

## OFFICER REPORT FOR COMMITTEE

DATE: 15/06/2022

**P/19/0894/OA  
FOREMAN HOMES**

**FAREHAM EAST**

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT FOR ACCESS) FOR RESIDENTIAL DEVELOPMENT OF UP TO 29 DWELLINGS, ASSOCIATED LANDSCAPING AND ACCESS OFF NORTH WALLINGTON

LAND EAST OF NORTH WALLINGTON, FAREHAM

### ***Report By***

Richard Wright - direct dial 01329 824758

#### **1.0 *Introduction***

- 1.1 This application is being presented to the Planning Committee due to the scale and nature of the proposed development on a site located outside of the defined urban settlement boundaries.
- 1.2 This application was submitted in September 2019 and has since been amended by the applicant a number of times to address various issues raised by Officers. Most recently Officers provided Foreman Homes with an update on several outstanding matters in January this year and asked for confirmation on how the applicant wished to proceed. On 25<sup>th</sup> April the applicant subsequently lodged an appeal with the Planning Inspectorate against the failure of the Council to determine the application within the prescribed time period. The Inspectorate has confirmed that the appeal will be determined by way of a hearing scheduled to take place on 23<sup>rd</sup> August 2022.
- 1.3 Whilst this Council is no longer able to decide this application it is necessary for Members to confirm the case that this Council will present to the Planning Inspector. This report sets out all the relevant planning policies and relevant material planning considerations and invites Members to confirm the decision they would have made if they had been able to determine the planning application. This will then become the Council's case in respect of the forthcoming appeal.
- 1.4 Members will note from the 'Five Year Housing Land Supply Position' report to Planning Committee presented on the agenda for the last meeting on 25<sup>th</sup> May that the Council currently has a housing land supply of 5.08 years including a 20% buffer.

## 2.0 ***Site Description***

- 2.1 This application relates to a piece of land at the far northern end of North Wallington on its eastern side where it meets Standard Way. The site measures 0.87 hectares in size and is mainly used as horse pasture, with scrubland and tree planting around much of its perimeter. It is bound on its northern side by Standard Way, North Wallington to the west and car park/scrubland to its south. The gradient of the land rises from north to south.
- 2.2 The site lies outside of the designated urban settlement boundary as defined in the adopted local plan. The nearest part of the urban area lies around 35 metres away to the south west. On the opposite side of the road at North Wallington lies Wallington Water Meadow, a Site of Importance for Nature Conservation (SINC). Approximately 150 metres to the south lies Fort Wallington, a Grade II Listed Building now occupied by various employment related uses. To the north on the opposite side of Standard Way lies the M27 motorway.

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

- 3.1 Outline planning permission is sought for the erection of 29 dwellings with access proposed off North Wallington.
- 3.2 The proposed access is shown on drawing no. ITB14153-GA-001 Rev E which is included as part of the submitted Transport Statement.
- 3.3 Matters of scale, appearance, layout and landscaping are to be reserved however the applicant has submitted an illustrative site plan. The site plan shows an arrangement of 23 dwellings in a crescent formation fronting the site's northern boundary. A further 6 dwellings are located behind those dwellings backing onto the site's southern boundary.

## 4.0 ***Policies***

- 4.1 The following policies apply to this application:

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

- CS2: Housing Provision
- CS4: Green Infrastructure, Biodiversity and Geological Conservation
- CS5: Transport Strategy and Infrastructure
- CS6: The Development Strategy

- CS14: Development Outside Settlements
- CS15: Sustainable Development and Climate Change
- CS16: Natural Resources and Renewable Energy
- CS17: High Quality Design
- CS18: Provision of Affordable Housing
- CS20: Infrastructure and Development Contributions
- CS21: Protection and Provision of Open Space

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

- DSP1: Sustainable Development
- DSP2: Environmental Impact
- DSP3: Impact on Living Conditions
- DSP5: Protecting and Enhancing the Historic Environment
- DSP6: New residential development outside of the defined urban settlement boundaries
- DSP13: Nature Conservation
- DSP15: Recreational Disturbance on the Solent Special Protection Areas

### **Other Adopted Documents:**

Planning Obligation SPD for the Borough of Fareham (excluding Welborne) (April 2016)

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

5.1 None

## 6.0 ***Representations***

6.1 A total of 163 comments have been received from 89 residents or households (some have commented more than once). This includes representations from The Fareham Society. The following material planning considerations were raised:

### **On the principle of development**

- Site unsuitable for development
- Area has a rural feel which would be lost
- Three storey development not in keeping with surrounding area
- Lack of infrastructure to cope with more dwellings (doctors, schools, etc)

### **On environmental matters**

- Flood risk
- Surface water drainage issues

- Inadequate sewerage infrastructure
- Loss of habitat for protected species
- Increase in noise pollution
- Noise for new residents living on the site would be in excess of permitted limits
- Light pollution and nuisance to neighbouring properties on opposite side of North Wallington
- Loss of privacy to neighbouring properties on opposite side of North Wallington

#### On traffic and highways matters

- Road is dangerous to walk down without a footpath
- Loss of parking spaces due to access road being created
- Poor pedestrian access to site
- Increase in traffic through Wallington village
- Increase in vehicles will affect availability of street parking
- Priority shuttle system unsafe, confusing for drivers and likely to lead to increased vehicle speeds
- Priority shuttle system will affect the flow of vehicles
- Priority shuttle system to detriment of cyclists
- Priority shuttle system needs wider consultation
- Priority shuttle system will lead to loss of parking spaces on street pushing parking problems further into village
- Improvements to North Wallington will destabilise the vegetated bank on south side of the road affecting the private road which runs parallel
- Improvements to North Wallington not feasible without using privately owned land
- Improvements to North Wallington will result in loss of vegetation on banks to side of the road harming the rural appearance of the area

## 7.0 **Consultations**

### **EXTERNAL**

#### **HCC Highways**

7.1 On 21<sup>st</sup> November 2019, HCC Highways responded to a consultation request to do with this application. With regards to Active Travel they said the following:

The site is located on North Wallington which primarily runs south west from the site towards Wallington and onwards to Fareham. It is noted in the Transport Statement (TS) that pedestrian and cycle facilities are sparse to

non-existent in this direction, with limited land available for additional provision. The safest access for pedestrian and cycle users is via Standard Way and towards Broadcut, which is a longer and more convoluted route.

Whilst the TS suggests the upgrade of facilities (i.e., additional crossing points) for pedestrians, the route pedestrians would have to take, would take them away from the desire line to the town centre and public transport nodes. The site is therefore not in a location conducive to pedestrian usage.

7.2 On 10<sup>th</sup> February 2020, the consultee wrote:

The applicant has marginally reduced the number of residential units and confirmed an access design.

