the conservation area. The conservation area contains two registered parks and gardens, 188 listed buildings and 2 scheduled monuments. The significance is than a product of those assets at its northern end but also includes the street pattern and form of village into and including its historic core. [133]
401. The former railway embankment, vegetation and later parts of the village shield much of the lower site from the core of the conservation area and indeed from the northern section. However, part of the development would be visible in a section of the distant views from the north of the Conservation Area around the Green but this view does not take account of any mitigating landscaping. The proposed development would affect a small section of the whole view obtained from this location and when trees matured the development would appear integrated within the wooded landscape and would only be visible in filtered and limited views. That impact would not affect the appearance of the conservation area nor the character of its surroundings as the site would be viewed beyond the conservation area at the far end of the village and not in the immediate vicinity of the Conservation Area. Given the wider context and considering its setting the proposed development would have no impact on the appreciation of those matters. From within much of the conservation area the development would not be visible at all. [134, 135, 282, 286]
402. Overall, I am satisfied that the proposed development would not harm the setting of the conservation area which would therefore be preserved.

The Dismantled Railway Line

403. The dismantled railway line is not a designated heritage asset but as a historic feature could be viewed as a non-designated heritage asset. It was accepted by the Appellant that given its close proximity the proposal would be within the setting of the feature. However, the contribution the setting makes to the asset would be more related to the towns, villages and industrial areas that it connects rather than the countryside it passes through. Also rail infrastructure like stations etc may contribute to that significance. In this regard the site itself makes little or no contribution to the understanding of the feature as a heritage asset. Furthermore, given that it is undesignated its level of significance is of the lowest level and what the significance is relates to its physical form giving some evidential historic, communal and illustrative value which would not be affected by the development of a parcel of land adjacent to it. It may be important in the historical development of the village, but the feature would remain and would still provide those elements of value which would not be diluted by the development of the adjoining field. [137-140, 285]

Conclusions on heritage issues

404. On the basis of the conclusions drawn above on each of the individual heritage assets that have been drawn to my attention I conclude that the proposed development would not result in harm to the setting of any of the heritage assets. There was no direct physical harm contended in respect of the assets and therefore the proposed development would not harm any heritage asset and would not therefore conflict with the development plan in this regard, including CS15, nor government guidance in the Framework.

Local Housing Need

405. There is a policy requirement in the Core Strategy through policies CS2 and CS11 to identify a local housing need and exceptional circumstances for development in the countryside, outside of towns/urban areas, core and hinterland villages and to satisfy the Council in relation to locally identified need-housing and employment and specific local needs such as affordable housing.[57, 199, 200, 257]

406. The correct interpretation of these requirements was considered in the case of R (East Bergholt Parish Council) v Babergh DC & Aggett [2016] EWHC 3400 (Admin). This case is referenced by the main parties who accept the interpretation. In this case the High Court determined that the reference to local need in these policies in the context of Core Villages was the "housing need in the village and its cluster, and perhaps in areas immediately adjoining it". [59, 257]

407. The Appellant failed to submit such an assessment with the application and there was no such assessment in the form set out in the supplementary planning document Rural Development and Core Strategy Policy CS11 which provides guidance on the matter.[202]

408. Policy CS11 requires the identification of a local housing need to the satisfaction of the Local Planning authority (or other decision maker) alluding to the potential for decisions to be taken at appeal. The fact there was no such assessment at the time of the application is now not the point at issue and does not remove the substantive issue for the necessity for the decision taker to consider the matter. [58]

409. The advice in the Rural Development Supplementary Planning Document provides advice at paragraph 14 that 'developers should therefore set out how the proposal meets these locally identified needs. This should include an analysis of the number and type of dwellings in the village and the identification of gaps in provision'. It goes on 'proposals should therefore be accompanied by a statement that analyses local housing employment and affordable community needs of the village and how they have been taken into account in the proposal'. The advice is limited and what it does not do explicitly is provide a template, framework or an identification of how that analysis should be undertaken except in the broadest terms. [58, 199, 200, 206, 208, 257]

410. The matters before this appeal relate to housing need. The Appellant has sought to engage with the interpretation of local housing need and produced an assessment of supply and need within the whole functional cluster associated with Long Melford and a part of the functional cluster, limited to those parishes wholly within the functional cluster. In that regard they have sought to identify

- figures that have a relationship with the Core village, its cluster and perhaps areas immediately adjoining as suggested in the Bergholt judgement. [59, 60]
411. The appellant has produced a variety of figures for the whole and part of the Long Melton Functional Cluster in various scenarios, even taking account of the Councils lower affordability ratio and lower dwellings per annum produced by the Council's lower figure using their calculation of the standard method, these fall within a broad range of 167 dwellings, or 13 per annum, to 2031 (leaving no residual need) to a high of 865 dwellings, or 48 per annum, to 2036 (leaving a residual need of 432). [66, 67, 204, 206, 259]
412. The Council provided additional evidence on small sites that added to the supply side of matters and result in a supply figure of some 208 dwellings for the period 2018-2023 for the part Long Melford Functional Cluster of the Appellants and 433 for the whole of the Long Melford Functional Cluster. These were accepted by all parties. [64, 203, 265]
413. Whilst the upper figures of the Appellant at the longer time frame are more likely to have greater potential to have a higher degree of error in their figures overall the assessment demonstrates that at the lower end, in the part functional cluster, there would be no residual need allowing for supply on the basis of scenario A but that there would, over this period, be a residual need of some 111 units to 2031 and 212 units to 2036. Discounting the upper longer range figure there is an unmet need in this scenario. In scenario B there would be a residual need of 83 dwellings to 2031 in the part and of 257 in the whole to 2031. Similarly, on the top down approach there would be a residual need across all timescales and in each scenario. [67, 204, 206, 265]
414. There are matters related to the over inflation of the need through points such as the potential for that need to be addressed by development in adjacent Core Villages with overlapping functional clusters and wider areas. There is also the potential for the inclusion of past under delivery being inappropriately included. However, whilst these may introduce a degree of uncertainty, the appellant has sought to engage with the wider definition of the geographic area and in that regard its evidence is more robust. [58-70, 199-209, 257-268]
415. Criticisms that the appellants approach disregards the spatial strategy of the development plan or the emerging development plan are not well founded as the need is the need and should be identified outside a proposed strategy and used to inform that strategy. [69, 206, 264]
416. The SOSF estimates on the other hand, to which the Council are in general agreement (or so close to as to not make a material difference) appear to have the potential to underestimate the need. Converting the annualised figure to the same time horizons as adopted by the Appellant related to the Core Strategy (to 2031, 13 years) or the Neighbourhood Plan (2036, 18 years) the figure identified by SOSF, 18 dwellings per year, would give a range of 78 to 2031 to 324 to 2036. [69, 203, 206, 207, 268]
417. SOSF adopt an approach of need through adopting a proportionate approach of that derived from the share for Core Villages from the overall district requirement and the share for Long Melford within the Core Villages total. This does not engage with the need being related to the village its cluster and perhaps in areas immediately adjoining it. The Council adopt much of the evidence from the draft

Neighbourhood Plan including its apportionment methodology to apply against the current Local Housing need for the district as identified by the Appellant. In effect BDC and SOSF rely on each other to justify their respective positions and assert this is supportive evidence albeit that this is not independently verified. The Neighbourhood Plan has not been tested through examination, this includes its evidence base, I do not therefore agree with the Council that it can be given significant weight whilst giving the Plan only limited weight. The Council's approach recognises that it does not deal with need other than in relation to the Core Village. [58-70, 199-209, 268]

418. The SOSF figures assessed against the agreed supply figure would suggest that there is no residual need across the periods.
419. Whilst there are criticism that can be levelled against each of the methodologies proposed in my view the approach adopted by the Appellant has a more robust assessment of the potential need across the Core Village and functional cluster and adjoining area. It seeks to qualify the locations and break down the areas in a more rational approach rather than the crude apportionment adopted by the SOSF and Council. [69, 207, 260-263]
420. In this regard I am satisfied there is a demonstrable local housing need that has been identified.
421. The local housing need to include affordable housing is also of specific interest in the policy. There is evidence to demonstrate that there are people on the housing register in housing need, at the close of the Inquiry it was agreed this was in the region of 53 at present. The SOSF contend that this can be met by from recently built or permitted schemes. However, the Neighbourhood Plan includes provision for a site for 100% affordable housing suggesting that there must be a demonstrable need in that context. I have already indicated the Neighbourhood Plan and therefore its evidence base has not yet been the subject of testing and is therefore not an accepted robust evidence base upon which to rely, however it still points to concern in the locality of some existing need. The Council also contend that the names on the register are only an indication of need at the moment and the need fluctuates from time to time. Indeed so, but it may then go up as well as down. It is what we have at present and is an indicator that demonstrates there is some local need/demand for affordable housing. [70, 210, 211, 212 ,293]
422. The proposed scheme secures affordable housing with the mix and dwelling type to be secured. The reserved matters application and conditions can ensure that dwelling mix and size is also considered further at the reserved matters stage. The provision of 35% affordable units would equate to some 53 units which would meet the need presently on the register in the local area, albeit some may be accounted for through permitted schemes, as well as contributing towards a wider district need. [70, 71, 211, 294]
423. On this matter I am satisfied that the Appellant has demonstrated that there is a local housing need including affordable housing and the proposal therefore meets policy CS2 and CS11 in this regard.

Other Matters

424. There are a number of other matters which potentially have a bearing on the decision making process and matters to be considered. I will deal firstly with

housing land supply as this will set a general context and the appropriate test to apply in the planning balance before considering Highway safety and the benefits of the scheme.

Housing Land Supply

425. The parties accept that the Council cannot identify a 5 year supply of housing land as required by the Framework. This is confirmed in the Planning Statement of Common Ground and is not contested by SOSF. The Council identify a 4.86 years supply and the Appellant a 4.11 year supply. The difference being 0.75 year. The difference arises from different conclusions in respect of the requirement and supply sides. [39, 42, 218]
426. In terms of supply the Council and Appellant both agree that as the plan is more than five years old the standard method is the appropriate way to calculate the requirement. The differences arise with regard to the appropriate ten-year period to use to calculate the average annual household growth, the affordability ratio, and the average annual housing requirement. [44, 219]
427. The interpretation of which figures to use derives from the words in the Planning Practice Guidance (PPG) and the relationship with the base date year to ensure consistency of assessment periods against the supply. The PPG advises the use of the current year from which to calculate the ten-year period. The Council contend that on a plain reading the current year is 2019 and that that should be the starting point. The Appellant suggests there should be consistency with the base date year for the supply and therefore 2018 should be used. [45, 46, 219, 220]
428. The position has been considered at a recent appeal APP/P0119/W/17/3189592 with the Inspector concluding that the use of the current year in which the decision was made was technically correct to ensure consistency with the base date for the supply side. I have some sympathy with that position but it is not what the PPG guidance says and should the Government have wished the year to relate to the base date of the year assessed it would have said so. The advice appears quite unequivocal. The nature of the ten year period is also over a different period than the 5 year period being assessed. On this basis I follow the advice in the PPG and use the current year. In any case the difference this produces is 293.2 for the Council and 298 for the Appellant and is not substantial. [45, 46, 218-221]
429. In the context of the affordability ratio similarly the advice is to use the most recent affordability ratios which at present are those published in 2018 and are those adopted by the Council. The Appellant suggests that if this is interpreted with reference to the base date for the five year calculation the latest published at that point were those from 2016. [48, 223-226]
430. The advice should be taken to mean what it says and so the latest ratios are those most recently published being from 2018. I have therefore applied the adjustment factor on that basis. [48, 223-226]
431. The final matter in dispute relates to the average annual housing requirement used to calculate the cap. The Council have adopted an annual average across the whole plan period whereas the Appellant has averaged the increased stepped requirement in the CS. The guidance does not directly engage with this scenario. However the guidance does seek the use of the cap to limit the increase that a

local planning authority has to deal with. In this regard the Council, according to the policy in the latest development plan, is applying the higher stepped requirement. This is necessary to account for the lower figure earlier in the plan period to ensure that the annual average in the plan is met. If the annual average is used not accounting for the stepped higher requirement this would underestimate the requirement for the remainder of the plan period. In this regard I prefer the Appellant's approach in this respect and consider that the cap should be derived from the higher figure of 325, which results in a cap of 455. [49, 227-234]

432. Taking these matters together, and using the variables that most closely accord with the PPG advice there would be an annual average household growth of 293.2 and the uncapped annual standard method figure would be 429 applying the adjustment factor using the 2018 affordability ratio. The cap at 455 would be greater than the uncapped figure so I have used 429 as the figure for local housing need. This produces a five-year requirement with 5% buffer of 2,253.
433. Even if I were to accept all of the Council's supply position this would reduce the five year supply to in the region of 4.73. This is not a precise science and there is little value in producing an exact figure. What I am confident of is that the Council cannot demonstrate a 5 year supply and that the shortfall would, at best, be 4.73. Even if all of the Appellant's assumptions were accepted the supply would reduce to in the region of 4.24 years. Therefore whilst any shortfall is significant it is not indicative of a very low and limited supply of housing sites.

Highway Safety

434. The Appellant has provided undisputed evidence to demonstrate that the development would not result in a material impact on highway safety. Whilst there were concerns raised in the original responses on the application from objectors there has been no substantive evidence before the Inquiry to demonstrate a harmful effect. [142-144, 310, 329]
435. I have therefore no evidence before me to demonstrate that there would be harm to the highway network and this is a neutral factor in the overall planning balance.

Skylarks

436. The proposal will have an effect on skylark plots, there would therefore be some limited acknowledged harm in this regard. However, A scheme of mitigation has been agreed and is to be secured by condition and this therefore becomes a neutral factor in the overall balance. [39, 151, 336]

Benefits

437. The benefits of the scheme are as identified above in the summary of the Appellant's case. Whilst there were concerns regarding the weighting to be applied to the benefits there were not substantive issues raised with regard to their identification. [152-164, 246-251, 292-297]
438. In respect of the provision of general housing and given the Government's stated aim to significantly boost the supply of homes I consider this to be a significant benefit of the scheme. Similarly, given the need for affordable housing I would ascribe the provision of affordable homes, secured through the planning

obligation as a significant benefit. The Council and SOSF suggest that the benefit derived from additional housing may not be as significant as suggested by the Appellant for various reasons including the time taken to deliver the housing that it would be better directed towards more sustainable locations or to locations with greater need, or that there is not the claimed benefit in addressing a suggested disparity in the age profile of Long Melford. However, the Appellant has proposed a condition which reduces the time for implementation and as a land promoter it will be in the Appellants interest to move the site on quickly. The Council has not identified locations that would be more sustainable and I have concluded that there is a local need. For these reasons I give these benefits significant weight. [153, 154, 155, 247, 248, 249, 293, 294, 295]

439. There is agreed common ground that the scheme would bring biodiversity gains and this was not robustly challenged. However, the gains are of only moderate weight. [39, 158, 251]
440. The scheme would result in a new footway connection and improvements to bus stops. These are primarily secured to address the impact of the development but there would be some residual benefit for existing residents. In view of this I would give these benefits only limited weight. [159, 160]
441. The scheme reserves land for a new early years facility. It was suggested by SOSF that there were discussion on going with the County Council that suggested the facility may be provided at the local primary school. However, from the information before the Inquiry it appears that Suffolk County Council have secured planning contributions for such a facility but have not been able to find a site. In this context this is a significant benefit of the scheme that could result in a needed community facility. [161, 250, 297]
442. The scheme makes provision of a public open space a children's play area and upgrades for the public rights of way. These have primarily been justified on the needs of the development and its impacts. There is however undoubtedly the potential for this to benefit the local community and therefore I ascribe these benefits moderate weight. [162, 251]
443. There would be economic benefits associated with the construction and future occupation of the development and given the scale of the development these would not be minor benefits. Both the Council and SOSF sought to reduce the weight attributable to these benefits due to displacement or because they were not necessary or that they were to be expected for a development of this size and no more. Concerns were expressed that much of the economic benefits claimed were exaggerated. The identification and calculation of such benefits is not an exact science but with the construction and potential additional population there would be undoubted increased economic activity. This would be of benefit to the immediate Long Melford Village and to Babergh district and may indeed spread wider. The benefits cannot be ignored or completely discounted and given the scale of the development I still afford them significant weight. [163, 164, 251, 297]

Development Plan

444. Policies CS1, 2, 3, 11 and 15 are the policies most important for determining this appeal. [21] In this section I set out my findings in relation to those policies

- and comment on the weight that, in my view, should be given to any conflict with them.
445. CS1 relates to the presumption in favour of sustainable development and although based and formulated in respect of the 2012 Framework is not in general terms significantly inconsistent with the presumption in the latest Framework. However, there are matters, in particular related to the approach to the balance included at paragraph 11 of the Framework, commonly referred to as the tilted balance, which are important in the context of this appeal and therefore it is the approach set out in the latest iteration of the Framework that should be adopted. [22, 163]
446. Policy CS2 sets out a settlement hierarchy and settlement pattern strategy. While CS11 sets out the strategy for development for Core Villages and Hinterland Villages amongst other matters. The Bergholt case, cited above, construes the relationship between these policies such that development can take place outside built up area boundaries in the 2006 Local Plan if they fulfil the requirements of CS11 and if the Local Planning Authority are satisfied that the circumstances are exceptional and subject to a proven identifiable need. I have concluded above that there is a justifiable local need that has been demonstrated. [23, 24, 412]
447. The Council or SOSF have not sought to argue that there is a sequentially preferable site that issues arise in terms of locational context, community needs or cumulative impacts. The Appellant has questioned the use of the Built Up Area Boundaries from the 2006 Local Plan as the policy reference there has not been saved. In this regard the Core Strategy suggests that these boundaries are a starting point and the Council accept that this introduces greater flexibility in its interpretation for the boundaries. On this basis I conclude that in terms of the broad overall strategy the development would be in accordance with the settlement hierarchy and settlement pattern for Core Villages contained in Policy CS2. There is some minor harm in the context of landscape which would be a conflict with criteria i) of policy CS11. There is no specific exceptional circumstances case made out for development in the countryside and in this regard there would be conflict with this development management test in the policy. [378, 412]
448. The exceptional circumstances test is not consistent with the Framework which requires no such test therefore CS2 is inconsistency with the Framework in this regard and the conflict on this ground reduces the weight I give to that conflict. In terms of CS11 there is landscape and visual harm which results in conflict with this development plan policy, which is generally consistent with the Framework's aim to recognise the intrinsic character and beauty of the Countryside. [23, 378, 412]
449. Policy CS3 sets out the Strategy for growth including the number and distribution of houses, identifying the requirement for 5,975 new dwellings between 2011 and 2031 with some 1,050 to be provided in Core and hinterland villages. It is therefore inextricably linked to policies CS2 and CS11. This policy is not referenced in the reasons for refusal and the Council do not argue that there is conflict with this policy. Furthermore, as the CS is more than 5 years old the Framework therefore requires the use of the standard method so that the policy relies on an out of date housing requirement. In these circumstances the

policy is out of date and would only be afforded limited weight in any case. [24, 168, 228]

450. In the context of this appeal the important parts of the Policy CS15 are criteria i) and ii) as many of the issues of detail can subsequently be addressed through the consideration of reserved matters or conditions should permission be granted. In this regard I have concluded that there would be harm to the landscape and character of the area, albeit minor. The proposal would therefore not respect the landscape or make a positive contribution to the local character in the context of the policy. The policy is reasonably consistent with the aims and aspirations of the Framework and the weight given to the policy conflict should not be reduced. [378]

Planning Balance

451. The appeal proposal would conflict with policies in the development plan. The appeal site is a greenfield site in the countryside beyond the settlement boundary and there would be harm to the landscape and visual harm, albeit limited. It has been identified that there would be some limited harm resultant from the loss of skylark plots, albeit this would be mitigated by the provision of new plots nearby secured by condition. On this basis I therefore conclude that the proposal would conflict with parts of policy CS2, CS11 and CS15, given the nature of these it would therefore conflict with the development plan as a whole. [445, 446, 447, 449]

452. I have concluded that the Council cannot demonstrate a five year supply of housing land and that the current level of supply is most likely around 4.73 years. I have also concluded that the development plans policies in respect of the amount and distribution of housing are out of date, including for reasons of consistency with the Framework. I have further concluded that there would be no harm to heritage assets. On this basis the tilted balance in paragraph 11 of the Framework is engaged. This attracts substantial weight. [432]

453. Given the location of the site adjacent to a core village and the conclusion that there is a local need including affordable housing the proposal would in general be in accordance with the spatial strategy. This attracts some weight but this is not significant given my other conclusions on these policies. [442, 446]

454. The proposal would provide for additional housing, including affordable housing, to which I have attributed significant weight, economic benefits and provision of land for a new early years centre again to which I attribute significant weight. There would be benefits derived from the provision of open space, improvements to public rights of way, children's play facilities, and improvements to biodiversity to which I attribute moderate weight. There are also improvements to the accessibility of the scheme through bus stop improvements and a new footway connection to which I attribute limited weight. [436-442]

455. Taken together the conflict with the development plan and the limited harm I have identified would not significantly and demonstrably outweigh the benefits of the scheme. In my judgement therefore the proposal represents sustainable development as defined in the Framework and planning permission should be granted as other material considerations indicate that a decision should be made other than in accordance with the development plan.

