



Land to the south of Romsey Avenue, Fareham

Summary Proof of Evidence

THE TOWN & COUNTRY PLANNING ACT
1990 (AS AMENDED)

THE TOWN AND COUNTRY PLANNING
APPEALS (DETERMINATION BY
INSPECTORS) (INQUIRIES
PROCEDURE) (ENGLAND) RULES 2000

INSPECTORATE REFERENCE
APP/A1720/W/21/3271412

LPA REFERENCE P/18/1073/FP

SUMMARY PROOF OF EVIDENCE OF
MARK SENNITT IN RESPECT OF
PLANNING MATTERS

July, 2021

1. QUALIFICATIONS AND EXPERIENCE

- 1.1.1. My name is Mark Sennitt. My qualifications and experience are set out in section 1 of my main proof.

2. SCOPE OF EVIDENCE

- 2.1.1. I have been instructed by the Council to act on their behalf for this Appeal. The scope of evidence provided relates to planning matters and should be read in conjunction with the evidence of Nicholas Sibbett (on ecology issues) and Alec Philpott (on transport issues).

3. BACKGROUND

- 3.1.1. I address the Appeal Site and surrounding area, relevant planning history, and details of the Appeal Development in sections 3 to 5 of my main proof.

- 3.1.2. The Appeal Development is for an:

‘Outline Planning Application For Residential Development Of 225 Dwellings, Bird Conservation Area And Area Of Public Open Space With All Matters Reserved Except For Access’

- 3.1.3. As I set out in section 6 of my main proof, the Appeal Development was refused by the Council for 12 reasons, although an informative on the decision notice noted that six of them might have been resolvable by a section 106 agreement had it not been for the other reasons for refusal.

4. PLANNING POLICY CONTEXT AND THE PROPER APPROACH

- 4.1.1. I address the relevant planning policy context and planning considerations in section 7 of my main proof, before considering the proper approach to determining this Appeal in section 8. I then consider the weight to be afforded to adopted Development Plan policies in section 9.

5. 5-YEAR HOUSING LAND SUPPLY

- 5.1.1. As set out in the Statement of Common Ground: Five Year Housing Land Supply (5YHLS SOCG), the parties have reached considerable agreement on five-year housing land supply issues and it is agreed that the Council is currently unable to demonstrate a five-year supply of housing (5YHLS SOCG para 2.2).

- 5.1.2. The Council considers the 5YHLS position to be 3.57 years while the Appellant considers it to be 0.93 years (5YHLS SOCG Paragraph 4.1 and 4.2). Whilst there is a disagreement on the extent of the shortfall, it is agreed, on either position, that the shortfall is significant and the weight to be attached to the delivery of housing from the Appeal Scheme is significant; and as such it is not considered necessary for the

Inspector to conclude on the precise extent of the shortfall (5YHLS SoCG Paragraph 5.3).

- 5.1.3. In light of this agreement between the parties, the Council is content for the Inspector to simply rely on the agreed position and for witnesses not to be called to address five-year housing land supply issues. However, it recognises that it is ultimately a matter for the Inspector's judgement whether she wishes to investigate the five-year housing land supply position in greater detail, and in Section 10 of my main proof I therefore provide such detail in case it is required.

6. AFFORDABLE HOUSING NEED AND SUPPLY

- 6.1.1. I consider the extent of the affordable housing need and supply in section 11 of my main proof. It is common ground that there is a significant unmet affordable need within the Borough (main SoCG paragraph 4.12).

7. THE LOCAL PLANNING AUTHORITY'S CASE

- 7.1.1. In section 12 of my main Proof, I address each of the reasons for refusal. As I explain in paragraph 12.6.1, reason for refusal (e) has now been resolved following submission of further information by the Appellant. The other reasons for refusal remain, although it is to be hoped that reasons for refusal (g) to (l) will be resolved by completion of a suitable section 106 unilateral undertaking.

8. BENEFITS OF THE APPEAL DEVELOPMENT

- 8.1.1. I fully recognise that the Appeal Development would give rise to some significant benefits, which must be fully factored into the planning balance, and I address these in section 13 of my main proof.

9. PLANNING BALANCE

- 9.1.1. I offer a planning balance in section 14 of my main proof. I proceed on the assumption that the Appellant will submit a section 106 unilateral undertaking which allows the Council to withdraw reasons for refusal (g) to (l). If the Appellant fails to do so, my conclusion that planning permission should be refused will be further reinforced.
- 9.1.2. As in all cases, the Appeal Proposal must be determined in accordance with the Development Plan unless material considerations indicate otherwise (as set out in section 38(6) of the Planning and Compulsory Purchase Act 2004). The NPPF is a material consideration in the section 38(6) test, but does not displace the primacy given to the Development Plan.
- 9.1.3. As set out in section 12 of my main proof, I consider the Appeal Development to breach a number of development plan policies and the development plan as a whole. This includes Local Plan Part 2 (LPP2): Development Sites and Policies Policy

DSP40, to which the “greatest weight” must be given, since it sets a plan-led and fully NPPF-compliant approach to circumstances in which (as is currently the case) the Council cannot demonstrate a five-year housing land supply.

- 9.1.4. As a result of the absence of a five-year housing land supply, paragraph 11(d) of the NPPF is engaged unless disapplied. However, in this case the Council considers that the presumption is disapplied by paragraph 177 of the NPPF, since, as Mr Sibbett demonstrates in his evidence, an adverse effect on the integrity of habitats sites cannot be ruled out beyond reasonable scientific doubt.
- 9.1.5. If, following an Appropriate Assessment, the Inspector (as competent authority for the purposes of this Appeal) accepts the Council’s view that an adverse effect on the integrity of habitats sites cannot be ruled out, it means that planning permission cannot be lawfully be granted unless the tests (the so-called IROPI tests) under Regulation 64 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) are met (which the Appellant has not to date suggested).
- 9.1.6. Planning permission also cannot lawfully be granted if the Inspector accepts the Council’s view that the outstanding surveys mean that there is not full knowledge of the likely significant effects of the Appeal proposal (see Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and ***R v Cornwall County Council ex parte Jill Hardy*** [2001] Env LR 25) (Core Document CDK.12)).
- 9.1.7. Should the Inspector find in her Appropriate Assessment that (contrary to the Council’s position) it is certain beyond a reasonable scientific doubt that there would be no adverse effect on the integrity of any habitats sites, and should she also find (again contrary to the Council’s position) that the surveys are sufficiently complete, then the Council accepts that NPPF paragraph 11(d) would be engaged given the lack of a five-year housing land supply. In such a scenario (i.e. one in which reason for refusal (b) had been resolved), there would be no “clear reason for refusing the development” under Limb i. and it would therefore be necessary to carry out the tilted balance under the test in Limb ii. Even in these circumstances, the Council considers that, having regard to the policies in the NPPF and the three dimensions of sustainability, the Appeal Development fails the Limb ii. test because the benefits (significant though they are) would be significantly and demonstrably outweighed by the very substantial adverse effects of the Appeal Development (which in this scenario would be those from reasons for refusal (a), (c), (d) and (f)).
- 9.1.8. As a result, whether the Appeal is determined on a tilted or un-tilted basis, I consider that planning permission should be refused.

10. CONCLUSIONS

10.1.1. I conclude that the Appeal should be dismissed and permission for the development proposals refused.