The previous comments made by the Highway Authority (10th October 2019) still stand. The proposed access and retention of the parking bay to the north is considered acceptable. The retention of the layby will not result in displaced parking in or around the development and therefore reduces the impact on the local road network.

There are still concerns regarding the pedestrian access to the town centre and public transport via North Wallington. Whilst the submitted Transport Assessment maintains that North Wallington acts as shared use in accordance with MfS, it is also acknowledged that this route would not be suitable for users with certain disabilities. There is also no differentiation in surfacing to make drivers aware of the shared use nature. The route also requires pedestrians to walk around outside parked cars and into the flow of traffic.

The Highway Authority would still wish to see further improvements to the pedestrian access to the site, specifically regarding the route to Fareham town centre and bus stops to show the site is suitably promoting sustainable travel.

7.3 On 17<sup>th</sup> September 2020, the consultee advised:

These comments are in response to the additional plans submitted under planning application P/19/0894/OA. The plans relate to footway improvements along North Wallington to better the pedestrian access to the site and links to sustainable transport.

The proposed concept of introducing a formal shuttle system is reasonable. It should be noted that the existing on-street parking results in a form of

informal shuttle system, however there are gaps where vehicles can pull in to give way. The proposed shuttle system would result in a significant stretch of 75m of single file traffic. This length should be reduced.

In addition to the above, the formal shuttle system would remove some level of parking provision along North Wallington. The quantum of spaces available (and thus to be removed) has not been evaluated, and no indication of where the displaced parking will move to has been assessed. This assessment should be provided.

For vehicles travelling east, the design may result in increased speeds due to the new regulated priority system. It is requested that an RSA 1 (Road Safety Audit) is conducted to assess this and any other potential safety concerns with the proposals.

Due to the road narrowing and introduction of kerb lines, vehicles may strike or mount the kerb causing maintenance issues and posing concern regarding pedestrian safety. As above, a RSA1 would highlight this if a concern.

It is noted that there are significant trees in the area and close to the indicative works. The embankments and proximity of the waterway will also have an impact to the costs and deliverability of the works. Further information would be required to assure the Highway Authority that the works are both deliverable and financially viable for the site.

No assessment of street lighting has been undertaken for the new footpath and should be provided.

In line with tangent discussion with other sites in the Wallington area, this site will have an impact on Pinks Hill. Pinks Hill is not adopted public highway and is therefore not controlled or maintained by HCC as HA. As such, the highway authority, whilst not objecting directly, recommended the improvement works to Pinks Hill set out in applications P/20/0636/OA and P/19/0169/OA are secured to make the development acceptable. This is to ensure the proposed development does not have a detrimental impact on public safety regardless of the status of the road.

A cumulative impact leading to unacceptable harm has been identified on Pinks Hill from the current applications and emerging local plan allocations in the Wallington area. It is recommended that, to mitigate this impact, a contribution should be taken to provide the Pinks Hill improvements from developments in the Wallington area forecast to increase traffic via Pinks Hill; this contribution should be split proportionally between the

developments. A contribution should be paid prior to commencement of each development site.

Pinks Hill is not adopted highway and is owned and maintained by FBC; as such, securing of improvement works and arrangements for their construction will be the responsibility of FBC. A modest level of residential occupations may be considered acceptable prior to construction of the required improvement works; further evidence could be submitted to support this. Should this evidence not be provided, or not be considered appropriate to justify a level of increased traffic, then it is the Highway Authority's recommendation that the Pinks Hill improvement works should be completed prior to occupation of any significant development in the Wallington Area, including this site.

7.4 Then, following the submission of a revised footway assessment by the applicant in October 2021, the consultee wrote in November 2021:

The documents do not address any of the points raised in our comments from 17<sup>th</sup> Sep 2020. In brief, the following points were raised which required addressing:

- The length of the shuttle system should be reduced from 75m
- Assessment of the resulting displaced parking should be provided
- An RSA1 should be submitted, including comments regarding the potential increase in eastbound vehicles and vehicle strikes due to road narrowing
- Detail of groundworks and impact on trees and waterway required to show works are deliverable and financially viable
- Street lighting assessment of new footway to be provided

Until the above points have been addressed, the Highway Authority would maintain their objection to the proposals.

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

7.5 The only contribution required is that of a revenue amount of £15,000 towards the production of a school travel plan (STP) plus the provision of additional cycle and scooter storage to be provided at local schools. The primary catchment is Harrison Primary and the funding will be utilised towards facilities and STP at this school and any other school where pupils from this development attend at the discretion of the County Council.

7.6 It is important that safe walking routes exist from the development to the local schools, Harrison Primary and Cams Hill Secondary with any

necessary contributions required to ensure such routes exist.

### **HCC Minerals & Waste Planning**

- 7.7 The proposed development lies within the mineral and waste consultation area adjacent to the safeguarded site Wallington Depot, Fareham operated by SITA.
- 7.8 The purpose of this policy is to protect current and potential waste sites from pressures to be replaced by other forms of development, including through 'encroachment' where nearby land-uses impact their ability to continue operating.
- 7.9 It is often the case that appropriate buffers and mitigation measures can make potential nearby development compatible. Any mitigation measures would need to be undertaken by the proposed non-waste development and reduce potential impacts to and from the safeguarded site to levels that would ensure the safeguarded site could continue its intended waste use.
- 7.10 Usually the mitigation measures would need to focus on impacts such as noise, dust, visual impact, odour and traffic movements. They can take a variety of forms, including landscape design, tree planting, barriers, building design and orientation and use of different building materials (such as double glazing for windows).
- 7.11 The appropriate mitigation measures are best informed through direct discussions with the operator of the safeguarded site as they will be most aware of operational requirements. However, Hampshire County Council is also available for further discussions, as well as facilitation, if required.
- 7.12 In order to discharge the requirements of the safeguarding policy, Hampshire County Council would expect to see how the nearby safeguarded site was considered, how operator comments were taken into account and what impacts that had on the proposed development design. If the details of mitigation are to follow in a future application, Hampshire County Council would expect to see a condition requiring such details.
- 7.13 In the unlikely event that it is not possible to agree appropriate mitigation measures, Hampshire County Council would be seeking evidence that the waste management capacity can be relocated or provided elsewhere and delivered.

### **HCC Archaeology**

- 7.14 I would draw your attention to the file entitled Archaeological Desk Based Assessment that is included among the documentation attached to the

above application on your website. This Desk-Based Assessment (DBA) concludes that the site is located in an area with moderate potential for prehistoric activity and negligible potential for Roman and medieval archaeology, while the remains of the former Palmerstonian fort of Fort Wallington are located around 130 metres to the south east.