456. There are a number of additional matters that could influence that decision. In respect of the emerging Babergh and Mid Suffolk Joint Local Plan the parties all accept that given its progression towards adoption the policies within it merit limited weight. This could change dependant on the stage reached at the time the Secretary of State makes the decision. [172]
457. Similarly, in the context of the emerging Long Melford Neighbourhood Plan it can only attract at most limited weight given that it has not been subject to examination and that during the Inquiry it was suggested amendments would be made to it. Again this position could change dependant on the stage reached at the time the Secretary of State makes the decision. [173, 267]
458. In the context of my conclusions on the five year housing land supply position the Council recently notified me that it had published a draft Housing Land supply Position Statement in which it claimed to be able to demonstrate in excess of a five year supply. This is draft, is subject to public consultation and comments will need to be considered before being finalised. On this basis I prefer the evidence considered and tested at the Inquiry and consider it to be more robust. Even should it be accepted that there were a five year supply and the decision were taken on a plain balance under section 38(6) I am satisfied that the minor harm that would result from the development would be outweighed by the significant benefits that would arise from the development. [10]

Recommendation

459. I recommend that planning permission be granted subject to the conditions contained in schedule B.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robin Green of Counsel Instructed by Jo Hooley, Solicitor to the Council

He called

Michelle Bolger Dip.La, Director, Michelle Bolger Expert Landscape
BA, PGCE, BA Consultancy

Alex Roberts BSc (Joint Director, DLP Planning – Strategic Planning and
Hons), Assoc RTPI Research Unit

Steven Stroud BA, LLB, Strategic projects Manager, Babergh District
MA, MRes MRTPI Council

FOR THE APPELLANT:

Martin Carter, Barrister Instructed by Stuart Carvel Planning Manager
Gladman Developments Limited.

He called

Jonathan Dixon BA Director Savills (UK)
(Hons), MA, MRTPI

Matthew Spry BSc Senior Director, Lichfields
(Hons), Dip TP (Dist),
MRTPI, MIED, FRSA

Gary Holliday BA Director FPCR Environment and Design Limited
(Hons), MPhil, CMLI

Gail Stoten BA (Hons), Heritage Director, Pegasus Planning Group
MCifA, FSA

Stuart Carvel MTCP Planning Manager, Gladman Developments
(Hons) MRTPI Limited

FOR SAVE OUR SKYLARKS FIELD GROUP:

David Whipps, Solicitor Homes and Hills Solicitors

He called

Lisa Finch BA (Hons), Principal, Classic landscape Architecture
CMLI,

Ian McDonald MA, DipTP Long Melford Parish Council

Lisa Tipper Chairman, Save Our Skylarks Fields Group

INTERESTED PERSONS:

Richard Kemp Long Melford resident, County Councillor for Long Melford

Roger Kistruck Local resident

Ian Russell Local resident

Annex A

Documents Submitted During the Inquiry

DOCUMENTS submitted by Appellant

| | |
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| APP1 | List of Attendances for the Appellant |
| APP2 | Section AA FPCR Drawing No. 8104-L-09 |
| APP3 | Opening Statement on behalf of Appellant |
| APP4 | Inquiry note on Housing Allocations |
| APP5 | Inquiry Note by Lichfields entitled 'Local housing needs in Long Melford and Functional Cluster |
| APP6 | Drawing OHC-001 Overhead Cables to be Undergrounded |
| APP7 | Closing Submissions on behalf of Appellant |
| APP8 | Amended Site Visit locations – suggested itinerary |
| APP9 | Certified copy of Unilateral Undertaking under the Town and Country Planning Act 1990 section 106 |

DOCUMENTS submitted by Babergh District Council

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|-------|--|
| BDC1 | Hard copy of Babergh and Mid Suffolk Joint Local Plan – Preferred Options Consultation (Reg 18) |
| BDC2 | Opening Statement on behalf of Babergh District Council |
| BDC3 | List of Appearances for the Council |
| BDC4 | Decision Notice of Approval of Reserved Matters for Application DC/19/00881 |
| BDC5 | Details of Consultation on Dedham Vale AONB and Stour Valley Management Plan |
| BDC6 | Details of Membership of the Joint Advisory Group for the Dedham Vale & Stour Valley Project |
| BDC7 | Email correspondence between Steven Stroud (Babergh District Council and Almudena Quiralte (Landscape Architect Consultant – Place Services Essex County Council) confirming basis on which consultation comments provided (no site visit undertaken). |
| BDC8 | Note on Housing need data for Long Melford from Julie Abbey-Taylor, Professional Lead Strategic Housing Strategic Planning Team Babergh & Mid Suffolk District Councils |
| BDC9 | Updated Schedule of conditions |
| BDC10 | Closing submissions on behalf of Babergh District Council |

DOCUMENTS submitted by Save Our Skylarks Fields Group

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|------|---|
| SOS1 | Opening statement on behalf of Save Our Skylarks Fields Group |
| SOS2 | Closing statement on behalf of Save Our Skylarks Fields Group |
| SOS3 | Proposed list of sites for Inspector to visit |

DOCUMENTS submitted by Interested (Third) Parties

| | |
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| TP1 | Speaking note submitted by Mr Kemp |
| TP2 | Speaking note submitted by Mr Kistruck |
| TP3 | Speaking Note (entitled 'Proof of Evidence) and appendices submitted by Ian Russell. |

Annex B

Schedule of Suggested Conditions

- 1) Details of the access (with the exception of details of accessibility to/from the site as hereby approved), appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall be begun not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 8104-L-04 and Site Access Drawing P19007-001A.
- 5) Prior to or concurrent with the first reserved matters application submitted, details of the mix of type and size of the market dwellings to be provided shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) All mitigation measures for Skylarks shall be carried out strictly in accordance with the approved details contained in the Technical Note: Skylark Mitigation Strategy (FPCR, April 2019), with the approved Skylark plots retained for a minimum period of 10 years from the date that development commences and no development shall commence until those plots have been provided.
- 7) Concurrent with the submission of the first reserved matters application, a Biodiversity Enhancement Strategy for Protected and Priority Species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - i. Purpose and conservation objectives for the proposed enhancement measures;
 - ii. detailed designs to achieve stated objectives;
 - iii. locations of proposed enhancement measures by appropriate maps and plans;
 - iv. timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
 - v. persons responsible for implementing the enhancement measures;
 - vi. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 8) Prior to the commencement of development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging;

and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.

9) Before the development is commenced, a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the local planning authority. The CMP shall include and address the following matters:

- parking and turning for vehicles of site personnel, operatives and visitors;
- loading and unloading of plant and materials;
- piling techniques;
- storage of plant and materials;
- programme of works (including measures for traffic management and operating hours);
- provision of boundary hoarding and lighting;
- details of the proposed means of dust suppression;
- details of measures to prevent mud from vehicles leaving the site during construction;
- haul routes for construction traffic on the highway network;
- monitoring and review mechanisms;
- details of delivery times to the site during the construction phase;
- location and nature of compounds and storage areas (including maximum storage heights) and factors to prevent wind-whipping;
- waste storage and removal;
- temporary buildings and boundary treatments;
- noise and vibration management (to include arrangements for monitoring, and specifically for any concrete breaking and any piling);
- litter management during the construction phases of the development;
- during any ground works/construction there shall be no burning of materials on the site;
- any external lighting associated with the development during any ground works/construction for the purposes of security and site safety shall prevent upward and outward light radiation.

Thereafter, the approved CMP shall be fully implemented and adhered to during all phases of the development approved.

10) A Construction Environmental Management Plan for Biodiversity (CEMPB) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The CEMPB shall include details of the following:

- i. risk assessment of potentially damaging construction activities;
- ii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- iii. the location and timing of sensitive works to avoid harm to biodiversity features;
- iv. responsible persons and lines of communication;

- v. use of protective fences, exclusion barriers and warning signs;
- vi. the containment, control and removal of Schedule 9 invasive species;
- vii. precautionary mitigation measures for small mammals (Priority Species).

The approved CEMPB shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 11) No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:

Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- i. Temporary drainage systems;
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses;
- iii. Measures for managing any on or offsite flood risk associated with construction.

- 12) If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

- 13) If any dwellings are to be completed and occupied prior to the development as a whole being finished, a scheme to protect those occupants from noise and vibration shall be submitted to and approved in writing by the local planning authority and implemented prior to their first occupation. The development shall be carried out in strict accordance with the approved details.

- 14) Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following:

- i. description and evaluation of features to be managed;
- ii. ecological trends and constraints on site that might influence management;
- iii. aims and objectives of management;
- iv. appropriate management options for achieving aims and objectives;
- v. prescriptions for management actions;
- vi. preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- vii. details of the body or organization responsible for implementation of the plan;
- viii. ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 15) The development shall be implemented and constructed in full accordance with the approved Arboricultural Assessment (FCPR, Jan 2018 Rev B).
- 16) Concurrent with the first reserved matters application submitted, a surface water drainage scheme shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be in accordance with the approved FRA (Flood Risk Assessment & Outline Surface Water Drainage Strategy ref: 881308-R2(02)-FRA) and include:
 - i. Dimensioned plans and drawings of the surface water drainage scheme;
 - ii. Further infiltration testing on the site in accordance with BRE 365 and the use of infiltration as the means of drainage if the infiltration rates and groundwater levels show it to be possible;
 - iii. If the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to Q_{bar} or 2l/s/ha for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the FRA;
 - iv. Modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change;
 - v. Modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year climate change rainfall event, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows;
 - vi. Topographical plans depicting all exceedance flowpaths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system;
 - vii. details of the implementation, maintenance and management of the surface water drainage.

Development shall be carried out in accordance with the approved details.

- 17) Prior to first occupation of any dwellings on the site, a footway improvement scheme to link the approved site access on Station Road to the footway link at Southgate Gardens shall be completed and made available for use by the public, constructed to details that shall have been previously agreed in writing by the local planning authority, in consultation with the local highway authority. Thereafter the footway shall be retained for use in the constructed and approved form.

- 18) Before the access is first used, visibility splays shall be provided as shown on Drawing No. P19007-001A with an X dimension of 2.4m and a Y dimension of 90m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 19) Prior to the occupation of the first dwelling, a scheme to deliver an upgrade to existing bus stops adjacent to the Long Melford Inn (including raised bus stop kerbs, bus shelters and real time bus information screens) shall be submitted to the Local Planning Authority for approval. The scheme shall include details of its implementation.
- 20) Within three months of the commencement of development, details of how superfast or ultrafast broadband infrastructures will be delivered to every household in the development, subject to network capacity being available, shall be submitted to and approved in writing by the Local Planning Authority. The approved superfast and/or ultrafast broadband infrastructures for each dwelling shall be installed prior to first occupation of that dwelling.
- 21) At least a 10% reduction in the predicted carbon emissions of the development shall be secured from decentralised and renewable or low-carbon energy sources or equivalent fabric first standards that would secure a 10% reduction in carbon emissions over Approved Document Part L 2013 (as amended) of the Building Regulations 2010. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority concurrent with the first reserved matters application(s). The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
- 22) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- i. The programme and methodology of site investigation and recording;
- ii. The programme for post investigation assessment;
- iii. Provision to be made for analysis of the site investigation and recording;
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made for archive deposition of the analysis and records of the site investigation;
- vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation;
- vii. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the local planning authority.

- 23) No dwelling shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 22 above and the provision made for analysis, publication and dissemination of results and archive deposition.
- 24) Details for a scheme to divert or under-ground the existing high voltage overhead electricity lines, including details of its implementation, shall be submitted and approved as part of the Reserved Matters application. This shall be between points A to B, C to D and D to E as identified on plan Ref OHC-001 Rev -.

END



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

APPENDIX FBC.16

Committee report – 22 – 27a
Stubbington Green

OFFICER REPORT FOR COMMITTEE

DATE: 26 May 2021

P/18/1410/FP
LONDON & CAMBRIDGE
PROPERTIES LTD

STUBBINGTON
AGENT: D2 PLANNING

CHANGE OF USE OF FIRST FLOOR FROM SPORTS CLUB (USE CLASS D2) TO NINE FLATS

22-27a STUBBINGTON GREEN, FAREHAM, PO14 2JY

Report By

Susannah Emery – direct dial 01329 824526

1.0 Introduction

- 1.1 This application is being presented to the Planning Committee due to the number of third party representations received.
- 1.2 A previous application to convert the first floor to ten flats was refused by this Planning Committee in June 2017 and an appeal was dismissed in April 2018 (our planning reference P/17/0405/FP, appeal reference APP/A/1720/W/17/3180724).

2.0 Site Description

- 2.1 This application relates to the first floor of a detached building which is located centrally in Stubbington Village within the urban area. The buildings within Stubbington Village are arranged facing towards Stubbington Green which lies directly to the south of the building subject to this application. The ground floor contains a number of commercial units and the first floor is occupied by Stubbington Sports Club which provides a gym, bar and function rooms for social events and fitness classes. To the north of the site there is a public car park.

3.0 Description of Proposal

- 3.1 Planning permission is sought for a change of use of the first floor from a Sports Bar (Use Class D2 'Assembly & Leisure') to nine residential flats. The flats would consist of 1 x 3 bed, 6 x 2 bed and 2 x 1bed. Access would be from the existing entrance on the east side of the building.
- 3.2 The changes to the external appearance of the building are minimal and include replacement windows to the north and south elevation with the addition of small balconies, new windows to the east and west elevation, re-modelling of the existing entrance on the eastern elevation, rooflights and a

canopy to the residential bike store to the north elevation. An odour control filtration system would be fitted at Unit 23 The Green including a flue on the rear elevation.

3.3 No car parking is proposed to be provided for the residential flats. Cycle parking would be provided for ten bicycles. An internal bin store is proposed on the ground floor adjacent to the entrance. The existing fire escape to the western side of the building would be retained.

3.4 The proposal complies with the Nationally Described Minimum Space Standards.

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

CS11 - Development in Portchester, Stubbington, Hill Head & Titchfield

CS15 - Sustainable Development and Climate Change

CS16 - Natural Resources and Renewable Energy

CS17 - High Quality Design

CS20 - Infrastructure and Development Contributions

CS21 - Protection and Provision of Open Space

Adopted Development Sites and Policies

DSP1 - Sustainable Development

DSP2 - Environmental Impact

DSP3 - Impact on living conditions

DSP13 - Nature Conservation

DSP15 - Recreational Disturbance on the Solent Special Protection Areas

Other Documents

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

Design Guidance Supplementary Planning Document excluding Welborne (Dec 2015)

5.0 Relevant Planning History

5.1 The following planning history is relevant:

| | |
|--------------|---|
| P/17/0405/FP | Change of Use of First Floor from Snooker Hall (Use Class D2) to 10 Residential Flats (6 x 2 bed and 4 x 1 bed) Refuse 22 June 2017 Appeal Dismissed 3 April 2018 |
| FBC 6500/2 | Erection of 6 Shops with Offices Over Permission 2 December 1970 |
| FBC 6500/15 | Change of Use From Offices to Billiard and Snooker Club Permission 24 May 1983 |

6.0 Representations

6.1 Fifty-two representations (including one from ex-Councillor Heneghan & Councillor Forrest) have been received raising the following concerns;

- Existing use provides a valued community facility which now provides a whole range of activities for adults and children
- Inadequate car parking provision for residents
- Local public transport is not good
- Lack of car parking available in Stubbington at present
- Local traders driven out
- Unnecessary development
- The change of use has previously been refused
- Unpleasant living environment in flats
- Noise and disturbance from use of service area and units below
- The odour extraction system will not be effective
- Increased demand on local services ie. schools, doctors
- Lack of light to north facing flats
- Insufficient space for bin storage
- Insufficient cycle parking
- No access for disabled
- The use of the first floor has changed since previous application
- Lack of external space
- Where will contractors park during the works?
- Noise and disruption during fit out and following occupation may be detrimental to business

7.0 Consultations

INTERNAL

Environmental Health

- 7.1 The Planning Noise Assessment submitted by the developer indicates that acceptable noise levels will be achieved by the installation of noise mitigation measures. It is recommended that all mitigation measures detailed in the report should be installed including mechanical extraction ventilation to all rooms facing the service yard. The proposals should be amended so that cooking odours are discharged at eaves level and above the balconies of the proposed residential units. At the very least the developer should ensure there is sufficient space within the commercial kitchen to retrofit additional odour abatement and sufficient space to install external ductwork so that cooking odours can be discharged at eaves level.

Highways

- 7.2 No parking provisions are available for the present sports club although time-restricted car parking is available in the Stubbington Green area. On the understanding that the parking demands for the proposal would be likely to be less than that associated with the existing sports club, no highway objection is raised to the application. This is subject to the applicants providing all new residents with a Welcome Pack giving comprehensive travel information and free bus tickets in accordance with details set out in the Parking Statement dated May 2017, submitted with the appealed application P/17/0405/FP.

EXTERNAL

Natural England

- 7.3 The Council's appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

8.0 Planning Considerations

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

- a) Principle of Development;
- b) Impact on Character and Appearance of Area;
- c) Highways;
- d) Living Conditions within Proposed Flats
- e) Impact on Protected Sites
- f) Other Matters

a) Principle of Development

8.2 Policies CS2 (Housing Provision) and CS6 (The Development Strategy) of the adopted Fareham Borough Core Strategy place priority on reusing previously developed land within the defined urban settlement boundaries to provide housing.

8.3 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 17th February 2021. The report concluded that this Council has 4.2 years of housing supply against the 5YHLS requirement.

8.4 Policy DSP34 (Development in District Centres, Local Centres and Local Parades) of the Fareham Borough Local Plan Part 2 states that the conversion of upper floors in centres and parades to residential units will be permitted provided there is no negative impact on the amenity of neighbouring development and the proposal meets with design requirements in all relevant documents.

8.5 The use of the first floor has changed since the last application was considered in 2017. At that time the first floor was a snooker club but it is now under new management and has expanded the facilities on offer to become a sports club. There are no local plan policies which would protect the existing sports club use although officers appreciate that it may be a valued community facility in which the current tenant has invested. The Planning Appeal Inspector did not make any comments on the issue of the loss of the existing use. The principle of the change of use is therefore considered acceptable subject to an assessment of any other impacts arising from the proposal.

b) Impact on Character and Appearance of Area

- 8.6 There are no concerns with regards to the impact of the proposal on the character/appearance of the area. The alterations proposed to the external appearance of the building are minor in nature and would in Officer's opinion enhance the appearance of the building.

c) Highways

- 8.7 The Council's adopted Residential Car & Cycle Parking SPD sets out the parking requirements for new development. For this development this would equate to 16 allocated spaces or 10.75 unallocated spaces to serve the nine flats. The requirements are almost exactly the same as the previous refused application. The proposal makes no provision for car parking for the intended occupants of the flats, referred to as a 'car-free development'. The SPD states that residential development that provides less than the standards will only be considered acceptable in areas of high accessibility or for specific types of residential development that create a lower demand for parking.
- 8.8 Officers previously recommended planning permission should not be withheld on the basis of there being no on-site car parking provision. It was considered that the proposed flats would be likely to generate a lower level of parking demand than the use of the first floor as a snooker club at that time. Since then demand for parking as a result of the changed use of the first floor can only have increased.
- 8.9 The previous application was refused by the Planning Committee for two reasons. The first reason for refusal related to car parking provision and stated;

a) The proposed development fails to provide appropriate parking space for residents of the new units which would lead to pressure on the availability of on-street parking in the vicinity and parking spaces within nearby public car parks;

- 8.10 The refused application was subject to an appeal which was dismissed. With regards to the first reason for refusal the Inspector considered the site to be in a sustainable location with good access to public transport and local services. It was therefore not considered that any future occupant of the flats would be reliant on owning a private vehicle. Nonetheless if future occupants were to own a car then it was not considered that this would unacceptably increase parking pressure nearby. The Inspector noted that the existing use of the first floor generates a parking requirement which is currently accommodated within the area and this would be the same for the proposed flats with both short and long stay car parking available nearby and unrestricted on-street car parking. Furthermore the evidence submitted by the appellant referred to the lower

level of car ownership for households in flats compared to houses. Having regard to these points and the fact that the SPD provides for a lower parking requirement in areas of high accessibility, in this instance where a wide range of services and employment opportunities would be available to future residents, the reason for refusal on the grounds of insufficient allocated car parking was not substantiated. The Inspector's findings in relation to the previous proposal are a significant material consideration when determining this current application.

