

LAND TO THE SOUTH OF FUNTLEY ROAD, FUNTLEY

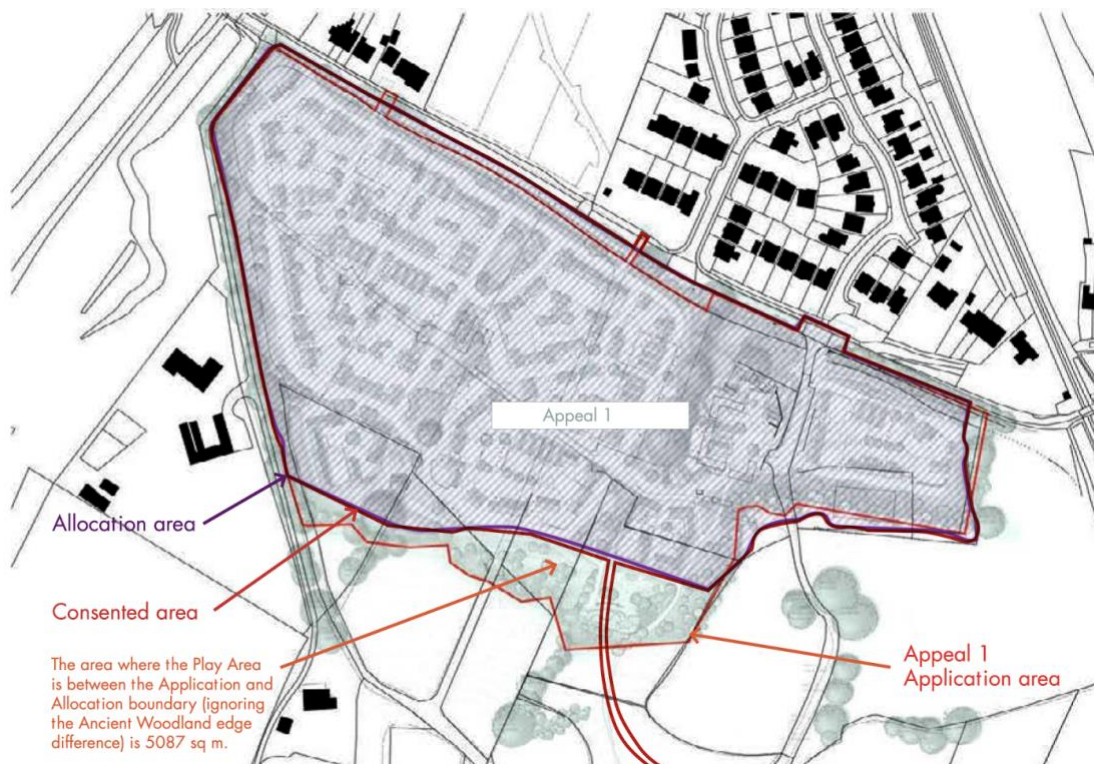
Appellant's Opening & Appearances

Appearances

1. **Zack Simons**, of Counsel, instructed by **Andrew Munton** BSc (Hons) MA MRTPI of Reside Developments Ltd, will call:
 - (i) **Robert William Rummey** BArch (hons) Edin, RIBA DipLA CMLI FRSA, principal and managing director of Rummey Design and Rummey Environmental Limited (character and appearance, urban design).
 - (ii) **David McMurtary** BA (hons) MCHIT, Technical Director at Motion (highways and locational sustainability).
 - (iii) **Mr. Timothy John Burden** BSc (Hons) MSc MRTPI, Director at Turley Associates (planning policy and balance).

Opening

2. This Council has supported significant residential development on the northern part of this site, which it refers to as “*urban fringe*,”¹ for several years – both by promoting it as a housing allocation in every version of its emerging Local Plan since the original 2017 draft,² and by granting planning permission for up to 55 homes and a community building in 2020.³
3. To be clear – given some confusion in the Council’s evidence about this – the developable area of the residential scheme in Appeal 1 falls **entirely within** (i) the area of the 2020 consent, and (ii) the area of the proposed HA10 allocation, see e.g.:



¹ See the Council’s May 2021 “*Sustainability Report for the Revised Publication Local Plan*”, pdf p.397.

² CD.F1, p.155, policy HA10.

³ CD.H1.

⁴ Rummey proof, p.65.