- 7.15 Considering the evidence presented in the DBA it seems possible that further, as yet unrecorded, archaeological features may survive within the site (particularly those dating from the later prehistoric era). While the DBA does not set out a strategy for assessing this potential, I feel that further work will be required in order to establish the character, date and extent of any archaeological remains prior to the development of the site. Therefore, while there is no indication that archaeology presents an overriding concern I would advise that the assessment, recording and reporting of any archaeological deposits affected by the proposed development be secured through the attachment of suitable conditions to any planning consent that might be granted.

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

- 7.16 The submitted information indicates that surface water from the application site will be managed through a cellular storage tank and permeable paving with total infiltration. Additionally, surface water from part of the internal access road will be managed through a cellular storage tank and discharge to an existing Southern Water surface water sewer at a constant discharge rate of 0.9 l/s. At this stage, this is acceptable in principle since the submitted infiltration testing (BRE365) and groundwater levels demonstrate that infiltration is feasible at the application site.
- 7.17 However, the proposed surface water outfall for the access road goes through the North Wallington which might be under the control of the relevant highway organisation. Therefore, the applicant should submit evidence that relevant highway organisation authorise the passage of any drainage asset through the road. Additionally, agreement in principle from Southern Water for the proposed connection and discharge rate should be submitted. Failure to secure these agreements is likely to necessitate in the need to review the drainage proposals for the application, which may have implications for the proposed quantum and layout of the proposed development.
- 7.18 The Environment Agency (EA) data shows that the application site is within a Groundwater Vulnerability Zone. Therefore, the applicant should consult the (EA) regarding the potential for contamination associated with the use of infiltration at the application site.

- 7.19 Nevertheless, since this is an outline planning application with approval sought for the site access, we believe that the above concerns can be addressed through the imposition of suitably worded planning conditions on any planning permission granted. Therefore, the County Council as the Lead Local Flood Authority has no objection to the proposals, subject to conditions.

#### **Environment Agency**

- 7.20 We have reviewed the Drainage Strategy Technical Note (January 2020). Groundwater is very sensitive in this area and all measures must be undertaken to prevent and protect groundwater from pollution. We support the use of the CIRIA pollution indices and recommend the design and system meets the requirements as set out in CIRIA SUDS manual C753. All pipe work must be sealed apart from a rodding inlet so that no spillage or unauthorised discharges can be made into this system.
- 7.21 Surface water from driveways and roads are to be discharged via the use of cellular storage tanks and a permeable pavement system. In principle this system is acceptable. The maintenance requirements are set out in section 4.4, we would like to stress the importance of good management and maintenance throughout the life of the system in order to protect the sensitive groundwater in this location.
- 7.22 Therefore we have no objection in principle to the proposed surface water system as detailed in this report.

#### **Southern Water**

- 7.23 No objection.

#### **Portsmouth Water**

- 7.24 This development lies in a very sensitive location in terms of controlled waters of particular concern to us is groundwater. It is within the Source Protection Zone One (SPZ1) for the local Public Water Supply abstraction at Maindell, approximately 30m to the south, and situated on the Chalk Principal aquifer. Due to the high sensitivity of the groundwater environment there are a number of outstanding concerns in relation to groundwater quality protection which will need to be addressed prior to full approval.
- 7.25 Our concerns regarding groundwater quality protection can be addressed through the addition of appropriate planning conditions to reduce the potential risks posed to groundwater and our resource as a result of the proposed development. Without these conditions we would object to the proposal due to the risk to groundwater quality and the local public water

supply.

- 7.26 The proposed surface water drainage strategy for the site is infiltration by SuDs features (cellular storage tanks and permeable paving). All clean roof water runoff is proposed to drain to cellular storage tanks. This is acceptable to Portsmouth Water in relation to groundwater quality protection. Surface water drainage from car parking areas and roads will be discharged via permeable paving into ground. The technical note submitted by Odyssey calculated the pollution hazard level of this land use and concludes that permeable paving provides adequate water quality treatment. Portsmouth Water are satisfied with the surface water drainage strategy for the proposed development however would wish to see the full detail design of the permeable paving once available.
- 7.27 Portsmouth Water are pleased to see no soakaway drainage for the proposed development, as we would have a presumption against soakaways in this area. If soakaways are the chosen surface water drainage strategy for the site the application must be accompanied by a detailed plan and a risk assessment stating how risks to the underlying principal aquifer have been assessed and mitigated through design. Portsmouth Water would wish to be consulted on the detailed plan and accompanying risk assessment.
- 7.28 The proposed foul drainage strategy is discharge into the existing main sewer network. Details of the foul drainage connections, materials and layout should also be provided and approved. We will require the use of the highest specification pipework and designs for sewerage systems in the SPZ1 to minimise leakage.

#### **Natural England**

- 7.29 A Habitat Regulations Assessment (HRA) is required, including consideration of the surface water drainage proposals (SuDs). Without this information, Natural England may need to object to the proposal.

#### *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.

It is noted that the approach to address the positive nitrogen budget for this development is via the section 106/section 33 legal agreement dated 30th September 2020 between the HIWWT, Fareham Borough Council and Isle of Wight Council. It enables land at Little Duxmore Farm, Isle of Wight to 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 at Little Duxmore Farm. It has been calculated that 0.944 hectares of land at Little Duxmore Farm will be removed from mixed agricultural use.

It is understood that this has been secured through legal agreements to ensure that effective mitigation is delivered in a timely manner for the lifetime of the development. It is also understood that a system has been set up to monitor the developments using the mitigation scheme to ensure there is capacity available for each scheme. Provided this is the case and the long term management of the mitigation scheme is monitored by the local planning authority, as competent authority, to ensure effective mitigation for the lifetime of the development, Natural England raises no further concerns.

### *Surface Water Drainage*

It is noted that a Drainage Strategy Technical Note has been produced for this development (Odyssey, January 2020).

Best practice SuDS should be designed and installed in accordance with the requirements in the CIRIA SuDS Manual (C753).

Please note, the pollution hazard indices in the CIRIA SuDS Manual (C753) relate to 'protected waters' with regards to drinking water supply. Step 3 under Section 26.7.1 of the SuDS manual outlines that the requirement for extra treatment should be considered in relation to discharge to environmentally protected sites. It states that 'an additional treatment component (i.e. over and above that required for standard discharges), or other equivalent protection, is required that provides environmental protection in the event of an unexpected pollution event or poor system performance'.

Due to the close proximity of the designated sites, this should be confirmed for consideration within the Habitat Regulations Assessment. Where

applicable, it is advised details are provided with regards to the long-term (in perpetuity) maintenance/replacement and funding of SuDS, and which authority will have responsibility for this, for incorporation into your authority's appropriate assessment.

The detailed design of a Sustainable Drainage System (SuDS) should be submitted and agreed with Fareham Borough Council. This should include evidence to show that the proposed SuDS scheme will ensure there will be no deterioration in water quality [or changes in water quantity] in discharges from the site. Information on the long term management and maintenance (including funding) of the SuDS for the lifetime of the development should also be secured prior to the commencement of any works.