- 8.11 The local centre is served by approx. 263 spaces including on-street parking on The Green and the public car parks to the north of The Green, Longs Lane to the north of the site and at Crofton Community Centre. Whilst the on-street car parking spaces and public car park to the north of The Green have waiting limited to 1 hour between 8am-6pm the car parks at Longs Lane and the Community Centre are unlimited. The nearest residential roads such as Cutlers Lane and Burnt House Lane have restrictions where required to keep visibility clear around junctions. Therefore, whilst the lack of car parking provision may discourage vehicle ownership there are options for the parking of a vehicle owned by the occupants of the flats and any parking on residential roads is unlikely to be hazardous to highway safety. Communal cycle parking would be provided to accord with the Council's Residential Car & Cycle Parking SPD.
- 8.12 Many of the representations received highlight the increased popularity of the sports club over the former snooker club. Whilst this is intended to be supportive of the club it clearly indicates that the existing use of the site generates a significant level of parking demand already. It is not considered that the proposed change of use to residential would exacerbate any existing parking problems reportedly experienced at peak times.
- 8.13 In summary whilst no provision is made for on-site car parking for future residents the accessible location of the site and the lower car ownership associated with flat occupation are mitigating factors in this respect. In addition, it is necessary to weigh up the demand for car parking generated by the proposed development against the existing use of the first floor or in fact any potential Class D2 occupant. Given the previous appeal decision and the Inspector's clear views on this issue, Officers are of the view that the refusal of the current application on the grounds of insufficient car parking could not be substantiated.

d) Living Conditions within Proposed Flats

- 8.14 The second reason for refusal on the previous application related to the quality of the living conditions within the proposed flats and stated:

b) by virtue of the relationship between first floor windows serving the proposed units set within the northern elevation of the building and the refuse stores associated with the ground floor commercial units below them, the development would be harmful to the living conditions of future residents due to the odour and noise from those refuse stores. In addition, by virtue of their location, limited size and the odour likely to be created by storage of refuse, the proposed storage facilities for refuse and recycling bins would be inadequate and harmful to the living conditions of future residents.

8.15 The Inspector agreed that as a result of the use of the service area to the rear of the ground floor commercial units, that the future occupants of the flats would experience frequent noise and disturbance at close quarters. It was considered this would be particularly so as the servicing areas would be directly under the projecting bay windows. It was considered there would be frequent disturbance from use of the access road and public car park, whilst the storage and use of large commercial bins would also generate noise and nuisance including the potential for odour. The internal bin store for the proposed flats was however considered to be acceptable.

8.16 The current application seeks to address the concerns relating to noise and disturbance and odours. A noise assessment has been carried out and submitted with the application to consider the potential impact of commercial activity as well as general environmental noise levels. The results of the survey indicate that the recommended ambient noise levels for both the day and night as specified in BS 8233 (Guidance on Sound Insulation and Noise Reduction for Buildings) should be achievable with standard double glazing and ventilation products. Nonetheless the applicant has agreed to install mechanical ventilation to the flats which would overlook the rear service areas so that residents are able to ventilate the flats without the need to open windows. The internal layout of the flats has been altered so that living accommodation would not extend into the bay windows but instead these would become external balconies.

8.17 Individual bin stores are proposed to be installed to the rear of each of the commercial units to reduce any potential for odour. An odour control system is proposed to be installed at Donny's Tea Room (Unit 23 The Green) which is the only use at ground floor level likely to generate excessive odour. The details of this system have been agreed with the Council's Environmental Health Officers and includes an external flue terminating above eaves height as requested.

8.18 Whilst the flats would not be provided with private amenity space this is not unusual for first floor flats located within a commercial centre. The council's

adopted Design Guidance SPD recognises that there may be circumstances when the provision of outdoor space is not possible such as the conversion of existing non-residential buildings in local or town centre locations. The addition of balconies is suggested as an alternative to the provision of outdoor space. The site is located within close proximity to the designated open spaces of Stubbington Green immediately to the south and the larger Stubbington House Park for recreational purposes.

- 8.19 The proposed flats would meet the national internal space standards and are therefore considered acceptable in terms of their size.
- 8.20 Officers are of the view that the proposed mitigation measures would be sufficient to address the concerns relating to noise disturbance and odours and have no concerns regarding the living conditions within the flats for future residents.

e) Impact on Protected Sites

- 8.21 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive European sites and mitigation impacts on air quality. Policy DSP13: Nature Conservation of the Local Plan Part 2 confirms the requirement to ensure that designated sites, sites of nature conservation value, protected and priority species populations and associated habitats are protected and where appropriate enhanced.
- 8.22 The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 per cent of the global population of Brent geese. These birds come from as far as Siberia to feed and roost before returning to their summer habitats to breed. There are also plants, habitats and other animals within the Solent which are of both national and international importance.
- 8.23 In light of their importance, areas within The Solent have been specially designated under UK/ European law. Amongst the most significant designations are Special Protection Areas (SPA) and Special Areas of Conservation (SAC). These are often referred to as 'Protected Sites' (PS).
- 8.24 Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'Competent Authority' if it can be shown that the proposed development will either not have a likely significant effect on designated sites or, if it will have a likely significant effect, that effect can be mitigated so that it will not result in an adverse effect on the integrity of the designated sites. This is done following a process known as an Appropriate Assessment. The Competent Authority is responsible for carrying out this process, although they must consult with Natural England

and have regard to their representations. The Competent Authority is the Local Planning Authority.

- 8.25 The Council has completed an Appropriate Assessment to assess the likely significant effects of the development on the PS. The key considerations for the assessment of the likely significant effects are set out below.
- 8.26 Firstly, in respect of Recreational Disturbance, the development is within 5.6km of The Solent SPAs and is therefore considered to contribute towards an impact on the integrity of The Solent SPAs as a result of increased recreational disturbance in combination with other development in the Solent area. The applicants have made the appropriate financial contribution towards The Solent Recreational Mitigation Partnership Strategy (SRMP) and therefore, the Appropriate Assessment concludes that the proposals would not have an adverse effect on the integrity of the EPS as a result of recreational disturbance in combination with other plans or projects.
- 8.27 Secondly in respect of the impact of the development on water quality as a result of surface water and foul water drainage, Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering the Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the PS.
- 8.28 A nitrogen budget has been calculated in accordance with Natural England's *'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region'* (June 2020) ('the NE Advice') which confirms that the development will generate 6.3 kg/TN/year. In the absence of sufficient evidence to support a bespoke occupancy rate, Officers have accepted the use of an average occupancy of the proposed dwellings of 2.4 persons in line with the NE Advice. The existing use of the land for the purposes of the nitrogen budget is urban. Due to the uncertainty of the effect of the nitrogen from the development on the PS, adopting a precautionary approach, and having regard to NE advice, the Council will need to be certain that the output will be effectively mitigated to ensure at least nitrogen neutrality before it can grant planning permission.
- 8.29 The applicant has entered into a contract (conditional on the grant of planning permission) to purchase 6.3 kg of nitrate mitigation 'credits' from Mr Sellick at Warnford Park, Warnford. Through the operation of a legal agreement between Mr Sellick, South Downs National Park Authority and Fareham Borough Council dated 1 April 2021, the purchase of the credits will result in a corresponding parcel of agricultural land at Warnford Park being removed

from agricultural use and the implementation of a woodland planting scheme, therefore providing a corresponding reduction in nitrogen entering The Solent marine environment. A condition will be imposed to ensure that the development does not commence on site until confirmation of the purchase of the credits has been received by the Council.

- 8.30 The Council has carried out an Appropriate Assessment and concluded that the proposed mitigation and planning conditions will ensure no adverse effect on the integrity of the PS either alone or in combination with other plans or projects. Natural England has been consulted on the Council's Appropriate Assessment and agrees with its findings. It is therefore considered that the development accords with the Habitat Regulations and complies with Policies CS4 and DSP13 and DSP15 of the adopted Local Plan.

f) Other Matters

- 8.31 A number of other issues have been raised by the objectors which includes the increased pressure on local services such as school and doctors as a result of increased residents. It is not considered any impact would be sufficient to justify refusal of the application. The impact of construction noise on the ground floor businesses for the duration of the works has been raised as a concern but Officers do not consider that planning permission can be withheld for this reason. In the long term it is not considered that the proposed change of use to residential would be likely to result in a level of noise which would exceed the current use, particularly with heavy gym equipment and music being in use.

Conclusion

- 8.32 The principle of the proposed change of use complies with relevant local plan policies and there would be no adverse visual impact on the surrounding area as a result of the proposal. The primary issues in the determination of the planning application are the lack of provision of any on-site car parking to serve the residents and the acceptability of the living conditions within the flats.
- 8.33 The site is within a sustainable location and the form of development indicates that a reduced level of car parking provision may be appropriate. It is considered that the existing D2 use would be more intensive in terms of vehicle activity. A previous application refused on the grounds of insufficient car parking has been subject to appeal and this reason for refusal was not substantiated by the Inspector. The change in use of the first floor from a snooker club to a sports club by all accounts resulted in an increase in the demand for car parking (prior to the more recent Covid-19 restrictions). On this basis officers consider that a refusal on highway grounds could not be substantiated.

8.34 Mitigation measures have been incorporated into the proposal to address concerns relating to noise and disturbance and smells. This includes providing the ground floor commercial units with enclosed bin stores, fitting mechanical ventilation to the flats overlooking the services area and the loss of the projecting bay windows over the service areas. A noise assessment has been carried out which suggests that the flats would provide an acceptable living environment in this regard.

8.35 Notwithstanding the objections received Officers consider the proposal acceptable subject to the imposition of planning conditions.

9.0 Recommendation

9.1 GRANT PLANNING PERMISSION, subject to the following Conditions:

1. The development shall begin before the expiration of three years following the date of this decision.

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

2. The development shall be carried out in accordance with the following approved documents:

- a) Planning Statement (D2 Planning Ltd Nov 2018)
- b) Design & Access Statement (LCP Nov 2018)
- c) Parking Statement (IMA Transport Planning) May 2017
- d) Planning Noise Assessment (Anderson Acoustics Oct 2018)
- e) Existing Ground Floor Plan – drwg No. E-001
- f) Existing First Floor Plan – drwg No. E-002
- g) Existing North & East Elevations – drwg No. E-003
- h) Existing South & West Elevations – drwg No. E-004
- i) Existing Roof Plan – drwg No. E-005
- j) Proposed Ground Floor Plan – drwg No. P-001
- k) Proposed First Floor Plan – drwg No. P-002
- l) Proposed North & East Elevations – drwg No. P-003
- m) Proposed West & South Elevations – drwg No. P-004
- n) Proposed Roof Plan – drwg No. P-005

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

3. None of the dwellings hereby permitted shall be first occupied until the communal cycle store, as shown on the approved plan, has been constructed and made available. This storage shall thereafter be retained and kept available at all times.

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

4. None of the flats hereby permitted shall be occupied until details of the proposed bin stores to be provided for the ground floor commercial units have been submitted to and approved by the Local Planning Authority and the approved areas fully implemented. The details shall include the dimensions, design and the materials to be used in construction. The bin stores shall be provided before any dwelling is occupied and shall thereafter be retained for bin storage at all times.

REASON: To ensure that these bin stores are suitable for purpose and to ensure the character and appearance of the development and the locality are not harmed.

5. None of the flats hereby permitted shall be occupied until the internal refuse bin storage area on the ground floor has been provided in accordance with the approved plans. The refuse bin storage area shall thereafter be retained for use at all times.

REASON: In the interests of residential amenity.

6. None of the flats hereby permitted shall be occupied until the 'Residents Welcome Pack' as detailed within the approved Parking Statement (para 5.4) has been submitted to and approved in writing by the Local Planning Authority. The approved Residents Welcome Pack shall thereafter be provided to the future residents prior to occupation.

REASON: To promote sustainable modes of transport, to reduce impacts on air quality arising from the use of motorcars and in the interests of addressing climate change.

7. None of the flats hereby permitted shall be occupied until the odour control filtration system has been installed at Unit 23 The Green (including the flue) in accordance with the approved details (Design & Access Statement (LCP Nov 2018)). This system shall thereafter be retained in working order at all times.

REASON: In the interests of residential amenity.

8. The five flats to the north side of the building shall not be occupied until the mechanical ventilation system has been installed in accordance with the agreed details (para 5.15 Planning Statement, D2 Nov 2018). This system shall thereafter be retained in working order at all times.

REASON: In the interests of residential amenity.

9. None of the residential dwellings hereby permitted shall be occupied until details of water efficiency measures to be installed in each dwelling have been submitted to and approved in writing by the Local Planning Authority. These water efficiency measures should be designed to ensure potable water

consumption does not exceed an average of 110 litres per person per day.
The development shall be carried out in accordance with the approved details.
REASON: In the interests of preserving water quality and resources.

10. No development shall commence unless the council has received the Notice of Purchase in accordance with the legal agreement between FBC, SDNPA and Andrew Sellick dated 1 April 2021 in respect of the Credits Linked Land identified in the Nitrates Mitigation Proposals Pack.

REASON: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on protected sites.

11. No work on site relating to the conversion hereby permitted shall take place before the hours of 0800 or after 1800 Monday to Friday, before the hours of 0800 or after 1300 Saturdays or at all on Sundays or recognised bank and public holidays, unless otherwise first agreed in writing with the Local Planning Authority.

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

12. No development shall commence on site until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority (LPA). The Construction Management Plan shall address the following matters:

a) How provision is to be made for the parking of operatives/contractors'/sub-contractors' vehicles and/or construction vehicles;

b) the areas to be used for the storage of building materials and equipment associated with the implementation of the approved development.

The development shall be carried out in accordance with the approved CMP and areas identified in the approved CMP for specified purposes shall thereafter be kept available for those uses at all times during the construction period, unless otherwise agreed in writing with the LPA.

REASON: In the interests of highway safety. The details secured by this condition are considered essential to be agreed prior to the commencement of development on the site so that appropriate measures are in place to avoid the potential impacts described above.

FAREHAM

BOROUGH COUNCIL



22-27a Stubbington Green (First Floor)

Scale 1:1,250

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APPENDIX FBC.17

HRA-AA 22 – 27a Stubbington Green

Fareham Borough Council

Appropriate Assessment (AA) Proforma

| | |
|--|---|
| AA completion date: | 26 April 2021 |
| Application reference: | P/18/1410/FP |
| Application address: | 22-27a Stubbington Green (First Floor), Fareham |
| Application description: | Change of Use of First Floor from Sports Club (Use Class D2) to Nine Flats (1 x 3 bed, 6 x 2 bed and 2 x 1 bed) |
| Lead Planning Officer: | Susannah Emery |
| Is the planning application directly connected with or necessary to the management of the designated site? | No |
| Information submitted by the applicant which informs this AA: | Nitrogen Neutrality Statement <input type="checkbox"/> Surface Water Drainage Strategy & Flood Risk Statement <input type="checkbox"/> Shadow HRA <input type="checkbox"/> Any others? |

Appropriate Assessment (AA)

Section A - Recreational Disturbance

In accordance with advice from Natural England and as detailed in Policy DSP15 of the adopted Fareham Borough Local Plan (Development Sites and Policies) and the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to have a significant effect on those sites through a consequent increase in recreational disturbance. Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. This impact is of concern for the populations of over-wintering birds, due to the adverse effects of disturbance on the behaviours of the birds (such as feeding and roosting) and the consequent impacts on the energy budgets of the birds.

The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. These effects can be experienced either within the designated site itself, or on areas outside the designation ('supporting habitat') that are important to the important bird populations at key periods (such as roosting or foraging).

Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the Solent SPAs.

| | | | | | | |
|---|---|--|---|--|---|---|
| Does the scheme result in a net increase in housing? | Yes <input checked="" type="checkbox"/> | Is the proposed development located within 5.6km of the Solent SPAs (Solent & Southampton Water SPA, Portsmouth Harbour SPA, Chichester & Langstone Harbours SPA)? | Yes <input checked="" type="checkbox"/> | Has the appropriate scale of developer contribution in line with the Solent Recreation Mitigation Strategy been secured? | Yes <input checked="" type="checkbox"/> | Go to Section B |
| | | | | | No <input type="checkbox"/> | The competent authority cannot conclude no adverse effect on the integrity of the Solent SPAs |
| | No <input type="checkbox"/> | Go to Section B | | | | |

Section B - Hydrological Changes (Foul Water)

There are high levels of nitrogen and phosphorus input to the water environment in the Solent with evidence that these nutrients are causing eutrophication at internationally designated sites. An Integrated Water Management Study for South Hampshire was

commissioned by the Partnership for Urban South Hampshire (PUSH) Authorities to examine the delivery of development growth in relation to legislative and government policy requirements for designated sites and wider biodiversity. This work has identified that there is uncertainty in some locations as to whether there will be sufficient capacity to accommodate new housing growth. There is uncertainty about the efficacy of catchment measures to deliver the required reductions in nitrogen levels, and/or whether the upgrades to wastewater treatment works will be sufficient to accommodate the quantity of new housing proposed (Natural England, 2019).