4. The reasons for the Council’s long-standing support for development on the northern part of this site are not hard to find:
- (i) The Council’s recent SHELAA described the site as “*an enclosed pocket of land which is enclosed by strong vegetation and is already subject to some built development*”,⁵ and found it to be “*suitable*” for residential development.
 - (ii) The Council’s landscape assessment work concluded that the site is “*less sensitive than the Meon Valley south of the M27, being formed of pastures and horse paddocks with somewhat scruffy, fringe character, bordered by woodland and the anomalous area of residential development north of Funtley Road adjacent to the railway line*”.⁶
 - (iii) The highways authority has confirmed in its SoCG with the Appellant that the site is well accessible on foot to a range of service and facilities, including doctor’s surgeries, food retail stores, and schools for all ages. Still more amenities are accessible by bike, bus and train. Even now, Mr Jupp for the Council tells you that this site would be in a location with some sustainable transport options and that his evidence on this issue should not lead to the appeal being dismissed.⁷ Which is unsurprising given that – as above – the Council has already permitted a substantial housing scheme on this site, and is proposing to allocate the site for housing in its plan.
 - (iv) 6 out of the original 8 putative reasons for refusal can – the Council now accept – be addressed through the planning obligation.

⁵ Mr Burden’s appendix 20.

⁶ See the Council’s May 2021 “*Sustainability Report for the Revised Publication Local Plan*”, pdf p.450.

⁷ Jupp proof, 9.59-60.

- (v) There are, the Council agrees, no technical constraints. If permission is granted, the scheme will be delivered within 5 years. And the Council does not resist the appeal in respect of the appeal for a community park to the south of the site.
5. This Council has failed the housing delivery test and has a significant and serious deficit in its housing land supply. The recently permitted Welborne Garden Village to the north of our site – the largest planning permission granted in the UK in 2021 – is still many years away from delivery. This is a district with a desperate need for small-medium sized residential schemes to start delivering **now**.
 6. When it comes to affordable homes, the numbers are desperate. A cumulative shortfall of almost 1,500 between 2011-2020. In the last monitoring year, district-wide, the Council delivered... 10 affordable homes. Against a need of over 200.
 7. Meanwhile, the Council's Core Strategy predates the first version of the NPPF, and is premised on 2005 housing numbers from the South East Plan's South Hampshire Sub-regional Strategy. The plan, and the settlement boundaries its policies enshrined, were drawn up to meet the needs of another era. They are both technically and substantively out of date.
 8. All of that means that, in the language of §11(d)(ii) NPPF, you should allow the appeal unless any adverse impacts both **significantly** and **demonstrably** outweigh its benefits. And remember, even the Council accepts that some of those benefits are substantial.⁸ Which means, to dislodge the balance at §11(d)(ii) which tilts in favour of permission, the Council must identify some very weighty harms indeed.
 9. Not an easy thing for it to do given – as above – the Council has already recently granted consent for a significant housing scheme on this site. Which means that the 2020 scheme

⁸ Jupp proof, §10.9.

forms a material fall-back. The analysis of e.g. landscape and sustainability is not between the appeal scheme and the existing undeveloped site. It's between the appeal scheme and the 2020 consented scheme.⁹ The Council accepts that the 2020 scheme is acceptable e.g. in terms of locational sustainability and landscape impacts. Its task is to persuade you why the appeal scheme is so very unacceptable measured against the 2020 scheme that it fails the tilted balance at §11(d) NPPF.

10. Faced with this challenge, the Council has decided to run a surprising new line of attack. It now says that the northern part of this site is part of a “*valued landscape*” for the purposes of §174(a) NPPF. Even though the Council has already granted planning permission on that site, even though it proposes to allocate for residential development in its local plan, even though the site is expressly **excluded** from a proposed local landscape designation covering the southern part of the site, and even though the Council’s own landscape assessments describe it as having a “*somewhat scruffy, fringe character.*”¹⁰
11. The Council also makes a series of criticisms of detailed layout matters which it accepts are not actually before you to decide – because layout is a reserved matter. Nonetheless, Mr Rummey has presented a superb and carefully crafted illustrative layout which shows one way that this scheme might be successfully addressed at the reserved matters stage. Mr Rummey will also explain how the scheme will sit very comfortably in its local landscape, and will improve the local built environment of Funtley.
12. The improvement works agreed with Hampshire County Council will benefit not only the residents of this scheme, but of Funtley more widely. They include major improvements to the pedestrian link to Henry Cort College to the south over the M27, securing the continuing

⁹ *R. v Secretary of State for the Environment Ex p. PF Abern (London) Ltd* [1998] Env. L.R. 189 at p.196.

¹⁰ CD.G2, p.121.

presence of bus route 20 along the Funtley Road, along with a substantial financial contribution toward school travel planning.

13. In the end, this scheme's benefits are substantial. Its effects are similar – and in several ways preferable – to the 2020 consent. Which means that the scheme's harms do not outweigh – still less **significantly or demonstrably** outweigh – those substantial benefits.
14. For those reasons, which we will develop in our evidence and in closing, we will ask you to allow the appeal.

ZACK SIMONS

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8th FEBRUARY 2022