#### *Construction Environmental Management Plan (CEMP)*

The development site is approximately 25m from the River Wallington at its closest point, which drains into the designated sites within Portsmouth Harbour.

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should include the following impacts:

- Storage of construction materials/chemicals and equipment;
- Dust suppression
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/vibrational impacts

The approved CEMP should be secured via an appropriately worded condition attached to any planning consent and shall be adhered to at all times, unless otherwise first agreed in writing with the Local Planning Authority.

#### **INTERNAL**

##### **Trees**

7.30 No objection.

##### **Environmental Health**

7.31 The development should incorporate all mitigation measures as detailed in the noise impact assessment dated 13th January 2020 reference AC105901-1R3. These include:

- Higher fencing to a height of 2.6m should be installed as shown on Figure 10 (of the noise impact assessment) in order to achieve the best practicable noise levels and to meet the required criterion;
- Alternative ventilation should be fitted to specified habitable rooms as an alternative to opening windows; and
- Glazing with a range of higher specifications up to  $Rw+Ctr=40$  should be fitted to specified facades as shown in the Figures (of the noise impact assessment).

Given the proximity of the development to a major source of traffic noise I strongly advise that where windows must remain closed to achieve acceptable indoor noise levels, to address the risk of solar gain overheating dwellings that alternate mechanical ventilation should be provided opposed to relying on acoustic trickle ventilators. The developer should provide a specification for the mechanical ventilation system.

#### **Contaminated Land**

7.32 No objection subject to comments and recommendations from Portsmouth Water. Condition relating to contamination recommended.

#### **Conservation Planner**

7.33 The submitted heritage statement appears very comprehensive and has addressed the relevant heritage matters including an archaeological assessment and the relationship with Fort Wallington which is a listed building. The site is enclosed by hedges and trees and the land rises to the south where the tree screen forms the boundary. To the south there is a water treatment works within a lower area and there is some sporadic residential development.

7.34 Fort Wallington is a substantial structure constructed as part of the Palmerston forts to protect Portsmouth Harbour in the 1860s. The fort is a significant structure, but its setting has been encroached upon with modern development comprising industrial warehouses and although this has significantly impacted on the setting of the fort, it is still a substantial and significant heritage asset.

7.35 However, the setting of the proposed site is some distance from the fort and would not have a direct impact on the fort or its immediate setting and given the character and development in close proximity of the fort it

would appear that the proposed development would have minimal impact in relation to the significance of the fort or its setting. As the site is enclosed by established landscape screening which maintains the character of the setting it would be beneficial to retain as much of the existing arboreal character as possible if the land is to be developed.

### **Housing**

7.36 As the proposal consists of 29No. dwellings the affordable housing provision should be 11.6 (to achieve the 40% policy requirement). I am happy if the 0.6 unit equivalent is provided as a financial contribution in lieu of on-site provision.

7.37 Subject to a split/mix of affordable homes that provides for the following, I would not raise an objection:

- 64% affordable rent 2 x 2-bed, 4 x 3-bed and 1 x 4-bed homes
- 36% shared ownership consisting of 4 x 2-bed homes

### **Ecology**

7.38 No objection. As there has been a few ecology responses dating between October 2019 and November 2021, with a number of updated ecology reports submitted as a result, below is a summary of the ecological issues on site:

#### *Protected species*

- Reptiles – The reptile survey work carried out in 2018 confirmed the likely absence of reptiles from site. As these surveys are now out of date, updated surveys were requested. However, it has been confirmed that the suitable reptile habitat on site, mainly located along the boundaries will be retained and protected during the construction phase. If this is the case, I have no further concerns in relation to reptiles.
- Dormice – Due to the presence of dormice in the locality, their presence on site has been assumed and due to the clearance of some scrub on site, it has been confirmed that an EPS licence from Natural England will be obtained, along with compensatory habitat creation in the form of a hedge/scrub planting in the north-eastern corner (shown below for avoidance of doubt) to provide better connectivity between the habitats in the north and south of the site. This is acceptable and based on the information provided, I am confident that an EPS licence could be obtained.

- Badgers – Whilst a badger sett is located within the site, it has been confirmed that it will not be directly affected by the proposals. Provided that an updated walkover survey is carried out prior to the commencement of the works to ensure no new activity on site, the information provided is considered to be sufficient.

### *Habitats*

- It has been confirmed that with the exception of a small area to facilitate the access road, the boundary vegetation in the north, south and west will be retained and will be located outside the residential curtilage. This is acceptable.

### *Designated sites*

- It is understood that the necessary financial contribution as part of the SRMP will be secured and a nitrogen neutrality strategy in the form of land purchase (to be taken out of agricultural use) has been submitted. Therefore, I raise no concerns in relation to impacts on designated sites. Furthermore, due to the relatively small scale of the works and proposed mitigation in the form of installation of an interpretation board, no significant impacts on the nearby SINC is anticipated. Overall, I have no concerns in relation to this scheme, however if you were minded to grant permission, I suggest that the below condition is added to the decision notice [condition relating to Biodiversity Enhancement and Management Plan].

## 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) The approach to decision making
- b) Residential development in the countryside
- c) Accessibility of the site
- d) Landscape and visual impacts
- e) Heritage impacts
- f) Highways impacts
- g) The impact on Habitat Sites
- h) Other matters
- i) The Planning Balance

**a) The approach to decision making**

- 8.2 A report titled "Five year housing land supply position" was reported to the Planning Committee meeting on the 25<sup>th</sup> May. That report sets out this Council's local housing need along with the Council's current housing land supply position. The report set out that the Council has 5.08 years of housing supply against its five year housing land supply (5YHLS) requirement.
- 8.3 Had a non-determination appeal not been lodged and had the Council been in a position to determine the application, the starting point for making a decision would have been 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 National Planning Policy Framework (NPPF).
- 8.5 Paragraph 60 of the NPPF seeks to significantly boost the supply of housing.
- 8.6 Paragraph 74 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:*

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

*d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (see footnote 8 below), granting planning permission unless:*

- i. The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed (see footnote 7 below); or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

8.8 Footnote 7 to Paragraph 11 reads:

*“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.”*

8.9 Footnote 8 to paragraph 11 reads:

*"This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three years."*

8.10 This planning application proposes new housing outside the defined urban settlement boundaries. Whilst the Council can demonstrate a five year housing land supply, the Housing Delivery Test results published on 14<sup>th</sup> January 2022 confirmed that 62% of the Council's housing requirement had been delivered. This means the delivery of housing in the last three years (2018 to 2021) was substantially below (less than 75%) the housing requirement over the previous three years. Footnote 8 to NPPF paragraph

11 is clear that in such circumstances those policies which are most important for determining the application are to be considered out-of-date meaning that the presumption in favour of sustainable development in paragraph 11(d) is engaged.