In light of this uncertainty, Natural England advises that a nitrogen budget – the principal nutrient that tends to drive eutrophication in the marine environment - is calculated for all developments. Where the calculated budget indicates a positive nitrogen output, the wastewater from the development will add to the nitrogen levels within the Solent, via the wastewater treatment works. Therefore, the surplus in the nitrogen output would need to be mitigated to ensure no adverse effect on the integrity of affected designated areas if planning permission is to be granted.

| | | | | |
|--|---|---|---|--|
| <p>Does the scheme result in a positive nitrogen output in any of the designated sites¹?</p> | <p>Yes <input checked="" type="checkbox"/></p> | <p>Has a suitable mitigation package been submitted and secured to demonstrate nitrogen neutrality?</p> | <p>Yes <input checked="" type="checkbox"/></p> | <p>Provide a short summary of the proposed mitigation package & then go to Section C:</p> <p>A nitrogen budget has been calculated in accordance with Natural England’s ‘<i>Advice on Achieving Nutrient Neutrality for New Development in the Solent Region</i>’ (June 2020) (‘the NE Advice’) which confirms that the development will generate 6.3kg TN/year.</p> <p>The applicant has entered into a contract to purchase 6.32 kg of nitrate mitigation ‘credits’ from Andrew Sellick at Warnford Park, Warnford. Through the operation of a legal agreement between Andrew Sellick, South Downs National Park Authority and Fareham Borough Council dated 1 April 2021, the purchase of the credits will result in a corresponding parcel of agricultural land at Warnford Park being removed from agricultural use and the implementation of a woodland planting scheme, therefore providing a corresponding reduction in nitrogen entering the Solent marine environment.</p> |
|--|---|---|---|--|

¹ Solent & Southampton Water SPA & Ramsar / Solent Maritime SAC / Solent and Dorset Coast SPA / Portsmouth Harbour SPA & Ramsar / Chichester & Langstone Harbours SPA & Ramsar / Solent and Isle of Wight Lagoons SAC

| | | | | |
|--|---------------------------------------|-----------------|---------------------------------------|--|
| | | | | <p>The submission of a Notice of Purchase would be required prior to the commencement of development, secured by planning condition.</p> <p>A planning condition will also be imposed requiring submission of further details of water efficiency measures to be installed in each dwelling to ensure water consumption does not exceed an average of 110L per person per day.</p> |
| | | | No <input type="checkbox"/> | <p>The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required.</p> |
| | No <input type="checkbox"/> | Go to Section C | | |

Section C - Hydrological Changes (Flood Risk)

During occupation (and to some extent during construction), developments may have effects on the wider area during flood events when runoff rates from the development site are above current levels and where that results in pollutants becoming entrained and transmitted to sensitive water ecosystems.

| | | | | |
|---|--|--|--|---|
| Does the scheme result in an increased risk of flooding during occupation? | Yes <input type="checkbox"/> | Has a package of avoidance and mitigation measures to address the increased risk of flooding been submitted and secured? | Yes <input type="checkbox"/> | Provide a short summary of the proposed Surface Water Drainage Strategy & Flood Risk Statement & then go to Section D: |
| | | | No <input type="checkbox"/> | <p>The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required.</p> |
| | | No <input checked="" type="checkbox"/> | Go to Section D | |

Section D - Hydrological Changes (Water Quality)

Habitats within the designated sites that are essential for supporting relevant qualifying features/ reasons for selection of the sites, can be adversely affected though water-borne (ground- or surface-water) pollution from development sites generated either during

construction or operation / occupation, if there are any known hydrological pathways linking the application site to the designated sites.

| | | | | |
|---|--|--|-------------------------------------|--|
| Is there a hydrological link between the application site and any of the designated sites¹? | Yes <input type="checkbox"/> | Has an appropriate Construction Environmental Management Plan (CEMP) been submitted and secured to demonstrate how any accidental pollution events would be avoided? | Yes <input type="checkbox"/> | Go to Section E |
| | No <input checked="" type="checkbox"/> | | No <input type="checkbox"/> | The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required. |
| No <input checked="" type="checkbox"/> | | Go to Section E | | |

Section E - Disturbance from Construction Activities (General Pollution, e.g. dust)

The qualifying features of the designated sites or their associated supporting habitats can be degraded during the construction phase of a development, for example through dust produced by the movement of machinery, demolition activities and/or construction activities in general.

| | | | | |
|---|--|---|-------------------------------------|--|
| Is the application site located within 50m of any of the designated sites¹? | Yes <input type="checkbox"/> | Has an appropriate CEMP been submitted and secured to demonstrate how dust and lighting from demolition and construction activities on sensitive ecological receptors would be avoided? | Yes <input type="checkbox"/> | Go to Section F |
| | No <input checked="" type="checkbox"/> | | No <input type="checkbox"/> | The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required. |
| No <input checked="" type="checkbox"/> | | Go to Section F | | |

Section F - Disturbance from Construction Activities (Noise & Vibration)

Birds utilising SPA or Ramsar sites or associated supporting habitats can be disturbed during the construction phase of a development, for example through noisy plant and construction / demolition activities, vibration, or visual disturbance.

| | | | | | |
|---|--|---|--|--|--|
| Is the application site located within 50m of any of the designated sites² or their supportive habitat³? | Yes <input type="checkbox"/> | Are noise emission levels during the construction phase below 70dB(A) for continuous noise and 50dB(A) for sudden based noise, at the boundary of the designated sites, in the absence of mitigation? | Yes <input type="checkbox"/> | Go to Section G | |
| | | | No <input type="checkbox"/> | Has appropriate mitigation measures been secured to minimise noise levels to below 70dB(A) for continuous noise and 50dB(A) for sudden based noise (e.g. provision of acoustic barriers & use of less noisy plants) or could a restriction in the timing of the noisy works be | Yes <input type="checkbox"/> |

² Solent & Southampton Water SPA & Ramsar / Portsmouth Harbour SPA & Ramsar / Chichester & Langstone Harbours SPA & Ramsar / Solent Waders & Brent Goose Strategy Sites.

³ Solent Waders & Brent Goose Strategy Sites (Core sites, Primary and Secondary Supports Areas & Low Use sites)

| | | | | | | |
|--|--|-----------------|--|---|---------------------------------------|--|
| | | | | secured via a Planning Condition (i.e. no works between October and March). | No <input type="checkbox"/> | The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required. |
| | No <input checked="" type="checkbox"/> | Go to section G | | | | |

Section G - Impact on SW&BG Strategy Sites

The Solent Waders and Brent Goose Strategy (SW&BG) aims to protect the network of non-designated terrestrial wader and Brent goose sites that support the Solent SPAs from land take and recreational pressure associated with new development. The non-designated sites are classified as Core Areas, Primary Support Areas, Secondary Support Areas, Low Use and Candidate Sites. SW&BG Strategy sites have the potential to be used by waders and Brent geese and therefore their unmitigated loss would in combination negatively affect the long-term resilience of the SPA network.

| | | | | | |
|--|--|---|--|--|-----------------|
| Will the proposals result in the loss/partial loss of a SW&BG Strategy site (i.e. Low Use site, Secondary Support Area & Primary Support Area)? | Yes <input type="checkbox"/> | If loss/partial loss of a low use site is likely, has proportionate mitigation in the form of payment towards the management and enhancement of the wider waders and Brent geese ecological network been secured? | Yes <input type="checkbox"/> | Provide more details: | Go to Section H |
| | | | No <input type="checkbox"/> | The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required. | |

| | | | | | |
|--|--|--|--|--|-----------------|
| | | If loss/partial loss of a Secondary or Primary Support Area is likely, has a mitigation package to include the creation and ongoing management of a replacement (off-setting) site been submitted and secured? | Yes <input type="checkbox"/> | Refer to the mitigation package approved by Natural England: | Go to Section H |
| | | | No <input type="checkbox"/> | The competent authority cannot conclude no adverse effect on the integrity of Natura 2000 sites. Therefore, further information from the applicant will be required. | |
| | No <input checked="" type="checkbox"/> | No further action required. | | | |

Section H - Air quality changes

Habitats within the designated sites can be adversely affected through airborne pollution from development sites generated either during construction or operation / occupation.

Natural England have developed distance-based criteria to identify the potential effects from air pollution. This is based on the natural rates of deposition of airborne particulates and dilution / dispersal effects of various airborne pollutants associated with likely activities such as road transport during construction or occupation.

| | | |
|--|---|---|
| Is the application site located within 10km of Solent & Southampton Water SPA/Ramsar/ Portsmouth Harbour SPA/Ramsar/ Solent & Dorset Coast SPA? | Yes <input checked="" type="checkbox"/> | The recent Air Quality Habitat Regulations Assessment for the Fareham Borough Local Plan 2021 – 2037 (Ricardo Energy & Environment, 2020) concludes that the adverse effects (pre-mitigation) can be screened out for all qualifying features of these designated sites and therefore there will be no likely significant effect alone or in combination with other plans or projects on the Solent & Southampton Water SPA and Ramsar, Portsmouth Harbour SPA and Ramsar and Solent and Dorset Coast SPA. No further action required. |
| | No <input type="checkbox"/> | |

| | | |
|---|---|---|
| Is the application site located within 10km of Solent Maritime SAC? | Yes <input checked="" type="checkbox"/> | The recent Air Quality Habitat Regulations Assessment for the Fareham Borough Local Plan 2021 – 2037 (Ricardo Energy & Environment, 2020) concludes that adverse effects (pre-mitigation) can be screened out for all qualifying features of the Solent Maritime SAC and therefore there will be no likely significant effect alone or in combination with other plans or projects. No further action required. |
| | No <input type="checkbox"/> | |
| Is the application site located within 10km of Chichester & Langstone Harbours SPA/Ramsar? | Yes <input type="checkbox"/> | |
| | No <input checked="" type="checkbox"/> | No further action required. |
| Is the application site located within 10km of New Forest SPA/ SAC/ Ramsar? | Yes <input type="checkbox"/> | The recent Air Quality Habitat Regulations Assessment for the Fareham Borough Local Plan 2021 – 2037 (Ricardo Energy & Environment, 2020) concludes that the adverse effects (pre-mitigation) can be screened out for all qualifying features of the New Forest SPA, Ramsar and SAC and therefore there will be no likely significant effect alone or in combination with other plans or projects. No further action required. |
| | No <input checked="" type="checkbox"/> | |

In conclusion, the application will have a likely significant effect on Natura 2000 sites in the absence of avoidance and mitigation measures. This represents the authority's Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the Natural Environment and Rural Communities Act 2006 to the purpose of conserving biodiversity.

The authority has concluded that the proposed mitigation packages as detailed in this Proforma are acceptable. Therefore, there will be no adverse effect on the integrity of the designated sites as a result of the proposed scheme.

Natural England Officer comments:

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have a significant effect on the Solent and Southampton Water SPA and Ramsar sites.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Land at Warnford Park, secured to neutralise the additional nutrient burden arising from the proposed development, including long term management and maintenance ensure effective mitigation for the lifetime of the development
- Appropriate contributions to the Solent Recreation Mitigation Strategy (SRMS)

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Appendix A:

List of Designated sites Considered

Solent and Southampton Water SPA/Ramsar

Solent and Southampton Water qualifies as a SPA for its breeding and wintering bird species. As breeding species, the site contains Common Tern, Little Tern, Mediterranean Gull, Roseate Tern and Sandwich Tern. Over wintering birds include Black-tailed Godwit, Dark-bellied Brent Goose, Ringed Plover and Teal.

Solent and Southampton Water also qualifies as a Ramsar site under four criteria, including:

- Supporting many wetland habitats such as saline lagoons, saltmarshes, estuaries, intertidal flats, shallow coastal waters, grazing marshes, reedbeds, coastal woodland and rocky boulder reefs.
- Supporting an important assemblage of rare plants and invertebrates.
- Supporting avian assemblages of international importance
- Regularly supporting 1% of the individuals in a population of one species or subspecies of water bird (in this case, dark-bellied Brent goose).

Conservation objectives

Subject to natural change, ensure that the integrity of the SPA site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution, the structure and function of the habitats of the qualifying features and the population of each of the qualifying features.

SPAs classified under the EU Birds Directive and SACs designated under the EU Habitats Directive together form the Natura 2000 network. The Habitats Directive establishes the need to properly protect these sites and identifies that this should be carried out having regard to defined 'conservation objectives'. Ramsar sites were established as part of a global convention on important wetland areas; as such, on their own, they are not part of the EU protected sites. Therefore, Ramsar sites do not have agreed conservation objectives as a requirement of EU legislation. However, Ramsar sites are generally contiguous with a number of wetland SPAs and their underlying SSSIs.

While Ramsar sites do not have defined (per EU Habitats Directive) conservation objectives, it is a requirement that any protection and management measures in place for SSSIs, SPAs, and SACs that are contiguous with Ramsar sites adequately cover Ramsar interests where those interests are wider than other underlying UK / EU designation or classification. (<https://publications.parliament.uk/pa/cm199900/cmhansrd/vo001113/text/01113w12.htm> para 12)

The key way in which this is secured through UK planning policy is through NPPF 2018 paragraph 176 which explicitly states that Ramsar sites must be considered in the same way as EU sites.

Portsmouth Harbour SPA/Ramsar

Portsmouth Harbour qualifies as a SPA by supporting internationally or nationally important wintering populations of migratory water fowl, including Dark-bellied Brent goose, Red breasted merganser, Black-tailed and Dunlin.

Portsmouth Harbour qualifies as a Ramsar site for its intertidal mudflat areas supporting extensive beds of narrow-leaved and dwarf eelgrass, which in turn support the grazing dark bellied Brent goose populations.

Conservation objectives

Maintain or where appropriate, restore habitats and species populations of European importance to favourable conservation status.

The following section discusses the potential effects that can arise from development activity (both during construction and operation/occupation) at the application site, considers the potential for impact pathways to be present between the application site, and the potential impacts on these SPAs and Ramsar sites of the identified effect via any identified pathway.

Chichester & Langstone Harbours SPA/Ramsar

The SPA qualifies by supporting breeding populations of European importance including little tern, common tern and sandwich tern and overwintering populations of European importance of bar-tailed godwit, along with overwintering populations of European importance of a number of regularly occurring migratory species such as dark bellied Brent goose, dunlin, grey plover, red shank, etc. The Ramsar qualifies for comprising two large estuarine basins linked by the channel, supporting an internationally important assemblage of species.

Conservation objectives

Maintain or where appropriate, restore habitats and species populations of European importance to favourable conservation status.

Solent Maritime Special Area of Conservation (SAC)

Qualifying Features

- Estuaries - The Solent encompasses a major estuarine system on the south coast of England. The Solent and its inlets are unique in Britain and Europe for their hydrographic regime of four tides each day, and for the complexity of the marine and estuarine habitats present within the area.
- Spartina swards - The Solent contains the second-largest aggregation of Atlantic salt meadows in south and south-west England.
- There are also a number of Annex I habitats and Annex II species (qualifying feature, but not a primary reason for selection of this site) such as mudflats and sandflats not covered by seawater at low tide, coastal lagoons, Desmoulin's whorl snail etc.

Conservation objectives

Subject to natural change, maintain the qualifying natural habitats and habitats of qualifying species in favourable condition.

Solent and Dorset Coast SPA

Qualifying Features

Solent and Dorset Coast SPA aims to protect important foraging areas at sea used by qualifying interest features from colonies within adjacent SPAs. These qualifying interest features are three species of tern: common tern, Sandwich tern and little tern, all during breeding.

Conservation objectives

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the

site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- The extent and distribution of the habitats of the qualifying features
- The structure and function of the habitats of the qualifying features
- The supporting processes on which the habitats of the qualifying features rely
- The population of each of the qualifying features, and,
- The distribution of the qualifying features within the site.

Solent and Isle Wight Lagoon SAC

Qualifying Features

The Solent on the south coast of England encompasses a series of Coastal lagoons, including percolation, isolated and sluiced lagoons. The lagoons show a range of salinities and substrates, ranging from soft mud to muddy sand with a high proportion of shingle, which support a diverse fauna including large populations of three notable species: the nationally rare foxtail stonewort *Lamprothamnium papulosum*, the nationally scarce lagoon sand shrimp *Gammarus insensibilis*, and the nationally scarce starlet sea anemone *Nematostella vectensis*.

Conservation objectives

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats
- The structure and function (including typical species) of qualifying natural habitats, and
- The supporting processes on which qualifying natural habitats rely

New Forest SAC

Qualifying Features

The New Forest SAC supports an extensive and complex mosaic of habitats including wet and dry heaths and associated bogs and mires, wet and dry grasslands, ancient pasture woodlands, frequent permanent and temporary ponds and a network of streams and rivers. These habitats support an exceptional variety of flora and fauna including internationally

important populations of breeding and over-wintering birds and other notable species such as southern damselfly, stag beetle and great crested newt. The qualifying features include:

- Transition mires and quaking bogs
- Depressions on peat substrates of the Rhynchosporion
- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)
- Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or of the *Isoëto-Nanojuncetea*
- Northern Atlantic wet heaths with *Erica tetralix*
- European dry heaths
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*)
- Alkaline fens
- Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrub layer (*Quercion roboripetraeae* or *Ilici-Fagenion*)
- *Asperulo-Fagetum* beech forests
- Old acidophilous oak woods with *Quercus robur* on sandy plains

Conservation objectives

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- the extent and distribution of qualifying natural habitats and habitats of qualifying species;
- the structure and function (including typical species) of qualifying natural habitats;
- the structure and function of the habitats of qualifying species;
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
- the populations of qualifying species; and
- the distribution of qualifying species within the site

New Forest SPA/Ramsar

Qualifying Features

The New Forest qualifies as a SPA by supporting internationally important populations of European honey-buzzard *Pernis apivorus*, hen harrier *Circus cyaneus*, Eurasian hobby *Falco Subbuteo*, European nightjar *Caprimulgus europaeus*, woodlark *Lullula arborea*, Dartford warbler *Sylvia undata* and wood warbler *Phylloscopus sibilatrix*.

New Forest qualifies as a Ramsar site for supporting valley mires and wet heaths. The site also supports a diverse assemblage of wetland plants and animals including several nationally rare species. Seven species of nationally rare plant are found on the site, as are at least 65 British Red Data Book species of invertebrate. Furthermore, the mire habitats are of high ecological quality and diversity and have undisturbed transition zones. The invertebrate fauna of the site is important due to the concentration of rare and scarce wetland species. The whole site complex, with its examples of semi-natural habitats is essential to the genetic and ecological diversity of southern England.

Conservation objectives

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;

- the extent and distribution of the habitats of the qualifying features;
- the structure and function of the habitats of the qualifying features;
- the supporting processes on which the habitats of the qualifying features rely;
- the population of each of the qualifying features; and
- the distribution of the qualifying features within the site.

APPENDIX FBC.18

Natural England response – 22 – 27a
Stubbington Green

Date: 26 April 2021
Our ref: 350493
Your ref: P/18/1410/FP



Susannah Emery
Fareham Borough Council

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Susannah

Planning consultation: Change Of Use Of First Floor From Sports Club (Use Class D2) To Nine Flats (1 X 3 Bed, 6 X 2 Bed And 2 X 1 Bed)

Location: 22 - 27A Stubbington Green (First Floor) Fareham PO14 2JY

Thank you for your consultation on the above dated 20 April 2021 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would have a significant effect on the Solent and Southampton Water SPA and Ramsar sites.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Land at Warnford Park, secured to neutralise the additional nutrient burden arising from the proposed development, including long term management and maintenance to ensure effective mitigation for the lifetime of the development
- Appropriate contributions to the Solent Recreation Mitigation Strategy (SRMS)

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's advice on other natural environment issues is set out below.

Habitats Regulations Assessment (HRA)

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. Further advice on mitigation measures is provided below.

Deterioration of the water environment

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

Please note the calculation is based on all wastewater from the development being treated at Peel Common WwTWs. If this situation changes, a reassessment of the nutrient calculation will be required and a revised Habitats Regulations Assessment will be necessary.

In line with Natural England's advice, it is noted that land at Warnford Park in Warnford will be used to neutralise the additional nutrient burden that will arise from the proposed development. This is achieved by taking land out of intensive agricultural use. It has been calculated that 0.21 hectares of land at Warnford Park will be removed from its prior use as dairy land.

Provided the above measures can be secured, together with long term management and maintenance to ensure effective mitigation for the lifetime of the development, Natural England raises no further concerns.

Recreational disturbance - Solent Special Protected Areas (SPAs)

This application is within 5.6km of the Solent and Southampton Water SPA and may lead to an increase in residential accommodation through additional bedrooms in the construction of the new dwellings. Natural England is aware that Fareham Borough Council have adopted planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP), also known as Bird Aware Solent. Provided that the applicant is complying with the policy and the Bird Aware Definitive Strategy, Natural England are 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.

Please note, your authority's appropriate assessment should reflect the current developer contribution rates, which are updated every April in line with the Retail Price Index.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our [Discretionary Advice Service](#).

If you have any queries relating to the advice in this letter please contact me on 07552 268094.

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

Should the proposal change please consult us again.

Yours sincerely

Mary Andrew
Sustainable Development Lead Adviser
Natural England- Thames Solent Team

Annex A – Additional Advice

Natural England offers the following additional advice:

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)². Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

² <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

APPENDIX FBC.19

Coleman's Lane Nitrate Mitigation
Scheme – Officer Report

FAREHAM

BOROUGH COUNCIL

Report to the Director of Planning and Regeneration for Decision 18th May 2021

| | |
|------------------------------|---|
| Portfolio: | Planning and Development |
| Subject: | Nitrate Mitigation at Coleman's Lane, Porchfield, Newport, Isle of Wight – Legal Agreement with Heaton Farms Ltd & Isle of Wight Council |
| Report of: | Head of Development Management |
| Corporate Priorities: | Protect and Enhance the Environment |

Purpose:

This report seeks authority from the Director of Planning and Regeneration for the Council to enter into a legal agreement with Heaton Farms Ltd and the Isle of Wight Council (IWC) in respect of land owned by Heaton Farms Ltd at Coleman's Lane Porchfield, Newport, Isle of Wight (IOW).

Executive summary:

In February 2019, Natural England updated its advice to local councils to reflect European case law and recommended an Appropriate Assessment is undertaken within the Borough of Fareham for every planning application for new dwellings.

Natural England has highlighted that increased levels of nitrates entering The Solent (resulting from increased amounts of wastewater from new dwellings) is likely to have a significant effect upon sites protected for their nature conservation value.

Where developers are not able to demonstrate that their proposals maintain or reduce the levels of nitrates leaving their site, mitigation measures need to be identified. The majority of residential planning applications will need to mitigate for increased levels of nitrates entering The Solent; in most instances developers are unable to provide this mitigation on their development site.

Heaton Farm Ltd proposes bringing forward agricultural land at Coleman's Lane on the Isle of Wight, to be used as mitigation for nitrates arising from new residential development within The Solent Fluvial catchment area.