- 8.11 Taking the first limb of NPPF paragraph 11(d), as this report sets out, in this instance there are specific policies in the NPPF which protect areas of assets of particular importance namely habitat sites which are specifically mentioned in footnote 7. Therefore, a judgement will need to be reached as to whether policies in the Framework would have provided a clear reason for refusing the development. Where this is found to be the case, the development should be refused.
- 8.12 The second limb of NPPF paragraph (d), namely whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole (the so called 'tilted balance') will only apply if it is judged that there are no clear reasons for refusing the development having applied the test at Limb 1.
- 8.13 Members will be mindful of Paragraph 182 of the NPPF which states that:
- "The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."*
- 8.14 The wording of this paragraph clarifies that the presumption in favour of sustainable development set out in Paragraph 11 does not apply unless an appropriate assessment has concluded that the proposal would not adversely affect the integrity of the habitats site subject to mitigation.
- 8.15 The following sections of the report assesses the application proposals against this Council's adopted local planning policies and considers whether it complies with those policies or not. Following this Officers undertake the Planning Balance to weigh up the material considerations in this case.

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

- 8.16 Policy CS2 (Housing Provision) of the adopted Core Strategy states that priority should be given to the reuse of previously developed land within the

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

8.17 Policy CS14 of the Core Strategy states that:

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

8.18 Policy DSP6 of the Local Plan Part 2: Development Sites and Policies states - there will be a presumption against new residential development outside of the defined urban settlement boundary (as identified on the Policies Map).

8.19 The site is clearly outside of the defined urban settlement boundary and the proposal is therefore contrary to Policies CS2, CS6 and CS14 of the adopted Core Strategy and Policy DSP6 of the adopted Local Plan Part 2: Development Sites and Policies Plan.

### **c) Accessibility of the site**

8.20 As set out above, the site lies outside of the defined urban settlement boundaries and is located at the far end of North Wallington. The applicant has submitted a Sustainability Statement (dated January 2021) which lists various local services and facilities and gives the distance residents would have to walk to get to those destinations from the development site.

8.21 The assessment demonstrates that, whilst some services lie beyond what is considered an acceptable walking distance, a number are within a reasonable walk from the development site. It is not clear what walking routes have been used to plot the distances given. Officers have asked for clarification from the applicant as to how the distances given in the document have been arrived at, but no further explanation has been provided.

8.22 It is likely that the assessment assumes pedestrians would walk along North Wallington itself into Wallington village (where two public houses are located) and then onwards to Fareham town centre and Broadcut retail park to access a number of services and facilities.

8.23 Paragraph 5.5.6 of the applicant's Transport Statement highlights the problem with relying on North Wallington in its current condition as a route for pedestrians:

*"The main issue affecting walking routes is the lack of footway on North Wallington. North Wallington is a rural lane which is synonymous with its village location. There is no footway between Riverside Avenue and Standard Way, a distance of some 275m. Existing pedestrians are observed to walk in the lane, which operates as a shared surface and has historically done so without recorded incident."*

8.24 It continues at paragraph 5.5.9 to say:

*"Overall, it is considered that North Wallington is suitable for the modest additional pedestrian demand that would be generated by the development. There are limited opportunities to improve the walking environment due to its constraints, but should the Council seek to deliver measures, these could include:*

- *Additional signage to identify the presence of pedestrians; and*
- *Delivery of a virtual footway scheme."*

8.25 The Highway Authority have commented on the application and their position is summarised at paragraphs 7.1 – 7.4 above. Initially when the application was first submitted, in order to improve active travel options to and from the site for pedestrians, the applicant proposed improvements to pedestrian routes using Standard Way. The Highway Authority noted that this would improve access for pedestrians into the industrial park but not for those using North Wallington, the desire line from the site to the town centre and public transport links. The improvements would not be conducive to improving the site's accessibility in terms of promoting journeys on foot.

8.26 The applicant subsequently presented a set of proposals to provide a 1.2 – 1.5 metre wide footway connection along North Wallington on the southern side of the road from the site down to the junction with Riverside Avenue. Due to the limited width of the highway the existing two-way carriageway would need to be narrowed to a single lane 3.5 metre wide priority shuttle working system for approximately 75 metres. The raised land on the southern side of the road would need retaining structures at various points between 0.5 – 1.0 metre high.

8.27 In principle, the provision of the footway connection would provide the necessary improvements to facilitate safe and convenient journeys on foot

and bring the development within a reasonable walking distance from local services and facilities. However, there are several outstanding issues which the Highway Authority have raised which require addressing before Officers can confirm the proposals are satisfactory in this regard.

8.28 The length of the shuttle system, at 75m, is considered too long and should be reduced. In addition, the shuttle system would remove some of the existing parking provision along North Wallington which has not been evaluated and replacement parking space not assessed. A Road Safety Audit (RSA) to take account of increased speeds due to this priority system has not been provided, neither has further information to demonstrate the works are deliverable and financially viable. No assessment of street lighting has been undertaken for the new footpath. The Highway Authority have made it clear that, until these points have been addressed, they would maintain their objection to the proposals. The applicant was invited to address these matters when discussions with Officers last took place in January this year, however no further information has been provided. Had this information been provided to the satisfaction of Officers and the Highway Authority, it is likely the development would have been found to be sustainably located.

8.29 In summary of this matter, in response to the proposed improvements along North Wallington, the applicant has failed to demonstrate to the satisfaction of Officers of both the Local Planning Authority and the Highway Authority that proposed improvements to provide a footway connection along North Wallington would be deliverable and viable and would not adversely affect the safety and operation of the highway contrary to Core Strategy Policy CS5. In the absence of such improvements, the proposal is not considered to be sustainable development in that its location is poor in relation to access on foot or cycle to local services and facilities meaning future residents would rely heavily on use of the private motor car. The proposal fails to promote and secure sustainable development with sustainable transport options and access to local services contrary to Core Strategy Policy CS15.

#### **d) Landscape and visual impact**

8.30 The application is accompanied by a high-level, desk top based, landscape and visual appraisal of the site carried out in January 2021. This followed concerns raised by Officers over the arrangement of dwellings in a crescent facing outwards along the northern boundary of the site as shown in the submitted illustrative site plan. Whilst the layout of the site, and the scale and appearance of the buildings themselves, are reserved matters not for consideration at the outline application stage, the requirement to form a

crescent shaped building mass between the interior of the site and the M27 motorway to the north of the site stems from the Noise Assessment commissioned by the applicant. The Noise Assessment itself was carried out in order to measure the impact of road traffic noise on the proposed new houses. As part of that assessment a 3D computer model of noise propagation across the site has been created using the layout shown on the illustrative site plan. The findings of the assessment are discussed later in this report however, in short, the crescent formation is necessary in order to reduce motorway traffic noise in gardens in the interior of the site to an acceptable level.

- 8.31 The landscape and visual appraisal concludes that visibility of the site appears to be localised and potential views are limited to those of vehicle users along North Wallington and Standard Way. However, there is only very limited commentary on the visual effects of the proposed development and it is unclear what set of proposals the appraisal has been based on. There is no reference to the illustrative site plan, sketch drawings or the likely height and bulk of the buildings which, according to the illustrative material, could be up to three storeys high along the site's northern boundary. With this in mind the landscape and visual appraisal supplied by the applicant can only be given limited weight in terms of its usefulness in understanding the impacts of the proposed development.
- 8.32 Officers acknowledge that the site is surrounded by the urban area close by to the south and the M27 motorway a short distance to the north. There is agreement with the applicant's appraisal insofar as views into the site may be limited and therefore visual impacts localised. Nonetheless, as acknowledged by the applicant's own appraisal, there would inevitably be significant adverse effects locally from the development on this previously undeveloped parcel of land which, for planning purposes, lies within the countryside. The extent to which those effects could be mitigated by reducing the scale of development along the northern boundary of the site is unclear given the requirement for buildings in this location to act as a 'shield' against unacceptable motorway traffic noise. That said, significant boundary tree planting exists and more landscape planting could be carried out in areas where none currently exist to soften and mitigate those local impacts.
- 8.33 In conclusion, the proposed development would be harmful to the local landscape character, appearance and function of the countryside in which the site lies contrary to Policy CS14 & CS17.

#### **e) Heritage impacts**

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

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

*“...In considering the impacts of proposals that affect the Borough’s designated heritage assets, the Council will give great weight to their conservation (including those that are most at risk through neglect, decay, or other threats). Harm or loss will require clear and convincing justification in accordance with national guidance. Substantial harm or loss to a heritage asset will only be permitted in exceptional circumstances.*

*Listed buildings will be conserved by:*

- b) supporting proposals that sustain and where appropriate enhance their heritage significance;*
- c) refusing to permit demolition, changes of use or proposed additions and/or alterations that would unacceptably harm the building, its setting or any features of special architectural or historic interest which it possesses; and*
- d) ensuring that development does not harm, and if desirable, enhances their settings.”*

8.36 The heritage statement that accompanies the application identifies the presence of the nearby Grade II Listed Building Fort Wallington. The advice received from the Council’s Conservation Planner is included earlier in this report. There is broad agreement with the conclusions in the applicant’s heritage statement. There would be no harm to the setting of Fort Wallington and the proposal would accord with Policy DSP5. Having regard to the statutory duty set down in Section 66 of the Act, the proposed development would preserve the setting of the Grade II Listed fort.

#### **f) Highways impacts**

8.37 The Highway Authority HCC have confirmed that the proposed access from North Wallington, and the retention of the layby to the north of that

access, is considered acceptable.

- 8.38 HCC Officers have also commented that the site will have an impact on Pinks Hill, an unadopted private road further eastwards which links Standard Way with the A27 and Junction 11 of the M27. HCC note that, in line with other discussions relating to other sites in the vicinity, improvements should be sought to Pinks Hill as set out in the highways consultation response for two other applications (a proposal also by Foreman Homes for up to 22 employment units at Land north of Military Road, Wallington – ref P/20/0636/OA and an application again by Foreman Homes for up to 2,000 square metres of employment floorspace on Land at Standard Way, Wallington). This is, they say, to ensure the proposed development does not have a detrimental impact on public safety regardless of the status of Pinks Hill as a road. A cumulative impact leading to unacceptable harm has been identified on Pinks Hill from the applications combined and it is suggested that a contribution be taken from this particular development towards improvements to the road.
- 8.39 Officers have carefully considered the advice from HCC regarding Pinks Hill. It is noted that the comments are specifically framed not as an objection but a recommendation. It is also noted that the Highway Authority acknowledge in their consultation response that a modest level of residential occupations may be considered acceptable prior to improvements being carried out to Pinks Hill. With this in mind, and also having regard to the fact that neither of the two other applications referred to by the Highway Authority have been granted planning permission at this current time, Officers do not consider that the level of traffic generated by the proposed development at the application site Land east of North Wallington would be significant enough by itself to have the detrimental impacts described. The application site is further away from Pinks Hill than both of the other two development sites and, due to its location and nature as a residential development, travel by private motor car to the site is likely to be just as appropriately accessed through Wallington village rather than Pinks Hill. Unlike the two employment related applications there is likely to be relatively little in the way of commercial and large sized vehicles travelling to and from the site after construction has finished. These factors all indicate that requiring improvements to Pinks Hill in this particular case would not be reasonable or proportionate.
- 8.40 The Highway Authority's position regarding the proposed footway connection along North Wallington is set out earlier in this report in relation to the site's locational sustainability.

### **g) The impact upon Habitat Sites**

- 8.41 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive habitat 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.
- 8.42 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.
- 8.43 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 'Habitat Sites' (HS).
- 8.44 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 habitat 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 habitat sites. This is done following a process known as an Appropriate Assessment. The competent authority is responsible for carrying out this process, although they must consult with Natural England and have regard to their representations. The competent authority is either the local planning authority or the Planning Inspectorate, depending on who is determining the application. In this case, because an appeal has been lodged, it is the Planning Inspectorate.
- 8.45 When considering the proposed development there are two main likely significant effects on HS.

### ***Nutrient neutrality***

- 8.46 The first likely significant effect on HS relates to deterioration in the

water environment through increased nitrogen. Natural England has highlighted that there is existing evidence of high levels of nitrogen and phosphorus in parts of The Solent with evidence of eutrophication. Natural England has further highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) will have a likely significant effect upon the HS.

- 8.47 Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England have provided a methodology for calculating nutrient budgets and options for mitigation should this be necessary. The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research, however for each input there is a degree of uncertainty. Natural England advise local planning authorities to take a precautionary approach when addressing uncertainty and calculating nutrient budgets.
- 8.48 The applicant has previously submitted a nutrient budget in April 2020 based on a previous, now superseded, version of the guidance issued by Natural England on achieving nutrient neutrality. No up-to-date nutrient budget has been provided by the applicant which would now need to be carried out in line with the latest guidance issued by Natural England in March this year. Whilst the applicant has demonstrated that they have entered into an agreement to purchase 22 kg/N/year of nitrate mitigation credits from the Hampshire & Isle of Wight Wildlife Trust mitigation site at Little Duxmore on the Isle of Wight, it is unclear whether this is sufficient in the absence of an up-to-date assessment.
- 8.49 In summary, Officers consider that the applicant has failed to satisfactorily demonstrate that the proposed development would achieve nutrient neutrality. As a result there is no certainty that the proposed development would not have an adverse effect on the integrity of the HS of The Solent. The application fails to address the likely significant effects arising from increased wastewater from the development entering The Solent leading to adverse effects on the integrity of the HS of The Solent. The application is contrary to Policies CS4 & DSP13 of the adopted local plan as a result.