Authority is sought from the Director of Planning and Regeneration for the Council to enter into a legal agreement with Heaton Farms Ltd and IWC to secure nitrate mitigation at Coleman's Lane in connection with residential planning permissions

granted within the Borough of Fareham.

Recommendation:

That authority be given by the Director of Planning and Regeneration for the Council to enter into a legal agreement with Heaton Farms Ltd and IWC to secure nitrate mitigation at Coleman's Lane in connection with residential planning permissions granted within the Borough of Fareham.

Reason:

Securing nitrate mitigation at Coleman's Lane will enable Fareham Borough Council to grant planning permission for a number of residential schemes within the Borough, many of which have been stalled for a considerable period of time following the European Court rulings and Natural England's advice. This in turn will ensure that residential planning permissions are granted and housing can be built which will contribute towards meeting the Council's housing need.

Cost of proposals:

The Council's legal costs in connection with the drafting of the legal agreement will be met by Heaton Farms Ltd.

Appendices:

- A: Location Plan showing the nitrate mitigation land at Coleman's Lane
- B: Plan showing Solent Nutrients- Isle of Wight Fluvial Catchments

Reference papers:

- A: Interim Nitrate Mitigation Solution – Report to the Executive 2nd September 2019
- B: Advice on achieving nutrient neutrality for new development in the Solent Region Version 5 published June 2020 by Natural England
- C: Nitrate Mitigation - Legal Agreement with Hampshire and Isle of Wight Wildlife Trust & Isle of Wight Council- Delegated Decision by the Director of Planning and Regeneration – 17th July 2020
- D: Call-In of Officer Delegated Decision No. 2195 - Nitrate Mitigation - Legal Agreement with Hampshire and Isle of Wight Wildlife Trust & Isle of Wight Council- Agenda and minutes of the Policy and Resources Scrutiny Panel 30th July 2020

FAREHAM

BOROUGH COUNCIL

Briefing Paper to Director of Planning and Regeneration

| | |
|---------------------|--|
| Date: | 18 th May 2021 |
| Subject: | Nitrate Mitigation at Coleman's Lane, Porchfield, Newport, Isle of Wight – Legal Agreement with Heaton Farms Ltd & Isle of Wight Council |
| Briefing by: | Head of Development Management |
| Portfolio: | Planning and Development |

INTRODUCTION

1. In February 2019, Natural England updated its advice to local councils to reflect European case law and recommended an Appropriate Assessment is undertaken within the Borough of Fareham for every application for new dwellings and proposals which involve additional overnight accommodation.
2. Natural England has highlighted that increased levels of nitrates entering The Solent (resulting from increased amounts of wastewater from new dwellings) is likely to have a significant effect upon protected sites.
3. Where developers are not able to demonstrate that their proposals maintain or reduce the levels of nitrates leaving their site, mitigation measures need to be identified. The majority of planning applications for development comprising residential or other overnight accommodation will need to mitigate for increased levels of nitrates entering The Solent. In most instances, developers will be unable to provide this mitigation on their development site.

BACKGROUND

4. Since February 2019, there has been a substantial impact upon the grant of planning permissions for new housing in Fareham, as developers have sought to secure nitrate mitigation. Most of the mitigation proposals which have been brought forward to date involve putting agricultural land into less 'nitrate' intensive uses. Many of these mitigation proposals have involved land outside of the Borough.
5. One of the largest schemes locally which has assisted with nitrate mitigation is at Little Duxmore Farm on the Isle of Wight. This particular scheme has been able to mitigate the impacts of nitrates from a number of developments in the Borough, but it does not have capacity to mitigate the impacts from all schemes. As a result, there are a considerable number of planning applications for residential development within the

Borough which will remain undetermined until nitrate mitigation has been identified and secured.

6. Fareham Borough Council is required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement or local housing need.
7. Annually the Ministry of Housing, Communities and Local Government carries out a 'Housing Delivery Test' which measures the number of residential units delivered over the preceding three years against the Council's requirements. Where delivery is less than 85% of the Council's housing requirement, the Council is required to apply an increased buffer to its requirements. The latest Housing Delivery Test results show that housing delivery in the borough has fallen to 79%, meaning a 20% buffer must be added to its five-year housing land supply requirement.
8. The Council's ability to grant planning permissions for residential development has been affected since February 2019, as a result of the nitrates issue in The Solent. This in turn has impacted upon the deliverable sites this Council is able to identify as part of its five-year housing land supply. The reduction in the planning permissions the Council has been able to grant since February 2019 will impact further upon the Council's Housing Delivery Test results in the future.

COMMENTS

9. The Council has worked hard to find resolutions as, by carrying out its legal duties in one area, namely in considering the effects of proposed developments upon protected sites, it is failing in another, which is to make provision for new housing within the Borough in line with the amount specified by the Government.
10. The potential impacts upon The Solent is an issue which involves a number of councils within South Hampshire. All of the affected councils, including Fareham, are members of the Partnership for South Hampshire (PfSH), a Partnership which seeks to resolve issues through local authorities working together with other relevant statutory bodies. PfSH is working with the Environment Agency, Natural England and Southern Water to address the issue of nitrates within The Solent.
11. Whilst this Council, working through PfSH, continues to explore broader strategic mitigation solutions for nitrates, short-term mitigation solutions are being bought forward by third parties.
12. In September 2019, a report was presented to the Executive to outline the situation in relation to the advice from Natural England and the extent of the nitrates problem. The report detailed a package of measures which together formed an interim mitigation solution which would move the Council towards a position of issuing planning permissions. The proposed approach to mitigation, as set out at paragraph 15 of the Executive report includes a mix of different measures. One of the first measures identified relates to the 'management of existing agricultural land' and managing land in a way that involves the use of less nitrogen fertiliser.
13. It is Natural England's view that mitigation land within the same 'catchment' as the development location is appropriate. All development within the Borough of Fareham drains to Peel Common Wastewater Treatment Works. Natural England consider that mitigation is therefore appropriate in any of the following catchments – River Meon, Portsmouth Harbour, Medina Estuary, Wootton Creek, Newtown Harbour and

Langstone Harbour. Plans showing all of these catchments are set out in the 'Advice on achieving nutrient neutrality for new development in the Solent Region Version 5' published June 2020 by Natural England.

14. In July 2020 the Council took the decision to enter into a legal agreement with Hampshire and Isle of Wight Wildlife Trust (HLOWWT) and the Isle of Wight Council (IWC) to enable land at Little Duxmore Farm on the Isle of Wight to be used as mitigation for nitrates arising from new residential development within the catchment area. The legal agreement was completed and signed in September last year and the first planning permissions in this Borough, relying on nitrate mitigation land provided at Little Duxmore Farm, were issued in November 2020. The proposed use of land at Coleman's Lane would work in a similar way to the scheme already in use at Little Duxmore Farm.
15. The proposed mitigation land has historically been in use for intensive agricultural production of silage and maize as part of a larger dairy farm. The nitrates mitigation proposal involves taking this land out of agricultural production, in perpetuity, to be secured through the implementation of an approved woodland planting scheme as it becomes 'credit linked' to a development. This change of use of the land would achieve a reduction in nitrogen output of 31.2Kg/N/ha/yr.
16. In order to agree the nitrogen loss from the current land use, Natural England has reviewed the evidence submitted by Heaton Farms Ltd in relation to historic land use including photographs from Google Earth and land use data from the Rural Payments Agency in connection to the historic Basic Payment Scheme. Natural England concur with the land use conclusion that the site would fall under the 'dairy' agricultural use type and it has been demonstrated that this land use has occurred for a period of time well in excess of 10 years. This was further confirmed through records for historic Higher Level Stewardship agreements.
17. In accordance with the 'Advice on achieving nutrient neutrality for new development in the Solent region' (v5 June, 2020), the rate of nitrogen loss for dairy land is 36.2 Kg/N/ha/yr. A change of use of the land to woodland would result in a nitrogen loss from the site of 5kg/N/ha/yr. Natural England has confirmed that by taking the eligible areas of the site (15.6ha) out of dairy production and securing the implementation of a woodland planting scheme, the available budget for the site as a whole would be 486.72 Kg/N/yr. In the urban area where there is no corresponding change in land use, a single new dwelling would typically need to offset 0.7Kg/N/yr.
18. The proposed nitrate mitigation scheme is considered suitable as nitrate mitigation for development served by the Peel Common WasteWater Treatment Works (WWTW) which discharges treated wastewater into the centre of The Solent Channel. The mitigation land slopes on a shallow gradient towards an adjacent watercourse 'Rodge Brook', and the soil type is heavy clay. The mitigation land is within the fluvial catchment of Newtown Harbour Site of Special Scientific Interest (SSSI). The SSSI is a component part of the Solent & Southampton Water Special Protection Area (SPA) & Ramsar, and the Solent Maritime Special Area of Conservation (SAC).
19. Natural England have confirmed that the proposed mitigation land is appropriately sited in terms of lower fluvial catchment, geology and hydrology to deliver nutrient offsetting for Newtown Harbour SSSI, the Solent and Southampton Water SPA and Ramsar site, and the Solent Maritime SAC. A plan showing the mitigation land is attached at Appendix A to this report. A second plan attached at Appendix B shows the mitigation land and its relationship to river catchments feeding into the Solent.

20. In the first instance, the Council will need to agree with developers the amount of nitrates leaving the site that will arise from carrying out their proposed development (the amount of nitrates is measured in kilogrammes on an annual basis). Where the development will lead to an increase in the discharge of nitrates, the developer can then establish how many 'credits' they need to purchase from Heaton Farms Ltd. When developers buy 'credits', Heaton Farms Ltd will undertake to manage a specified area of the site in a way which limits the amounts of nitrates which enters the ground and ultimately The Solent fluvial catchment.
21. In order to rely on the site at Coleman's Lane for nitrate mitigation, and to ensure that it is managed in a particular way, the Council must enter into a legal agreement with Heaton Farms Ltd and IWC. The legal agreement will provide a legal framework to facilitate the purchase of nitrate credits for applicants/developers, will control how the land is managed and for what period of time, and will ensure monitoring is undertaken to ensure compliance with the legal agreement.
22. The legal agreement does not specify how many nitrate credits will need to be provided in mitigation for specific development sites. The amount of mitigation needed for each development proposal will need to be agreed on a case by case basis with this Council as part of the planning application process. Once the level of mitigation has been established, and the Council has concluded following an appropriate assessment that there will be no adverse effect on the integrity of protected sites as a result of the development, the applicant/developer will then enter into arrangements with Heaton Farms Ltd to purchase the nitrate mitigation. The applicant/developer will need to satisfy this Council that the mitigation has been secured at the time of granting planning permission, with proof of the purchase of credits to be provided before their development commences.
23. A legal agreement has been drafted to this effect with input from solicitors acting for Heaton Farms Ltd, Fareham Borough Council and IWC. The legal agreement includes obligations to control the uses that should be prohibited from the site and the period of time for which the mitigation should be secured. The monitoring of the legal agreement, ensuring that Heaton Farms Ltd complies with its requirements, will be undertaken by the Isle of Wight Council.

RISK ASSESSMENT

24. This Council's Solicitors are satisfied that the legal agreement as drafted provides an appropriate mechanism for securing nitrate mitigation for development involving residential or other overnight accommodation being undertaken within Fareham Borough.
25. The Council's Solicitors are further satisfied that the construction of the legal agreement, including the monitoring of its provisions by the IWC, would ensure that it meets the requirements of the Habitat Regulations as emphasised through European Court judgments when determining planning applications.
26. When granting planning permission, the Council is not under a legal duty to ensure that measures are secured to achieve the improvement of protected sites (i.e. a net reduction in the amount of nitrates entering The Solent) where those sites are in an 'unfavourable' condition. The Habitat Regulations, which transpose the Habitats Directive into UK law, are quite clear that, when granting planning permission, the Council must ensure that there will be 'no adverse effect on the integrity' of protected sites. There are no EU or domestic court decisions that state that more than nitrate

neutrality must be achieved. In many cases, a small improvement may be achieved anyway because developers may be required to purchase a rounded-up number of 'credits' where their requirement is not a whole number.

APPROPRIATE ASSESSMENT

27. The agreement is neither a 'plan' nor 'project' under regulation 63 of the Habitats Regulations, and therefore there is no requirement to consider the effect of the agreement on protected sites. A plan or project would ordinarily either involve some form of physical intervention or have an effect on land, whereas this agreement on its own will only have an effect on land in the event that development in Fareham is granted planning permission, which itself will require its own appropriate assessment.
28. However, even if the agreement were to be considered to be a plan or project, such that regulation 63 applies, officers are nevertheless of the view that the agreement would not have a likely significant effect on the protected sites, meaning that it could be 'screened out'.
29. This is for three reasons: firstly, whilst there is no specific definition of the term 'significant' in the Habitats Regulations or Habitats Directive, it can be interpreted in the context of the protective objectives of the Habitats Directive as meaning a negative or adverse effect. Once the agreement takes effect, the result will be to remove land at Coleman's Lane from intensive agricultural use and secure the cessation of large inputs of fertiliser and, as a consequence, reduce the amount of nitrates entering into The Solent, thereby reducing the risk of eutrophication and preventing the deterioration of the protected sites. This will be a positive effect in light of the sites' conservation objectives.
30. Secondly, even if it were to be considered that (as the mirror opposite to development having a likely significant effect), the equivalent reduction may equally have a likely significant effect, there is no effect on the land as a result of the agreement unless a notice is served. When that notice is served, it is in combination with another development in Fareham (which would be subject to its own assessment). Therefore, on its own, it has no effect since the land remains unaffected by the agreement unless 'credits' are purchased and the covenants crystallise.
31. Finally, in an assessment in combination with other development, the effect of the agreement, when a notice is served, is the decrease in nitrates from the site, resulting in no net change to the area when considered with the specific linked development or any proposed development in Fareham. It won't give rise to a negative effect let alone a significant one.
32. Officers are of the view that the agreement is not caught by regulation 63 of the Habitats Regulations (since it is not a 'plan or project') but even if were, the agreement would not have a likely significant effect and can be screened out as set out above. Therefore, no appropriate assessment is required.

FINANCIAL IMPLICATIONS

33. The Council's costs associated with preparing the legal agreement have been paid by Heaton Farms Ltd.
34. Any mitigation 'credits' will involve a financial transaction between the applicant/developer and Heaton Farms Ltd. This Council will not be involved in these financial transactions.

35. The monitoring work undertaken by IWC will be paid for by Heaton Farms Ltd.

CONCLUSION

36. The land at Coleman's Lane has historically been used for intensive agricultural purposes in association with dairy farming. The way in which Heaton Farms Ltd will use and manage the land will substantially reduce nitrogen inputs into the land and therefore nitrogen run-off and other discharges into protected sites in the Solent Fluvial Catchment.
37. The legal agreement will provide a legal framework to facilitate the purchase of nitrate credits for applicants/ developers, will control how the mitigation land is managed and for what period of time, and will ensure monitoring is undertaken to ensure compliance with the legal agreement
38. The legal agreement does not specify how many nitrate credits will need to be provided in mitigation for specific development sites. The amount of mitigation needed for each development proposal will need to be agreed on a case by case basis with this Council as part of the planning application process. Once the level of mitigation has been established, and the Council has concluded following an appropriate assessment that there will be no adverse effect on the integrity of protected sites as a result of the development, the applicant/ developer will then enter into arrangements with Heaton Farms Ltd to purchase the nitrate mitigation. The applicant/ developer will need to satisfy this Council that the mitigation has been secured at the time of granting planning permission, with proof of the purchase of credits to be provided before their development commences.
39. There is an urgent and pressing need to grant planning permissions for housing development within the Borough so that the Council can ensure that it identifies deliverable sites sufficient to provide a minimum of five years' worth of housing. Further delays in the granting of planning permissions and in turn the delivery of residential units on the ground, are likely to lead to the Council being required to make provision for even larger numbers of housing in the future.
40. The recent restrictions put in place to tackle the spread of Covid-19 have had a considerable impact upon the housing market and construction industry. The granting of planning permissions at the earliest possible date would assist in stimulating the construction industry and housing market.
41. Authority should be given by the Director of Planning and Regeneration for the Council to enter into the legal agreement with Heaton Farms Ltd and IWC, to secure nitrate mitigation at Coleman's Lane in connection with residential development within the Borough of Fareham. This in turn will provide an opportunity for a large number of stalled residential schemes within the Borough to proceed.

Enquiries:

For further information on this report please contact Lee Smith (Ext 4427) Head of Development Management.

APPENDIX FBC.20

Supplementary Planning Statement
re. revised Welborne Planning
Application



W E L B O R N E
G A R D E N V I L L A G E

Supplementary Planning Statement

December 2020



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1. INTRODUCTION

- 1.1 This Supplementary Planning Statement is submitted in support of the Outline Planning Application (OPA) for a mixed-use new community to the north of Fareham, locally known as Welborne. The OPA is submitted to Fareham Borough Council (FBC) on behalf of Buckland Development Limited (Buckland). The main elements of the OPA are 6,000 residential dwellings, employment uses, local and community services and supporting infrastructure, including improvements to M27 Junction 10.
- 1.2 Buckland submitted the original OPA for this development in March 2017. Following the submission, a significant amount of comments on the OPA have been received from the statutory consultees, the general public and FBC. This led to discussions and negotiations with these parties to agree changes to the original OPA, and requirement for additional information to be provided in some cases. This culminated in a submission of an updated OPA in December 2018, in which a comprehensive Planning Statement was submitted, amongst a suite of other documentation. This Planning Statement has been submitted to supplement the December 2018 Planning Statement, and to provide update to this document, in relation to the proposed changes to the OPA. Further updated documents and information was submitted at various intervals prior to the planning committee which was undertaken in October 2019.
- 1.3 The OPA includes detailed approval for significant improvements to M27 J10, transforming the current junction arrangement into an 'all moves' junction. It is agreed by all parties that the proposed improvements to M27 J10 are a critical element of infrastructure that is required for both the full delivery of Welborne, and to support local (and regional) growth aspirations. It is also agreed by all parties that there is sufficient local highway capacity to accommodate up to 1,160 dwellings at Welborne prior to the improvements to M27 J10 becoming operational. The design and delivery of the junction improvements is being led by Hampshire County Council (HCC) as 'Scheme Promoter'.
- 1.4 The OPA was considered at FBC Planning Committee in October 2019, in which a 'Resolution to Grant' decision was reached, subject to the signing of a S106 Legal Agreement. Since the Planning Committee, significant progress has been made in negotiating this agreement with all parties, including FBC and HCC.
- 1.5 However, as explained in this Statement, despite significant efforts and government lobbying, significant progress has not been made in relation to finding gap funding for the M27 J10 Improvements. Whilst extremely positive discussions have been undertaken with Central Government regarding Housing Infrastructure Funding, the Solent LEP funding has been reallocated away from the project. Further, the Covid-19 pandemic has increased the financial and funding uncertainty. This combination of circumstances has placed the delivery of the project in jeopardy, which has significant implications in regard to project programming, delivery and HCC's Scheme Promoter position on the M27 J10 Improvements.
- 1.6 Given this, Buckland are proposing solution, by providing an additional contribution of £20m to the M27 J10 Improvements, totalling a £40m developer contribution. However, this alters the viability assumptions and costings in which the OPA was considered at Planning Committee. This additional contribution also has an effect on the amount of affordable housing that the scheme can viably deliver without additional funding solutions. These changes are explained in detail within the Viability Statement which is submitted, and should be read alongside, this Supplementary Planning Statement.
- 1.7 Significant time, efforts and resources have been placed into the delivery of Welborne from all parties for over a decade. Despite this, no solution has been found which will enable the delivery of Welborne without additional government funding, of which there is no sign it will be forthcoming.

To ensure Welborne's delivery, more certainty must be created, and the indefinite search for a funding solution must be resolved. The proposals as set out by Buckland in the documentation submitted seek to achieve this solution.

- 1.8 Furthermore, since the Planning Committee, significant work has been undertaken by Buckland in preparation for the first reserved matters planning applications, particularly in relation to the sitewide strategies which are required to be submitted in advance of these reserved matters applications. One of these sitewide strategies, the Biodiversity Enhancement Strategy, is now ready for submission, and has been included as a part of this additional application information package.
- 1.9 Also, again since the Planning Committee, as further negotiations regarding the S106 agreement have taken place, it has been noted that the proposed PEGASUS crossing which spans the A32 toward the centre of the site is shown on a different location in the submitted parameter plan and within the detailed A32 drawings. In order to regularise this position, the detailed A32 drawings have been updated to reflect the correct location of this crossing. These drawings have been reviewed by Hampshire County Council and agreed in principle.

Additional Application Documentation

- 1.10 This Supplementary Planning Statement should be read alongside the following submitted additional application documentation:
- a. Viability Statement
 - b. Biodiversity Enhancement Strategy
 - c. EIA Statement of Conformity
 - d. Updated Package of Drawings relating to the detailed A32 works

2. M27 J10 FUNDING AND BACKGROUND

The OPA and Planning Committee

- 2.1 The OPA includes detailed approval for significant improvements to M27 J10, transforming the current junction arrangement into an ‘all moves’ junction. It is agreed by all parties that the proposed improvements to M27 J10 are a critical element of infrastructure that is required for both the full delivery of Welborne, and to support local (and regional) growth aspirations. It is also agreed by all parties that there is sufficient local highway capacity to accommodate up to 1,160 dwellings at Welborne prior to the improvements to M27 J10 becoming operational. The design and delivery of the junction improvements is being led by Hampshire County Council (HCC) as ‘scheme promoter’.
- 2.2 The proposed junction improvements represent a significant piece of infrastructure, and thus have a significant cost to deliver. HCC now estimate that this cost will be in the region of £70-75m (including risk and optimism bias). At the time of the planning committee (October 2019), HCC estimated the cost was £85-90m, and c. £49m of funding had been secured for M27 J10, as illustrated in the table below. This left a funding gap of c. £36-41m, when compared to the cost estimate for the scheme. An important factor to note is that both the Solent Growth Funding and the Retained DfT funding were both under a timing constraint, namely that the sums needed to be spent (or allocated) by March 2021.

| Source | Amount |
|-------------------------------------|---------------|
| Developer Contribution (Buckland) | £20m |
| Solent Growth Funding (held by LEP) | £14.9m |
| Retained DfT Funding (held by LEP) | £14.1m |
| Total Funding | £49m |
| Funding Gap | c. £36m-41m |

Table 1 – Proposed Funding Sources at October 2019

- 2.3 FBC have historically maintained that, in order to ensure the comprehensive delivery of Welborne, in conformance with the provisions of the Welborne Plan, that key infrastructure should be fully funded before works are commenced at Welborne. In order to protect this position, the following draft Grampian condition (Draft Condition 52) was agreed between Buckland, HCC and FBC to be imposed on the OPA, once granted:

52. No development shall take place on any other work on site other than that related to the delivery of Junction 10 until details of the sources of all the funding necessary to carry out the Junction 10 works has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

REASON: To ensure the timely delivery of the necessary infrastructure to service the development and in the interest of highway safety.

- 2.4 Draft Condition 52 was included to enable parties to seek additional funding opportunities either prior to the signing of the S106 Agreement and planning permission being issued (thereby removing condition 52 from any planning permission), or following the signing of the S106, with funding commitments demonstrated to FBC (as part of a discharge of condition application) prior to development being undertaken. At the time of the planning committee, all parties believed a funding solution could be achieved swiftly, and in any event by summer 2020.
- 2.5 A further draft Grampian condition was also agreed, which related to the development permitted prior to the M27 J10 improvements being operational (Draft Condition 53), which reads:

53. No occupation of the 1,161st residential unit; or 1,501st sqm B1 Office floorspace; or 5,751st sqm B2 General Industrial floorspace; or 4,001st sqm B8 Storage or Distribution floorspace; or 4,701st sqm A1 Retail Floorspace or the opening more than one primary school within the development hereby permitted, until the M27 J10 is open to the public as an all-moves junction, in accordance with the details approved under conditions 57 to 67 of this planning permission and as referred to within the legal agreement pursuant to section 106 of the Town and Country Planning Act 1990, as amended.

REASON: To ensure the timely delivery of the necessary infrastructure to service the development and in the interest of highway safety.

- 2.6 These conditions were both put before members within the Committee Report for the OPA, which received resolution to grant in October 2019.
- 2.7 Significant viability work has been undertaken as part of the Welborne project, and the outcomes of this were presented at this Planning Committee. In summary, the agreed viability position at the time of planning committee was as follows:
 - a. Buckland would pay £20m toward the M27 J10 Improvements. The remaining cost would be sourced from Central Government Grant Funding.
 - b. Infrastructure Delivery Cost was £308m, of which £106m would be required within the delivery of the first 1,000 units
 - c. Due to the significant cost in the early phases of development, the first 1,000 units at Welborne would be able to support provision of 10% affordable housing, based on a sub-market developer return on costs of 14.4% (Market-rate developer return on costs is usually a minimum 20%)
 - d. Factoring in growth over the build period for the whole development, it may be possible that later phases could support additional affordable housing, and thus a viability review mechanism will be incorporated into the S106 agreement. This will enable, if viable, later phases to deliver additional affordable housing to meet the Welborne plan target of 30%.
 - e. The development should not provide a payment of CIL, as the infrastructure to be provided as part of the S106 Agreement is sufficient to support the new community, and has other wider benefits. This Infrastructure will be provided at significant cost.

2.8 The table below illustrates a very simplified snapshot of the viability and delivery profile for the first 1,000 units at Welborne, taken from the CBRE Viability Report which was appended to the Planning Committee Report. It shows that the costs, through land acquisition and infrastructure delivery, outweigh the Gross Development Value of the first 1,000 dwellings by a factor of almost 50%.

| | First 1,000 Homes (£/m) |
|------------------------------|-------------------------|
| Gross Development Value | 129 |
| Cost | (252) |
| Profit/Deficit | (123) |
| Profit/Deficit as % of costs | (49%) |

Emerging Conclusions – Viability of First 1,000 Units

First 1,000 Units and Viability, Extract from CBRE Welborne Viability Report, October 2019.

Changing Circumstances since the Planning Committee

- 2.9 Since the Planning Committee in October 2019, negotiations surrounding the S106 have continued in earnest, and HCC have been proceeding with design work related to the Junction improvements. Buckland have also applied for, and implemented, enabling works to enable the swift delivery of the junction, once funding is secured.
- 2.10 Alongside this, applications for funding sources for the M27 J10 have been considered and discussions have been undertaken with senior members of Homes England, as well as Members of Parliament including the Housing Minister, Robert Jenrick MP and the Attorney General, Suella Braverman (the Local MP for Fareham). At this meeting, it was clear from a Central Government perspective, a local solution should be prioritised, rather than seeking significant additional funding from Central Government.
- 2.11 As a part of this, in 2017, FBC applied for £10m of Housing Infrastructure Fund Marginal Viability Grant (HIF). Following the ministerial meeting mentioned above, we have been advised that this application could be extended to £30m, following recommendation from the Housing Minister and his Special Advisors, subject to local partners proposing a solution to the remaining gap., Buckland and FBC have undertaken a number of meetings outlining their revised approach with Homes England, who have agreed in principle the £30m allocation, subject to the agreement of contracts.
- 2.12 Whilst significant progress has been made with HIF, the elements of funding which are held by the LEP have become much less certain. At the LEP Board Meeting of 22nd May 2020, the LEP Board resolved to withdraw the remaining Solent Growth Funding (£14.9m) and allocate it to other schemes. It was confirmed at the M27 J10 Steering Group on 19th August 2020 that the remainder of the retained DfT funding (£14.1m, less the £5m spent to date) was also to be reallocated to other projects in the region. Also, since the Planning Committee, HCC has reviewed the junction cost, and now estimates the cost will be £75m Table 2 below illustrates the funding position at the time of writing this Statement.

| Committed Source | Amount |
|-----------------------------------|---------------|
| Developer Contribution (Buckland) | £20m |
| Money paid to HCC in design fees | £5m |
| Total Committed Funding | £25m |
| Funding Gap | £50m |
| Potential Source | |
| Housing Infrastructure Fund | £30m |
| Potential Funding Gap | £20m |

Table 2 – Proposed Funding Sources at September 2020

- 2.13 Alongside the negotiation of the S106 and attempts to achieve funding, Buckland have been progressing with securing consent enabling works (including access to Boundary Oak School, access to the retained properties at Kneller Court Lane and ecological enabling works for the improvements to M27 J10), as well as progressing with work on the Strategic Scale Documents (Strategic Design Code, Street Manual, Biodiversity Enhancement and Housing Strategy), ready for submission as soon as the S106 is signed. These have all been undertaken with, currently, no prospect of a start on site, due to the provisions of Condition 52.

Opportunities to achieve other funding to satisfy Condition 52

- 2.14 As demonstrated in above, despite 11 months of lobbying by all parties for alternate funding, a significant funding gap remains. It is understood that during the ministerial meeting mentioned above, it was set out that it is extremely unlikely that any further HIF would be made available to Welborne, above the £30m HIF allocation.

- 2.15 There are other funding sources which could be utilised to offset other infrastructure costs (eg. affordable housing or school delivery) and thereby enabling more of the infrastructure budget to be diverted to M27 J10. However, these other potential funding sources often require an implementable planning permission to be in place prior to accessing them, as do many of the other funding streams which are available from government.
- 2.16 Further, significant government spending has recently been undertaken to combat the Covid-19 pandemic. Whilst economic stimulus packages are being announced to attempt to restart the economy following lockdown, these are focused on the retail, manufacturing and hospitality sectors at this stage. No announcements have been made for any funding to stimulate the construction or property sector. It is considered that if any funding packages do come forward, it is unlikely these will be made this financial year, and even if so, they will focus on 'easy wins' ie. stalled or slow delivering schemes which have shorter timeframe for delivery than Welborne.
- 2.17 Given this situation, Buckland consider it to be exceptionally unlikely any further funding will be available or accessible in the current financial year. Opportunities for funding could be present just prior to, or at the start of the next financial year (eg. April 2021), but given considerations above regarding Covid-19, there is significant risk that these will not materialise.

Programme implications

- 2.18 Following the above changes in circumstances, Buckland have undertaken a review of their anticipated delivery programme, and the implications of the failure to have achieved a method of filling the funding gap, some 11 months after planning committee. Key anticipated timeframes are shown in the table below, as a 'best case' based on the securing of funding as soon as possible.

| | |
|--|--|
| Signing of the Section 106 Agreement | Unknown |
| Submission Approval of Strategic Scale Documents (Strategic Design Code, Street Manual and Housing Strategy) | c. 4 months |
| M27 J10 Funding Secured | Unknown |
| Submission of Neighbourhood Design Code and Phase 1 Reserved Matters | Once funding secured, and Condition 52 discharged. C. 4 months from submission to determination. |
| Works related to Strategic Services and Utilities (subject to planning) | Once funding secured, and Condition 52 discharged. C. 18 month process. |
| Works on Pre-occupation obligations (Dashwood, etc.) | Once funding secured, and Condition 52 discharged. C. 12 month process due to ecology constraints. |
| Commencement of Phase 1 | Only once above actions completed, so estimate of 18 months from funding secured. |
| First Occupation | Two years from the point of funding allocation |

Table 3 – Potential Programme Key timescales (Best Case)

- 2.19 The securing of the M27 J10 funding, and thus unlocking the ability to discharge Condition 52 and start on site in earnest thereby absolutely critical to this programme. Should this not be achieved as soon as possible the programme will slip. Given funding is often allocated in the Autumn Spending Review, or the April Budget, it is likely that any slip past a review stage will lead to minimum 6-month delay. Without funding certainty, the delay to delivery could be exponential.
- 2.20 Whilst the achievement of funding for M27 J10 has been a substantial risk to the delivery of Welborne throughout, given the requirements of Draft Condition 52, and failure to fill the funding gap during the S106 negotiation period, the funding position has become an even more significant (and more imminent) obstacle to progression.

The Need to Secure Welborne’s Delivery

- 2.21 As a Government allocated garden village, Welborne is a project of national importance, and its delivery is critical to the growth aspirations of both Fareham and the Hampshire region. Therefore, its imminent delivery is of extreme importance. However, the circumstances above regarding funding have further increased the focus on its need to deliver imminently, due to a variety of factors.
- 2.22 Significant time, efforts and resources have been placed into the delivery of Welborne from all parties for over a decade. Despite this, no solution has been found which will enable the delivery of Welborne without additional government funding, of which there is no sign it will be forthcoming. To ensure Welborne’s delivery, more certainty must be created, and the indefinite search for a funding solution must be resolved.

Risk to HCC M27 J10 Project Sponsorship

- 2.23 As was set out at the M27 J10 Steering Group Meeting on 19th August, the Solent LEP have confirmed that the £24m (£29m, less £5m spent to date) previously allocated funding for M27 J10 has been reallocated to other projects in the region and will not be available for Welborne. Further, it was also confirmed that funding has been withdrawn which would have enabled HCC to complete the detailed design works with Highways England. HCC have confirmed they can only continue as project sponsor if there is a clear funding mechanism to cover their costs. The current funding for J10 technical work is forecast to be spent before April 2021. Should further funding not be found before this April date, according to Buckland’s discussions with HCC, they are likely to pause all their work towards the delivery of M27 J10, until further funding can be found.
- 2.24 HCC have made significant progress in recent months with the progression of the technical work required with Highways England to deliver M27 J10. It is clear that if HCC pause work on the project, progress with Highways England will be lost, and even if funding is forthcoming at a later date, this will have significant effects on the delivery programme at Welborne.

Housing Infrastructure Fund Conditions

- 2.25 Following Buckland and FBC’s discussions with MHCLG, it is understood that any HIF allocation would also be time restricted, much like the original LEP funding. Therefore, this £30m funding could be lost if not spent by 2023. Given the two year anticipated build out for the M27 J10 works, in order to guarantee that this £30m would be spent by 2023, works would have to commence in 2021. Therefore, the timescales to achieve the remaining £20m funding gap are further constrained.

Local Plan and Five Year Land Supply

- 2.26 Working to the ‘best-case’ (as programmed in table 3), the anticipated delivery rate of dwellings at Welborne is summarised below.

| Year | Dwellings Delivered Per Year | Cumulative Dwellings Delivered |
|-------------|-------------------------------------|---------------------------------------|
| 2020-2021 | 0 | 0 |
| 2021-2022 | 0 | 0 |
| 2022-2023 | 30 | 30 |
| 2023-2024 | 180 | 210 |

| | | |
|-----------|-----|------|
| 2024-2025 | 240 | 450 |
| 2025-2026 | 240 | 690 |
| 2026-2027 | 240 | 930 |
| 2027-2028 | 240 | 1210 |
| 2029-2030 | 280 | 1490 |

Table 5 – Anticipated Dwellings Delivered, based on Table 3 Programme.

Orange highlight illustrates FBCs current Five-Year Housing Land Supply Period

- 2.27 Welborne is a critical element of FBCs adopted Local Plan, and represents the single largest housing allocation (and delivery vehicle) in the Borough. Allocated in FBCs Core Strategy in 2011 (which covers the plan period until 2026), the Core Strategy predicted that some 5,350 dwellings would be completed at Welborne by 2026, with the remainder complete by 2031. Whilst this timescale and delivery has clearly slipped in the last 9 years since the plan was adopted, it illustrates the importance of the delivery of Welborne to meet the targets and aspirations of the current local plan.
- 2.28 Further, FBC are currently embarking on a review of their Local Plan, covering the period to 2037. The policies surrounding Welborne are not proposed to be reviewed as part of this plan, and Welborne remains a critical element of planned growth in the area, with the Local Plan 2037 consultation documentation acknowledging the high reliance on Welborne to deliver to meet the planned growth requirements in the Borough. Thus, should Welborne be subject to further delays in its delivery, the strategy held both within the adopted local plan and the emerging local plan will be weakened significantly.
- 2.29 Looking at shorter to medium term implications, any delays in the delivery of dwellings at Welborne will have implications upon FBC's five-year housing land supply. Over the last few years, the five year supply position has fell below the required 5 years, and is currently 4.03 years (as measured in June 2020). This has been compounded by the 'moratorium' on planning consents which has been created due to issues regarding nutrient loading and nitrogen on local Special Protection Areas. This is a factor which does not affect Welborne, as nitrate neutrality has been demonstrated as part of the Shadow Appropriate Assessment submitted.
- 2.30 The 450 units currently programmed for delivery (using the best-case programme) equates to approximately 0.83 years of FBCs five-year land supply to 2025, when utilising an overall housing requirement of 540 homes per year. Therefore, Welborne also has a significant contribution to make to housing delivery, even in the short/medium term.
- 2.31 Both the adopted Local Plan and the Draft Local Plan 2037 consider options for the delivery of new residential land allocations in areas other than Welborne. However, the geography of the Borough, with the sea to the south and limited capacity in the built-up areas, means there are limited opportunities for further residential allocations. There is much public objection to the perceived coalescence of existing settlements, which means edge of settlement locations for development have been receipt of significant local objection. However, should Welborne remain undelivered, it is likely that FBC may need to consider these options to deliver the required level of homes, or be subject to further speculative planning applications in these areas which look to exploit any weakening five year housing land position.
- 2.32 The swift delivery of Welborne is even more critical now than it has ever been for the short and long-term growth aspirations of FBC and the region both in housing and economic terms.

Works already undertaken

- 2.33 As noted above, Buckland has continued to undertake a significant amount of work towards the delivery of Welborne, even without an OPA consent. This has included tangible progress towards the submission of strategic scale documents (the Strategic Design Code, Biodiversity Enhancement Strategy and Street Design Manual). Should the funding barrier to delivery remain, there is a very real risk that this work will need to be redone as time passes, and this material becomes dated. As has been shown in the determination period of the OPA with nitrogen and biodiversity, new requirements are appearing rapidly from Government and governing bodies, which may have implications on delivery and work undertaken to date.
- 2.34 The predominant justification for many of the enabling works which Buckland have undertaken to date has been to undertake works which would require protected species relocation and licencing to enable clearance of land for the M27 J10 works. Whilst these works have been undertaken, the habitats created will need to be maintained and monitored (at cost) until completion of the junction works.
- 2.35 Further, some of these standalone enabling works already undertaken by Buckland have required previously farmed fields to be cleared of crops and are now left fallow. These fields will need to be maintained (at a cost), to enable works to continue in earnest free of ecology constraints once funding is secured. These costs provide further incentive for swift delivery of homes at Welborne, as they cannot yet be balanced against development receipts.
- 2.36 Whilst Buckland remain committed to exploring alternative funding sources, it is clear it has now reached a point where the whole delivery of Welborne is in jeopardy, unless an alternative solution can be found to solve the funding issue.

3. PROPOSED CHANGES TO THE OPA AND ADDITIONAL INFORMATION SUBMITTED

M27 J10 Funding and Viability

- 3.1 Given the considerations set out above, and the need to secure the delivery of Welborne, Buckland have been considering alternative funding solutions to secure the delivery of M27 J10, and thereby the delivery of Welborne. Following this review, Buckland propose the following:
- a. Welborne to be zero-rated for CIL, in line with the Changes to the FBC CIL Charging Schedule as recently submitted to the Planning Inspectorate for Examination.
 - b. The developer contribution to the M27 J10 Improvements is raised from £20m to £40m. This will then, along with the anticipated HIF allocation of £30m, enable the Improvements to be fully funded.
- 3.2 This payment will be required in the first phase of development (first 1000 units) to enable the junction to be provided prior to the delivery of the 1160th dwelling. This will severely impact the predicted return on cost. To achieve the previously agreed return on cost of 14.4% (a sub-market rate, but agreed as suitable as part of the viability work assessed and presented to the October 2019 Planning Committee) with the increased developer contribution and delivering all of the infrastructure required to deliver Welborne (at a cost of some £308m), affordable housing provision would need to be reduced to 3%.
- 3.3 Buckland is fully committed to the delivery of a balanced community at Welborne, and thus cannot countenance an affordable housing delivery of just 3%. Buckland remain committed to provide a minimum of 10% affordable housing across the entire development. As the submitted viability assessment illustrates, when factored in with the proposed £40m junction developer contribution, this leaves a predicted return on cost of 1.5%, which is exceptionally below market rates (which usually expect a 20% return on GDV).
- 3.4 The submitted Viability Assessment illustrates a 'no growth' scenario, however the previous viability work undertaken by both Buckland and FBC assumed modest growth in values, due to a 'placemaking premium' at Welborne, and to factor in house price growth. In the context of overall returns predicted at 14.4%, but with an acknowledgement that significant funding is required in early phases, it was agreed that a 'Viability Review Mechanism' would be present which would require Buckland to increase affordable housing provision beyond the 10% agreed for the first 1,000 dwellings, in later development phases, should viability allow. However, with an additional £20m of M27 J10 funding due in the early phase, the return on cost now is at 1.5%. In order to enable Buckland to 'catch-up' at later phases to an acceptable return on gross development value (GDV), the parameters of the viability review mechanism must be reviewed.
- 3.5 Following discussions with FBC, Buckland propose two substantive changes to the viability review mechanism:
- a. The first viability review will be undertaken prior to the delivery of the 3,000th home, and will be undertaken at 750 dwelling intervals thereafter (ie. at 3,750, 4,500, 5,250 and 5,750 dwellings).
 - b. On any of the viability review dates should cumulative profits exceed 20% of cost), 80% of any additional returns over 20% of cost will be used to repay HIF, which in turn will be re-invested in affordable housing by FBC
 - c. Following the repayment of HIF, 50% of any surplus above 20% on GDV will be used to further boost the delivery of affordable housing to a total of 30% sitewide
- 3.6 Further, given their increased costs and the impact this therefore has on the viability of the proposals, as well as the need to preserve the provision of as much affordable housing as possible, the development is no longer committing to deliver Passivhaus or Lifetime homes. Whilst every

effort will be made to deliver these where practicable, a commitment to a fixed percentage of delivery cannot be made in the context of the viability considerations set out above.