#### ***Recreational disturbance***

- 8.50 The second of these likely significant effects on HS concerns disturbance on The Solent coastline through increased recreational use by visitors to the sites.

8.51 DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to The Solent Recreation Mitigation Strategy (SRMS). Had the Council been able to determine the application and had the proposal been found acceptable in all other regards the applicant would have been invited to make a financial contribution through the SRMS. In the absence however of a legal agreement to secure such a contribution, or the submission of evidence to demonstrate that the 'in combination' effects of the development can be avoided or mitigated in another way, the proposal is held to be contrary to Policy DSP15.

#### **h) Other matters**

##### ***Groundwater pollution & surface water drainage***

8.52 Environment Agency (EA) data shows that the application site is within a Groundwater Vulnerability Zone. As a result Officers have sought advice from the EA as well as Portsmouth Water and the Lead Local Flood Authority. Those comments are provided earlier in this report at paragraphs 7.15 – 7.27. In summary, whilst Officers are mindful of the sensitivity of the location with regards groundwater pollution, subject to conditions recommended by the consultees to control the method of construction and most importantly specific details of the surface water drainage system to be employed on the site, there is no objection from any of those consultees.

##### ***Road traffic noise***

8.53 As referred to earlier in this report, the applicant's Noise Assessment provides a 3D noise map to calculate noise levels in specific parts of the site based on the illustrative site plan. Based on the ability for buildings in the crescent around the northern boundary of the site to shield motorway traffic noise to a certain extent, the noise map shows that most private gardens would experience noise levels below 55dB in accordance with the relevant British Standard (BS8233:2014). For two plots higher level boundary fencing (up to 2.6m high) would be required to achieve a satisfactory level of noise.

8.54 The Noise Assessment also shows that facades of buildings most

exposed to road noise would experience noise levels during the daytime which exceeds the 35bBA internal criterion set out in the relevant guidance when windows were open. Some facades would fail to meet this criterion even with windows closed and standard double glazing used. The same conclusions were reached for facades containing bedrooms using the night time criterion of 30dBA. The assessment recommends alternative ventilation for those affected dwellings and a higher specification of double glazing.

- 8.55 The Council's Environmental Health Officer has reviewed the Noise Assessment and agreed with its findings. They however strongly recommend that mechanical ventilation be used (instead of passive measures, such as for example trickle vents). Had Officers been minded to recommend planning permission be granted a suitably worded planning condition could have been used to secure the details of the mitigation measures including higher than normal boundary fencing, ventilation and glazing specifications.

### ***On-site ecology***

- 8.56 The Council's ecologist has provided an up-to-date review of the various ecological supporting information provided by the applicant some of which required revision due to the length of time the application has been under consideration. Consideration has been given specifically to the likely presence of dormice, reptiles and badgers on the site, but no objection has been raised subject to conditions being imposed on any consent to provide the necessary mitigation. Conditions have also been recommended relating to biodiversity enhancement measures.

### ***Local infrastructure***

- 8.57 Concerns have been raised by some local residents over the effect of the number of dwellings on doctors, schools and other services in the area.
- 8.58 The difficulty in obtaining doctor's appointments and dental services is an issue regularly raised in respect of new housing proposals. It is ultimately for the health providers to decide how they deliver their services. In the view of Officers, a refusal on these grounds could not be substantiated.
- 8.59 With regards the likely impact on schools in the local area, Hampshire County Council Children's Services have commented on the

application to confirm that, in this particular instance, they do not wish to request a financial contribution towards primary and secondary education infrastructure. A contribution is however sought towards the production of a school travel plan and cycle/scooter storage at Harrison Primary School.

- 8.60 Advice has been received from Fareham Housing as to the local identified need for affordable housing in the area. Had Officers been minded to recommend that planning permission be granted, the applicant would have been invited to enter into to Section 106 legal agreement to secure an appropriate level of affordable housing provision on the site to meet that identified need in terms of dwelling types, sizes and tenures.

**i) The Planning Balance**

- 8.61 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".*

- 8.62 As set out in paragraph 8.11 above, the effect of Paragraph 182 of the NPPF is that:

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

- 8.63 The effect of NPPF paragraph 182 means that if having carried out an Appropriate Assessment it is concluded that the proposal is likely to have an adverse effect on the integrity of a habitats sites, then the application can be determined in accordance with paragraph 38(6) under the 'straight' balance.

- 8.64 In this instance Officers have identified likely significant effects upon Habitat Sites as a result of an unmitigated surplus of nitrate pollution generated by the development entering the water environment of The Solent. If the Council had been able to determine this application, the

applicant would have been invited to address that issue by producing a revised nutrient budget for the site and new mitigation proposals. If those mitigation proposals had been satisfactory to Officers, an Appropriate Assessment would have needed to have been carried out concluding no adverse effects on HS before a decision to grant planning permission could have been made. In the absence of an up-to-date nutrient assessment and appropriate mitigation proposals, the proposed development would fail to identify and secure appropriate mitigation and would be contrary to Policies CS4 & DSP13. In this particular case however the Officer recommendation would have been to refuse planning permission and so since the application is not able to be favourably determined it has not been necessary for the authority to carry out an Appropriate Assessment.

- 8.65 As the application is the subject of Appeal, should the Inspector be minded to grant permission for the development then it would fall to the Inspector as the Competent Authority to undertake this Appropriate Assessment.
- 8.66 If having carried out an Appropriate Assessment, the Inspector judges that the proposal would not adversely affect the integrity of the habitat sites, then the application, given that the policies of the local plan must be considered out-of-date by virtue of the Housing Delivery Test results, must be determined in accordance Paragraph 11(d). In this instance, Limb i) of Paragraph 11 d would be met (there would be no clear reason for refusing the development remaining if potential impacts on habitat sites have been addressed) and the application would fall to be determined under Limb ii), applying the presumption in favour of sustainable development. This approach detailed within the preceding paragraphs, has become known as the 'tilted balance' in that it tilts the planning balance in favour of sustainable development and against the Development Plan.
- 8.67 The site is outside of the defined urban settlement boundary and the proposed development does not relate to agriculture, forestry, horticulture and required infrastructure. The principle of the proposed development of the site would be contrary to Policies CS2, CS6 and CS14 of the Core Strategy and Policy DSP6 of Local Plan Part 2: Development Sites and Policies Plan. In the absence of satisfactory measures to improve journeys on foot for local residents to local services and facilities, the site is not considered to be sustainably located contrary to Policy CS15. Those measures proposed by the applicant have not been properly demonstrated to be deliverable, viable or acceptable with regards to the safety and operation of the

highway contrary to Policy CS5. Furthermore, the development would harm the landscape character, appearance and function of the countryside contrary to Policies CS14 & CS17, albeit such impacts would be localised.