- 3.7 These changes and viability considerations are set out in full within the submitted Viability Statement.
- 3.8 As discussed at our meeting on the 17th December 2020, this change to the proposals regarding the developer contribution, and subsequently the viability review, will necessitate a return to planning committee to consider the OPA proposals, as the scheme of delegation as set out in the October 2019 committee papers does not cover this matter. However, we are firmly of the belief that, without these changes, there is very little prospect of Welborne progressing further, as additional Government funding outside the HIF is unlikely to be secured imminently, meaning progress with HCC and Highways England will be lost.
- 3.9 Further, the current draft Condition 52 prevents development beginning at Welborne until funding is secured. Therefore, with no funding present, and little prospect of it being achieved imminently, given the costs incurred to date Buckland cannot commit to progress with further costly, and potentially abortive, work on the Design Codes and reserved matters applications, with no prospect of onsite delivery due to the provisions of Condition 52. This will lead to a potentially indefinite delay of the delivery of Welborne. This is something all parties wish to avoid. These factors have led Buckland to submit these proposals.

Biodiversity Enhancement

- 3.10 Since the Planning Committee, significant work has been undertaken by Buckland in preparation for the first reserved matters planning applications, particularly in relation to the sitewide strategies which are required to be submitted in advance of these reserved matters applications. One of these sitewide strategies, the Biodiversity Enhancement Strategy, is now ready for submission, and has been included as a part of this additional application information package. This Biodiversity Enhancement Strategy was envisaged, at the time of the planning committee, to be approved following outline planning permission but prior to the approval of the first reserved matters application, as confirmed by Draft Condition 10 present in the officers report to committee.
- 3.11 The sitewide Biodiversity Enhancement Strategy has been prepared alongside discussions and input from FBC officers and HCC Ecology officers, and sets out the strategy for harnessing biodiversity opportunities within Welborne, and illustrates how development phases can achieve Biodiversity Enhancement within all contexts of the community as it grows. It approaches Biodiversity Enhancement from the whole site perspective and will be delivered over an extended timeframe of 25 or more years, providing a basis for a consistent approach as statutory guidance and requirements for new planning applications which evolve over time.

Other supporting documentation

- 3.12 To enable FBC to determine this planning application in the above new viability context, and also given that some 11 months have passed since the planning committee, a review of the ES information submitted has been undertaken. This review is documented in the submitted Environmental Statement of Conformity, which concludes that no additional impacts have occurred since the Committee in October 2019.
- 3.13 Furthermore, as further negotiations regarding the S106 agreement have taken place, it has been noted that the proposed PEGASUS crossing which spans the A32 toward the centre of the site is shown on a different location in the submitted parameter plan and within the detailed A32 drawings. In order to regularise this position, the detailed A32 drawings have been updated to reflect the correct location of this crossing. These drawings have been reviewed by Hampshire County Council and agreed in principle.

4. DEVELOPMENT PLAN CONTEXT AND PLANNING EVALUATION

- 4.1 This section of the Planning Statement reviews the application proposals in the context of the local and national planning policy context. Much of this planning policy context remains as considered at the Planning Committee in October 2019, and thus this section focusses on any policy changes in the intervening period, and evaluation of the changed OPA proposals as outlined above.

Updated Planning Policy Since October 2019 Planning Committee

- 4.2 There has been very limited formal planning policy update at a national level since the October 2019 Planning Committee. Minor changes have been made to the Planning Practice Guidance, but these are not material to the determination of this planning application.
- 4.3 Whilst there has been little formal planning policy update, in August 2020, a new 'Planning White Paper' was released, titled Planning for the Future (the PWP). The PWP sets out consultation proposals for comprehensive reform of the planning system, with a view to boosting the supply of housing, reducing uncertainty and delivering beautiful places. Whilst specific proposals have not been enacted into formal planning policy and legislation, the PWP is useful in setting out a 'direction of travel' and laying out the Governments objectives for planning policy moving forward. It is considered that this OPA meets many of these objectives and aims, particularly in seeking to deliver a Garden Village of exemplary quality, with beauty at its heart.
- 4.4 In terms of local level planning policy and guidance, again there has been very limited update of this since the October 2019 Planning Committee. FBC have been continuing with work on their Draft Local Plan 2036, with further consultation on Issues and Options undertaken in January 2020. However, the updated plan maintains the position of the previous draft, namely that Welborne will continue to be subject to the detailed policies within the Welborne Plan, which is not being revisited as part of the 2036 work. Therefore, the planning policy position at Welborne remains as considered previous.
- 4.5 The most significant update is related to the FBC CIL Charging Schedule. Following the recommendations of the Welborne Plan, viability work undertaken by Buckland and independent viability review undertaken for FBC by CBRE, the Charging Schedule is proposed to be revised to 'zero-rate' development at Welborne. This change to the CIL Charging Schedule was subject to formal consultation in July 2020, with a further consultation on minor modifications held until 18th September 2020. The updated CIL Charging Schedule reflecting the changes proposed (and zero rating Welborne) has now been submitted to the Planning Inspectorate for examination.
- 4.6 As set out above, with the submitted Viability Statement and in the previous viability work undertaken in support of the OPA, the development cannot viably support CIL payments, and thus the zero rating of Welborne is critical to enable the OPA to be successfully delivered.

Planning Policy Evaluation of Changes to the OPA Proposals

- 4.7 Given that the vast majority of the OPA proposals remain as considered previously at Planning Committee, the changes to the OPA proposals only have a limited effect on conformance with Welborne Plan policies, and the development remains substantially in conformance with the plan as a whole.
- 4.8 It is clear throughout almost all of the policies of the Welborne Plan, that planning applications for development at Welborne must be comprehensive, and contain the infrastructure fit for the delivery of 6,000 homes, including the provision of the M27 J10 improvements. This is to both support the new community, and prevent adverse impacts on existing communities in the area. As agreed as part of the discussions surrounding the OPA, the cost of this infrastructure is some £308m, based on a developer contribution of £20m to the M27 J10 improvements. Given the importance of the

delivery of this raft of infrastructure required to create a sustainable community at Welborne, it is not considered that the infrastructure could be reduced in order to facilitate additional junction contribution, without significant impact on the proposed new community, or existing communities. Therefore, in order to enable the additional £20m of junction contribution to be found, and thereby enable Welborne to become deliverable, flexibility must be found elsewhere.

- 4.9 This causes the main change proposed in this submission, related to the nature of provision of Affordable Housing, and therefore conformance with Welborne Plan Policy WEL18. WEL18 states:

"Development at Welborne shall provide a total of 30% affordable housing.

Each residential phase of development shall be required to meet the target of 30% affordable housing provision unless a robust and transparent viability appraisal proving this not to be possible is accepted by the Council.

In exceptional circumstances where viability considerations require, the minimum affordable housing numbers on any phase will be 10% (subject to viability and the implications for other infrastructure) and the maximum required will not normally exceed 40%.

Where it is agreed that a residential phase will not meet the 30% target of affordable housing, the subsequent phase or phases will be required to meet that shortfall in addition to the 30% target if possible in viability terms.

The initial tenure split will be 70% affordable or social rent and 30% intermediate tenures. The tenure split will be kept under review phase by phase based on evidence of need and viability.

A range of affordable housing types, sizes and tenures shall be delivered within each residential phase. The precise number and mix of affordable homes within each phase shall be agreed with the Council, having regard to the nature of the phase to be developed, the identified need for affordable homes and its viability at the time the phase comes forward.

Approximately 15% of all affordable homes delivered within each phase of the development shall be designed to meet higher accessibility standards equivalent to the Lifetime Homes standards. The precise proportions shall reflect evidence of need at the time the phase comes forward and will be subject to the need to ensure that the phase remains economically viable.

Planning permission will be granted for affordable homes that are integrated with the market housing, within the overall limits set out, and are designed and will be constructed to the same or higher standards. Affordable housing may be clustered in small groups.

- 4.10 As can be seen in the underlined sections of the policy, whilst the aspiration of the policy is that 30% affordable housing is achieved on site, there is a clear understanding that this is subject to viability considerations. As demonstrated within the submitted Viability Statement, viability constraints are clearly present which prevent the delivery of 30% affordable housing on any phase, without additional grant funding being present. Therefore, it is considered that the proposed development is in conformance with the exceptions within this policy. Buckland remain committed to a Viability Review Mechanism that allows later phases of development to increase affordable housing provision, should viability considerations allow. However, as explained above, the parameters of this viability review mechanism need to be altered to reflect the additional contribution which Buckland is providing to the M27 J10 Improvements, and thereby reflect that Buckland will be making a significantly sub-market return throughout the development.
- 4.11 The Affordable Housing Mix is proposed to remain as presented at Planning Committee in 2019, 50% affordable rent and 50% intermediate tenures.
- 4.12 WEL17 – Market Housing sets out the requirement to deliver approximately 15% of all market homes as lifetime homes, or to an equivalent standard, subject to viability. WEL 36 sets out the requirement that 10% of dwellings will be built to Passivhaus Standard, again, subject to viability. As demonstrated within the submitted Viability Statement, viability constraints are clearly present which prevent the delivery of these items, without impact on the delivery of affordable homes or other infrastructure. Given both of these policies contain viability exceptions, it is clear that the proposed development, with the additional M27 J10 contribution, meets these exceptions. The

position regarding the delivery of these two dwelling types will be reviewed as a part of the viability review process.

- 4.13 In relation to the Biodiversity Enhancement Strategy, the most pertinent policy of the Welborne Plan is WEL31 - Conserving and Enhancing Biodiversity. This policy states:

The initial planning applications for development at Welborne shall be supported by a full ecological assessment to identify and address potential impacts on designated sites, priority habitats and protected species, within and immediately adjacent to the site boundary.

The ecological assessment shall clearly set out how biodiversity interests will be protected, and where possible enhanced. Given that the development of Welborne will take place over a long period of time, the ecological assessment should provide details of how it is intended that it is regularly updated to ensure that any mitigation measures required are effective.

Any adverse impacts to designated sites, priority habitats and priority and protected species should be avoided. If impacts are unavoidable, measures shall be put forward to ensure that impacts are appropriately mitigated, with compensatory measures used only as a last resort.

Proposals shall demonstrate how development contributes towards enhancing biodiversity through:

i. The implementation of the broad habitat types within Welborne's seminatural greenspace;

ii. Incorporating design features within the built environment to enhance biodiversity; and

iii. Enhancing ecological connections to other areas of natural greenspace off site.

- 4.14 The initial sections of this policy are satisfied by the detailed ecology information submitted as part of the Environmental Statement and other supporting information. The Biodiversity Enhancement Strategy focusses on the section emphasised above. The Strategy clearly demonstrates how reserved matters will enable the implementation of habitat types in a variety of contexts, not limited to proposed greenspace, and clearly indicates how design features will be utilised to enhance biodiversity. The requirement set out within the Biodiversity Enhancement Strategy for consideration of adjacent development parcels, and the formation of a 'jigsaw plan' enables reserved matters applications to clearly demonstrate how ecological connections will be established and maintained both off and on-site. Therefore, it is clear that all of the provisions of policy WEL31 have been considered and are met within the Biodiversity Enhancement Strategy, and thus this document is in conformance with this Welborne Plan policy.

- 4.15 Further, the Biodiversity Enhancement Strategy is also in full conformance with the provisions of the Draft Condition 10, as held within the Officer's report to Planning Committee of October 2019.

5. CONCLUSIONS

- 5.1 The Welborne OPA was considered at FBC Planning Committee in October 2019, in which a 'Resolution to Grant' decision was reached, subject to the signing of a S106 Legal Agreement. Since the Planning Committee, significant progress has been made in negotiating this agreement with all parties, including FBC and Hampshire County Council (HCC).
- 5.2 However, significant progress has not been made in relation to finding gap funding for the M27 J10 Improvements, despite efforts made. This has placed the delivery of the project in jeopardy, which has significant implications in regard to project programming, delivery and HCCs project sponsor position on the M27 J10 Improvements.
- 5.3 Given this, an alternative solution is needed, therefore Buckland are proposing an additional contribution of £20m to the M27 J10 Improvements (creating a total £40m contribution), which alters the viability assumptions and costings in which the OPA was considered at Planning Committee. This additional contribution also has an effect on the amount of affordable housing that the scheme can viably deliver, and the exact types of market housing which can be viably delivered. These changes are explained in detail within the Viability Statement which is submitted alongside this Supplementary Planning Statement. Other than these changes, no other changes are proposed to the OPA which was considered at Planning Committee in October 2019.
- 5.4 As demonstrated within this statement, these changes are in conformance with the viability exceptions within the policies of the Welborne Plan.
- 5.5 Alongside these changes to the viability parameters, this Supplementary Planning Statement also supports the submission of a Biodiversity Enhancement Strategy. This Strategy, drafted with input from FBC and HCC officers, clearly demonstrates how Biodiversity Enhancement will be secured at Welborne, and satisfies both the provisions within Welborne Plan policies as well as the Draft Condition 10, presented to Planning Committee in October 2019.
- 5.6 To enable FBC to determine this planning application in the above new viability context, and also given that some 11 months have passed since the planning committee, a review of the ES information submitted has been undertaken. This review is documented in the submitted Environmental Statement of Conformity, which concludes that no additional impacts have occurred since the Committee in October 2019.
- 5.7 Given the above, it is considered that the exceptional circumstances present provide clear justification to activate the viability exceptions within the Welborne Plan, and thus this OPA should be granted planning permission to ensure the swift and comprehensive delivery of Welborne.

APPENDIX FBC.21

Written statement from Leader of
the Council at Full Council meeting
on 10th June 2021

FBC.21 – Announcement by Executive Leader of Fareham Borough Council at Council meeting held 10th June 2021

New Government funding has been announced to support the delivery of Welborne Garden Village.

The Government supports our ambitious plans to deliver Welborne as a Garden Village and is now making more funding available to cover the technical costs of the Junction 10 scheme, as well as a significant increase in their contribution to the capital cost of the Scheme itself.

Further amendments to the previous proposals submitted by Buckland Development Ltd last year that potentially increase the developer's contribution to Junction 10 to as much as £50M have just been received to the Council. They will be the subject of a further three-week consultation before going forward for consideration by the Planning Committee, hopefully before the end of July, although the meeting date will not be confirmed until we are confident that all the appropriate statutory and technical requirements have been met.

More generally the Government has recognised for some time that we carry significant costs around the delivery of a Garden Village at Welborne which go beyond the typical remit of local authorities. They have therefore just announced a further £130,000 capacity funding in addition to the £1.1m already received so that we continue to have the resources to help deliver our sustainable new community.

It has taken months of negotiations to get us to this position with Fareham Borough Council, Hampshire County Council, Buckland Development Limited and Central Government all working tirelessly to find a way forward on the funding for and delivery of the Junction 10 Scheme so that the much needed housing can be delivered.

We are now really close to finalising an agreement that will unlock the millions of pounds of infrastructure funding for the M27 Junction 10 improvements that are critical to the success of Welborne Garden Village.

Everyone involved has worked very hard to get us to this position. I am delighted that there now appears to be a way forward on Junction 10 so that Welborne Garden Village can finally become a reality.

APPENDIX FBC.22

Press release: Revised Welborne
Planning Application (dated 10th June
2021)

FBC.22 Press release “Council consults on revisions to Welborne planning application” dated 10th June 2021

Press Release 10 June 2021

Council consults on revisions to Welborne planning application

The Council will shortly be consulting on revisions put forward by developers Buckland Development Limited (Buckland) to the Welborne planning application.

The consultation will run for three weeks, from Monday 14 June to Monday 5 July, before being considered by the Planning Committee.

The latest proposals could see the developer’s contribution to Junction 10 potentially increase to as much as £50M. The revisions are proposed to make sure that funding is in place for all the improvement works required to Junction 10.

In addition to the proposals from Buckland, the Government is making increased levels of grant funding available to cover part of the construction costs of the Junction 10 works. Furthermore, the Government is funding some of the costs associated with the development and design of the Junction 10 scheme itself.

The Government has recognised for some time that the work involved in delivering a Garden Village at Welborne will have significant cost implications for this Council. Earlier this week it announced a further £130,000 of funding, in addition to the £1.1m already received, to assist the Council in bringing this exciting new project forward.

Executive Leader of Fareham Borough Council, Cllr Seán Woodward, said: ‘It has taken months of negotiations to get us to this position with Fareham Borough Council, Hampshire County Council, Buckland Development Limited and Central Government all working tirelessly to find a way forward on the funding for and delivery of the Junction 10 Scheme so that the much needed housing can be delivered.

‘We are now really close to finalising an agreement that will unlock the millions of pounds of infrastructure funding for the M27 Junction 10 improvements that are critical to the success of Welborne Garden Village.

‘Everyone involved has worked very hard to get us to this position. I am delighted that there now appears to be a way forward on Junction 10 so that Welborne Garden Village can finally become a reality.’

From Monday 14 June, full details of the proposals will be available to view on the Council’s website by searching under Planning Reference: [P/17/0266/OA](#).

APPENDIX FBC.23

Appeal decision letter - Land off
Daking Avenue, Boxford
APP/D3505/W/18/3197391



Appeal Decision

Inquiry held on 21-24 August 2018

Site visit made on 24 August 2018

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2018

Appeal Ref: APP/D3505/W/18/3197391

Land off Daking Avenue, Boxford CO10 5AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Landex Ltd (Mr Dan Davies) against the decision of Babergh District Council.
 - The application Ref B/17/00091, received by the Council on 23 January 2017, was refused by notice dated 13 November 2017.
 - The development proposed is up to 24 dwellings (including up to 8 affordable dwellings) with access.
-

This decision is issued in accordance with section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 30 October 2018

1. The appeal is dismissed.

Preliminary Matters

2. The application reserves all matters except access for further approval. However, the application was supported by a Proposed Block Plan (drawing number 4862 SK03 Rev E) which shows the layout of the access roads, buildings, open space and landscaping. A revised version of this plan (drawing number 4862 SK03 Rev E-1), indicating the route of an access to Woodland Trust land to the south of the appeal site, was submitted at the Inquiry. The appellant also confirmed at the Inquiry that approval was sought for the point of access only and that other elements shown on the Proposed Block Plan are indicative only. I have considered the revised plan on that basis.
3. At the time that the parties' statements of case were submitted the Council accepted that it could not demonstrate a five year supply of housing land. The Council published its 2018 Annual Monitoring Report (AMR) shortly before the parties were due to exchange proofs of evidence. The AMR found that the Council has a 6.7 year housing land supply. The exchange of evidence was delayed to allow the parties to update their positions on housing land supply and to take into account the revised National Planning Policy Framework (the Framework).
4. My attention has been drawn to a recent appeal decision¹ which considers the same AMR and deals with housing land supply matters based on the revised Framework. However, it is for a different local planning authority area and the site specific circumstances of the case are also different. As such, it is of limited relevance to my decision.

¹ Appeal decision reference: APP/W3520/W/18/3194926

5. At the Inquiry I identified housing land supply as a main issue. However, having subsequently reached a conclusion on the highway safety issue, the housing land supply matter can be dealt with fairly briefly and no longer needs to be a main issue. The reasoning for this approach is set out in the Planning Balance below.

Main Issues

6. The main issues are:
- the effect of the proposal on highway safety;
 - whether the proposal accords with development plan policies for the location of new housing.

Reasons

Highway Safety

7. The proposed dwellings would be accessed from Daking Avenue which, in turn, leads to Swan Street. That road runs north from the centre of the village and, whilst it serves a number of villages to the north of Boxford, the parties agreed that most trips from the new dwellings would head south into Boxford and to the strategic highway network. It is also common ground that the proposal would generate seven or eight additional vehicle movements along this section of Swan Street during the morning and evening peak hours.
8. A completed Unilateral Undertaking has been submitted which would secure the provision of a pedestrian link from the site to Swan Street at a point approximately halfway between its junctions with Daking Avenue and Church Street. This would considerably shorten the walking distance from the site to the shops and local services in Boxford compared with the route via Daking Avenue. However, Swan Street would continue to be the shortest route for residents walking to the centre of Boxford from the established part of Daking Avenue, Homefield and Sherbourne Street.
9. Swan Street runs through the historic core of the village and falls within the Boxford Conservation Area. Few of the properties it serves have off-street parking. On street parking therefore takes place, mainly along the western side of the road, in blocks separated by double yellow lines. There is also parking associated with the local shops and facilities at the southern end of the road at its junction with Church Street and Broad Street. The carriageway varies in width between some 6.2m at its southern end to 4.57m² further north. The width of the footpath on the west side of the road also varies considerably, in places being 0.3m – 0.5m wide.
10. The appellant's Transport Statement³ includes an assessment of the capacity of Swan Street using the guidance in the Design Manual for Roads and Bridges (TA79/99). However, that is based on the road having a uniform width of 6.1m and does not take into account factors such as the narrow pavements and pedestrians walking in the road. Given the irregular configuration of Swan Street and its on street parking arrangements, there is no straightforward quantitative means of establishing the safe capacity of the road by reference to policy or guidance. It follows that the assessment of the impact of the

² Measurement taken on the site and agreed by both main parties

³ GH Bullard and Associated Rev C – May 2017

additional movements generated by the appeal proposal is, to a large degree, a matter of judgement.

11. A 2015 survey found that 'parking stress' in Swan Street ranged from 61% (of available spaces in use) to 38%. I saw on the site visit that the spaces were well used, particularly at the southern end of the road, although spaces were in use up to and beyond the Daking Avenue junction. Therefore, whilst there is spare parking capacity and gaps between blocks of parking, the parking which does take place constrains vehicle movements throughout the relevant length of the road.
12. Reflecting its role in the local highway network, Swan Street is used by a range of vehicle types. The Council's 2018 Automated Traffic Count found heavy goods vehicles (HGV) accounted for 1-5% of north and south bound flows. For light goods vehicles (LGV) the range was 4-7%. Anecdotal evidence from local residents suggest that this includes agricultural vehicles which, given the rural location, seems reasonable. Total 12 hour flows of 979 to 1039 northbound and 961 to 1043 southbound were recorded. These can be compared with surveys undertaken by Suffolk County Council in 2004, 2012 and 2017. Whilst the 2018 figures are lower than those of the 2004 survey, they are broadly comparable with the 2017 survey and significantly greater than the 2012 survey. This suggests that the traffic volumes dipped around 2012 but have increased more recently. Moreover, the 2018 flows during the morning and afternoon peaks were greater even than the 2004 figures.
13. Due to the width of the road, traffic passes the blocks of parking in single file for the most part. Vehicles travelling north are required to pull in between parked cars to allow those travelling south to pass. The Council's evidence includes a traffic survey which records the number of vehicle and pedestrian incidents at five defined 'Areas' along Swan Street. It distinguishes between 'conflicts', where the road is blocked by oncoming vehicles and 'locked up conflicts', where the road is blocked and vehicles are required to reverse or mount the kerb in order to allow an oncoming vehicle to pass.
14. Unsurprisingly, such incidents are more common during weekday morning, afternoon (school collection) and evening hours and at the busiest weekend hours. Area 5, at the southern end of the road, experienced most incidents with up to 45 'conflicts' and 18 'locked up conflicts' during these peak hours. In this area surveyors reported vehicles mounting the kerb and reversing into the Church Street junction in order to avoid oncoming vehicles. The survey recorded up to 35 'conflicts' and 15 'locked up conflicts' in Area 2, which is towards the northern end of the road. Drivers reaching this section of the road may have already needed to pull in between successive blocks of parking further south along the road. This is also the area where the footpath is narrowest and pedestrians cannot avoid walking in the road. As such, this section of the road effectively operates as a shared space. However, whereas Manual for Streets 2 advises that speeds in shared spaces should not exceed 20mph, the 85th percentile traffic speed in this area is 27mph.
15. In terms of highway safety risk, it is also significant that the vehicles involved in these manoeuvres include light and heavy goods and agricultural vehicles. Taken together with its narrowness elsewhere along Swan Street, this indicates that the footpath falls considerably short of the objectives for safe and

- attractive pedestrian routes set out in Section 6.3 of Manual for Streets, even allowing for flexibility due to the historic environment.
16. The survey records fewer or no incidents at other Areas and at other times of the day. Nevertheless, I consider that the number of incidents recorded over the week as a whole shows that the road experiences a persistent pattern of significant problems.
 17. The parking at the junction of Swan Street and Church Street affects the forward visibility of drivers turning left into Swan Street. Whilst parking at this location does not comply with the Highway Code, it appears to occur consistently and there is nothing to suggest that enforcement action has been, or will be, taken. There was some dispute at the Inquiry over the appropriate vehicle speed to use to establish the forward visibility distance. However, even if actual vehicle speeds are somewhat lower than the 24-25mph adopted by the Council, the parked cars prevent drivers approaching Swan Street from Church Street seeing vehicles travelling south along that road until after they have committed to making the turn. Since the road is not wide enough for two vehicles to pass safely, drivers coming from Church Street are required to stop on the junction and, on occasions, reverse in order to allow the Swan Street vehicles to pass.
 18. To my mind these findings show that Swan Street is not dealing with the demands placed on it by current traffic conditions. The combination of driver frustration, relatively high vehicle speeds, the need to make awkward manoeuvres and instances of a mix of vehicle types sharing or intruding into pedestrians spaces poses a substantial risk to highway safety. There is no record of personal injury accidents in this part of Swan Street. However, there is a substantial body of anecdotal evidence from local residents and the Parish Council of near misses involving vehicles and pedestrians, as well as damage to vehicles and buildings. Indeed, I saw on the site visit several examples of damage to structures which, realistically, could only have been caused by contact from moving vehicles. This illustrates the difficulties in manoeuvring through the area. That the structures are within the Conservation Area heightens this concern.
 19. The appellant has expressed concern regarding the basis on which the Council's highways witness accepted her appointment. It is also argued that there are shortcomings in the methodology used in the Council's traffic survey and that the findings have not been adequately corroborated. I recognise that the definitions of 'conflict' and 'locked up conflict' are somewhat vague. Nevertheless, the nature of the incidents they describe fit the driver behaviour I observed in the area. There is no substantive evidence to indicate that the surveyors were deficient in their recordings. I see no need to record the reason why the number of pedestrians waiting to walk in the road due to traffic should be recorded in the survey. The point is that they were present at a time when vehicles were manoeuvring between parked cars. The appellant has not produced comparable alternative evidence to counter the findings of the survey. Moreover, the findings are generally consistent with the extensive body of concern expressed by local residents.
 20. The appellant has also questioned the fluctuations in peak hour traffic flows during the course of the week of the Council's survey. Compared with a very busy urban road, where traffic may have numerous origins, Swan Street serves

a relatively small settlement and the rural communities to the north. Against this background individual events may create a surge in vehicle movements which would show up in the survey as a fluctuation in traffic levels. However, as Councillor Hurren pointed out, such events are a regular part of life in the area and the resulting fluctuations simply reflect the character of local traffic conditions. Consequently, I consider the Council's survey findings to be sound. Suffolk County Council, as the highway authority, did not object to the application. However, it did not have the benefit of the evidence presented to the Inquiry and the District Council was entitled to reach its own conclusions on the highway effects of the proposal.

21. The appeal proposal would generate few, if any, HGV and LGV movements and the number of additional car movements would be relatively low. However, in the context of a situation where the affected highway is currently unable to cope, and the available evidence indicates that traffic levels along Swan Street are rising, I consider that the additional vehicle movements would place an unacceptable burden on the road. They would increase the incidence of conflicts between vehicles travelling in opposite directions along Swan Street and, in turn, the likelihood of conflict between pedestrians and vehicles.
22. Pedestrians walking from the appeal site to the facilities in Boxford using the new link would avoid the narrowest section of footpath, which is to the north of the link. Nevertheless, there are obstructions along the footpath to the south of the link, including a telephone pole close to where the link joins Swan Street, steps protruding from the front of buildings and, on occasions, wheelie bins on the footpath. I have also noted that vehicles have been observed to mount the kerb in the Council's survey Area 5 which is to the south of the new link. Moreover, people walking from the existing residential areas to the north of the new link would be likely to continue to use this stretch of Swan Street where the footpath is so narrow that it is necessary to walk in the carriageway. I am also mindful that people using this route would include vulnerable groups such as the elderly, those with reduced mobility, children and push chair users. Having regard to these considerations, I find that the proposal would lead to a significant reduction in highway safety for vehicles and pedestrians using Swan Street.
23. The Unilateral Undertaking would secure a financial contribution of £10,000 to be used for 'future potential traffic management requirements in Swan Street'. However, limited firm evidence has been provided on what measures the contribution would secure. It has been suggested that it could be used to reduce the amount of on-street parking in the road. However, that would need to be the subject of consultation, the results of which would be beyond the appellant's control. Nor is there any indication of if, or where, the displaced parking would be relocated and nor has any assessment been made of the effectiveness or cost of such a scheme. In the absence of this information, I give little weight to the financial contribution as mitigation of the highways effects of the proposal.
24. Consequently, I find that the proposal would have a significantly harmful effect on highway safety. It would, therefore, conflict with paragraph 109 of the Framework, which states that development should be refused if it would have an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

25. The reasons for refusal cite conflict with Policy HS21 of the Babergh Local Plan 2006 (LP). This policy allocates land at Goodlands Farm for 20 houses and sets out requirements for the development, including the provision of open space. The appeal site falls within the land designated as open space. A development of 21 houses within the allocated area has been completed and the requirements of the policy have been essentially satisfied, albeit that the open space has been provided in a different location than that envisaged. Nevertheless, the appellant considers that the policy is spent since its provisions have been implemented by the earlier development.
26. The supporting text to the policy confirms that the upper limit of 20 dwellings was imposed due to Suffolk County Council's concerns over the capacity of the road network to accommodate traffic from a greater number of dwellings. It seems that the basis for the limit of 20 dwellings was a judgement on the part of the highway officer, rather than a more formal analysis. However, I have already found that the nature of Swan Street does not lend itself to strict quantitative analysis. The limitation also survived the Local Plan examination process and the policy was saved by the Secretary of State. As such, it is part of the development plan for the area. The 24 dwellings now proposed would more than double the limitation in the allocation and I have found that it would lead to the kind of highways problems which the limit sought to avoid. Therefore, I consider that the policy remains relevant and that the appeal proposal conflicts with it.

Development Plan Policies for the Location of New Housing

27. It is common ground that the appeal site falls within the countryside for the purposes of Policy CS2 of the Babergh Core Strategy 2014 (CS). This policy states that development in the countryside will only be permitted in exceptional circumstances subject to a proven justifiable need. Case law⁴ has established that, to be acceptable, development in the countryside must also fulfil the requirements of Policy CS11. This policy, in turn, requires proposals to score positively against Policy CS15 which sets out the requirements for sustainable development. Two of the six criteria in Policy CS11 are in dispute. In terms of criterion (iv), which concerns the cumulative effect of development with regard to social, physical and environmental impacts, I have already found that the proposal would lead to unacceptable highways impacts. It would not, therefore, meet this criterion.
28. The other criterion in dispute is (vi), which requires proposals to address locally identified need, including the need for housing and affordable housing. The same case law has established that local housing need refers to need within the settlement and its functional cluster and that it is necessary to demonstrate such need in order to show that the exceptional circumstances under Policy CS2 exist. It is common ground that a need for the scale of market and affordable houses proposed must be demonstrated. The Council's Rural Development and Core Strategy Policy CS11 Supplementary Planning Document requires proposals to be accompanied by a statement analysing local housing needs and how they have been taken into account.
29. Boxford is defined in CS Policy CS2 as a Core Village which will be a focus for development within its functional cluster. The functional cluster in this case includes some 14 smaller settlements. It was agreed that there are no housing

⁴ R(East Bergholt Parish Council) v Babergh District Council [2016]

- sites available closer to the settlement core than the appeal site. However, there has been a recent residential development at Sand Hill and, I understand that other potential housing sites, closer to the strategic highway network than the appeal site, are under consideration. Taken together with the recent development at Goodlands Farm therefore, there is evidence that Boxford is performing the role required of it by Policy CS2.
30. The Council did not dispute that there is a local need for the proposed affordable housing and the provision of up to 8 affordable units accords with CS Policy CS19. The appellant has sought to demonstrate a local need for market housing, primarily by reference to Appendix 1 of its Planning Statement. There appears to be a lack of published data to support an assessment of the need for market housing at the level of a functional cluster. The appellant has not undertaken a local needs survey and the exercise at Appendix 1 seeks to re-interpret District-wide information at a local scale. The findings focus more on the mix of dwelling types, rather than the number of dwellings needed.
 31. Whilst I am mindful that information requirements should be proportionate to the scale of the proposal, the onus in this case is on the appellant to demonstrate that exceptional circumstances exist. Considered against this requirement, the outcome of the appellant's exercise is indeterminate at best. The appellant argues that the affordable housing would not come forward without the market housing. However, no viability assessment has been provided to demonstrate the relationship. Overall therefore, I consider that the proposal does not comply with criterion (vi). I deal with the sustainability of the proposal and whether it scores positively against Policy CS15 in the Planning Balance below.
 32. In terms of distance, the appeal site is reasonably well located with regard to access to local facilities, services and public transport. However, its accessibility is tempered by my concerns regarding the safety and convenience of the route. It is common ground that the proposal complies with the other criteria of Policy CS11. Nevertheless, the exceptional circumstances necessary to justify development in the countryside have not been demonstrated and the proposal would not comply with CS Policies CS2 and CS11, insofar as they deal with the location of new housing.
 33. Although the appellant's evidence contends that Policies CS2 and CS11 are not consistent with the Framework, these matters are not pursued in its closing submissions. Policy CS2 defines a hierarchy of development locations and relates the location of development to local housing need, employment and service provision, existing social and physical infrastructure and environmental constraints. These considerations are broadly reflected in the economic, social and environmental objectives set out in Framework paragraph 8. The requirement in Policy CS11 for local housing need to be demonstrated is consistent with Framework paragraphs 78, 103 and 170 insofar as they require rural housing to enhance or maintain the vitality of rural communities whilst managing growth to support sustainable transport objectives and recognising the intrinsic character and beauty of the countryside.
 34. I deal with housing land supply and the weight to be attached to these policies in the light of Framework paragraph 11 below.

Other Matters

35. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
36. The affordable housing obligation in the Unilateral Undertaking is supported by development plan policy and the proposed provision is fairly related in scale and kind to the appeal proposal. As such, it meets the tests set out in the Community Infrastructure Levy Regulations 2010 and I have taken it into account in the Planning Balance. Since the appeal is to be dismissed for other substantive reasons, it is not necessary to consider in detail whether the other obligations in the Unilateral Undertaking meet the statutory tests.

Planning Balance and Conclusion

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
38. The proposal would offer some economic benefits. Construction-related benefits would be temporary and, in any event, they would apply to new housing in most locations. Therefore, I give them modest weight. The introduction of new residents would also provide a limited degree of support for local businesses and services. The proposal would provide benefits in the form of some 0.5ha of community open space and the opportunity for bio-diversity enhancements. Footpath links to the wider countryside were secured in the Planning Agreement for the earlier Goodlands Farm scheme and are not, therefore, an additional benefit of this proposal.
39. I have already found that the proposal would meet a need for affordable housing. Having regard to the number of units proposed, I attach moderate weight to this benefit. Whilst I have found that the local need for market housing has not been adequately demonstrated, national planning policies seek to boost the supply of housing. The proposed market housing would, therefore, be a benefit, although the provision of 16 units would be modest in the context of the District as a whole.
40. Housing land supply was also the subject of extensive debate at the Inquiry. The parties put forward a range of figures based on differing assumptions for the housing requirement and the supply of sites. The appellant considers that there is a supply of between 3.4 years and 4.5 years, depending on whether the housing requirement is taken from the latest Strategic Housing Market Assessment or the Core Strategy. The Council argues it can demonstrate 6.7 year supply and suggest that, even if some of the assumptions put forward by the appellant were accepted, that would not compromise their ability to demonstrate at least a 5 year supply.
41. The Core Strategy is less than five years old. As such, Framework paragraph 73 is clear that it should be used to establish the housing requirement. The up to date Planning Practice Guidance confirms this approach (Paragraph ID: 3-030-20180913⁵) as the 'starting point' for calculating the 5 year land supply figure. In my view, the term 'starting point' refers to the need to go on to consider the supply and delivery of sites, as set out in the remainder of the paragraph. It does not offer an invitation to go behind the requirement to use the Core Strategy for the first five years of the Plan where, for example, more

⁵ This version is not materially different from the draft version referred to at the Inquiry

up to date information becomes available. The Framework does not support that approach. On this basis, even if I were to accept the appellant's position on the availability and delivery of sites, the five year land supply would be 4.5 years. That amounts to a relatively modest shortfall.

42. Both parties agree that, irrespective of the housing land supply position, if I found that the proposal has an unacceptable highways impact, the appeal should be dismissed. I have found that the proposal would be unacceptable in this regard and that it conflicts with Framework paragraph 109, LP Policy HS21 and criterion (iv) of CS Policy CS2. Furthermore, I have found that the proposal does not accord with CS Policies CS2 and CS11 for the location of new housing. Even if I were to conclude that a 5 year supply of housing land has not been demonstrated and that the weight to be attached to the most important policies should be reduced accordingly, in line with Framework paragraph 11, the adverse impacts of granting permission would still significantly and demonstrably outweigh the benefits of the proposal. As such, the proposal does not amount to sustainable development and, therefore, does not score positively against the criteria of CS Policy CS15 as a whole.

Conclusion

43. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR

Appearances

FOR THE COUNCIL

David Lintott of Counsel, instructed by the Council's Solicitor

He called

Faye Murray BEng(Hons) MIHT Principal Transport Engineer, MLM Consulting Engineers

Alex Roberts BSc(Hons) AssocMRTPI Director, DLP (Strategic Planning & Research Unit)

Andrew Ryley MSc MRTPI Associate Director, DLP

FOR THE APPELLANT

Paul Shadarevian of Queen's Counsel, instructed by Artisan Planning & Property Services

He called

Carol Grimsey CEng CIHT Associate, GH Bullard and Associates

Leslie Short BA(Hons) MRTPI MRICS Director, Artisan Planning & Property Services

INTERESTED PERSONS

Bryn Hurren Ward Councillor, Babergh District Council

Mathew Wooderson Vice Chair, Boxford Parish Council

David Lamming Local resident

Gillian West Local resident

John Cox Local resident

Inquiry Documents

Documents submitted at the Inquiry

1. Swan Street ATC Report for week beginning 20 September 2004
2. Amended plan from Appendix 9 of Faye Murray's proof
3. Additional photographs submitted by Carol Grimsey
4. Completed Unilateral Undertaking
5. Email correspondence between the appellant and the Woodland Trust

6. Opening submissions for the Council
 7. Extract from Orwell Housing website
 8. Extract from APC website
 9. Email correspondence between Gregg Dodds and Leslie Short
 10. Email correspondence between Mat Blacoe and Leslie Short
 11. Decision notice for development at Factory Lane, Brantham
 12. Briefing Note for development at Factory Lane, Brantham
 13. Email correspondence between Emma Coone and Leslie Short
 14. Extract from Heritage and Settlement Sensitivity Assessment for Boxford
 15. Closing submissions for the Council
 16. Appeal decision for Former Readshill Quarry development
 17. Closing submissions for the appellant
 18. Reserved Matters application form for Land off Norman Way, Lavenham
 19. Revised Proposed Block Plan (drawing number 4862 SK03 Rev E-1)
- Document submitted after the Inquiry closed*
20. Table showing the parties' positions on housing land supply
 21. Appeal decision reference APP/W3520/W/18/3194926