8.68 Officers have carefully weighed the benefits which would be delivered by the proposals, namely the provision of 29 dwellings, including a policy compliant proportion of affordable housing on the site. However, in Officer's views, the harm identified in the preceding paragraphs and conflict with the development plan outweigh the benefits arising from the scheme.

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

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

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

8.70 In light of this assessment, and taking into account all other material planning considerations, had the Council been able to determine this application, Officers would have recommended that planning permission should have been refused.

## 9.0 ***Recommendation***

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

The development is contrary to Policies CS2, CS4, CS5, CS6, CS14, CS15, CS17, CS18 and CS20 of the Adopted Fareham Borough Core Strategy 2011, Policies DSP6, DSP13 & DSP15 of the Adopted Local Plan Part 2: Development Site and Policies Plan and is unacceptable in that:

- a) The proposal represents development outside the defined urban settlement boundary for which there is no justification or overriding need;
- b) The proposal fails to demonstrate that proposed improvements to provide a footway connection along North Wallington would be deliverable and viable and would not adversely affect the safety and operation of the highway. In the absence of such improvements, the proposal is not considered to be sustainable development in that its location is poor in relation to access on foot or cycle to local services and facilities meaning future residents would rely heavily on use of the private motor car;
- c) The proposed development would be harmful to the landscape character, appearance and function of the countryside and fail to respect or respond positively to the key characteristics of the surrounding area;
- d) The proposal would have likely adverse effects on the integrity of habitat sites in combination with other developments due to the additional generation of nutrients entering the water environment and the lack of appropriate and appropriately secured mitigation;
- e) In the absence of a legal agreement to secure such, the proposal fails to appropriately secure mitigation of the likely adverse effects on the integrity of habitat sites which, in combination with other developments, would arise due to the impacts of recreational disturbance;
- f) In the absence of a legal agreement to secure such, the proposal fails to make on-site provision of affordable housing at a level in accordance with the requirements of the local plan;
- g) In the absence of a legal agreement to secure such, the proposal fails to secure a financial contribution towards a school travel plan and cycle/scooter storage at Harrison Primary School.

10.0 **Notes for information:**

10.1 Had it not been for the overriding reasons for refusal to the proposal, the Local Planning Authority would have sought to address point d) by inviting the applicant to provide an up-to-date nutrient assessment of the development site and appropriate mitigation proposals. It would also have sought to address points e) – g) above by inviting the applicant to

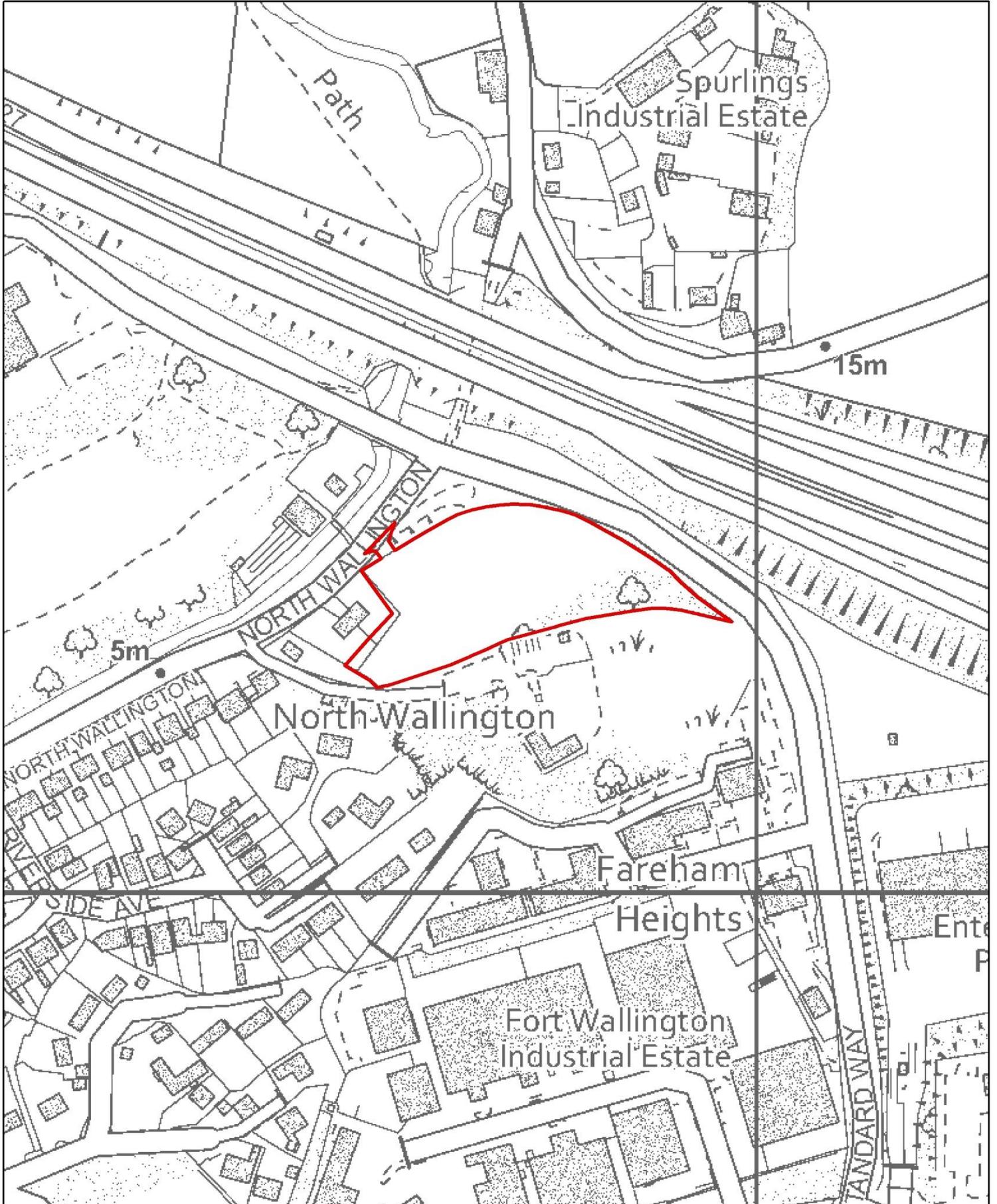
enter into a legal agreement with Fareham Borough Council under Section 106 of the Town & Country Planning Act 1990.

11.0 ***Background Papers***

Application documents and all consultation responses and representations received as listed on the Council's website under the application reference number, together with all relevant national and local policies, guidance and standards and relevant legislation.

# FAREHAM

BOROUGH COUNCIL



Land East of North Wallington Road  
Fareham  
Scale 1:2,500



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