

## **OFFICER REPORT FOR COMMITTEE**

**DATE:15/06/2022**

**P/22/0165/OA  
MILLER HOMES LTD & BARGATE  
HOMES LTD**

**STUBBINGTON WARD  
AGENT: PEGASUS GROUP**

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT ACCESS) FOR RESIDENTIAL DEVELOPMENT OF UP TO 375 DWELLINGS, ACCESS FROM NEWGATE LANE EAST, LANDSCAPING AND OTHER ASSOCIATED INFRASTRUCTURE WORKS

LAND EAST OF NEWGATE LANE EAST, FAREHAM

### ***Report By***

Peter Kneen – direct dial 01329 824363

#### **1.0 Introduction**

- 1.1 This application is presented to the planning committee following notification from the applicant of their intention to lodge an appeal against the non-determination of the application. The application has attracted a substantial number of third party representations raising objection.
- 1.2 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
- 1.3 The Council presented an updated 'Five Year Housing Land Supply Position' report to the 25<sup>th</sup> May Planning Committee. This report demonstrated that the Council has a five year supply of housing land (5.08 years), including a 20% buffer.

#### **2.0 Site Description**

- 2.1 The application site is located within the designated Strategic Gap between Fareham, Gosport and Stubbington and lies wholly within the designated countryside. The site extends to some 20.04 hectares and comprises arable farmland. The fields are bounded by hedgerows, fencing and mature belts of trees. To the eastern boundary, beyond a belt of mature trees lies a service road and the rear gardens of properties fronting Tukes Avenue and Pettycot

Crescent. Tukes Avenue and Pettycot Crescent are located within the administrative area of Gosport Borough Council.

- 2.2 To the south of the planning application site lies a further arable field. This field benefits from outline planning permission for 99 houses, granted on appeal (under planning reference P/19/1260/OA in July 2021), which will be accessed via Brookers Lane.
- 2.3 The western boundary of the site is formed by the Newgate Lane East relief road (B3385). Newgate Lane East was constructed to provide a wider, more suitable link between Fareham and Daedalus, by-passing the relatively narrow original road. To the west of Newgate Lane East is further scattered development, the Peel Common Wastewater Treatment Works and open fields.
- 2.4 To the north/ west of the planning application site lies HMS Collingwood's playing fields, which would abut the development along its southern and eastern boundaries.
- 2.5 Along the northern boundary lies a public right of way, that connects Tukes Avenue (to the east) to Newgate Lane (to the west). North of the public right of way is Tukes Avenue Recreation Ground and Speedfields Park, which contains a number of large-scale retail and industrial units.

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

- 3.1 Outline planning permission is sought for the erection of up to 375 dwellings and associated works. All matters are reserved except for the means of access.
- 3.2 The development proposal would see the construction of a large roundabout on Newgate Lane East, at its existing junction with the original Newgate Lane to provide the sole vehicular access for the development.
- 3.3 An indicative concept masterplan has been submitted showing residential blocks totalling up to 375 dwellings, with open spaces, green infrastructure and Sustainable Urban Drainage Systems, together with pedestrian and cycle links to the north, east, south and west of the site.
- 3.4 The majority of the open space is proposed to be located on the western side of the site between the proposed dwellings and Newgate Lane East, with green corridors shown throughout the site and around the periphery.
- 3.5 Matters of scale, appearance, layout and landscaping are reserved for decision at a later date if outline planning permission is granted.

#### **4.0 Policies**

4.1 The following policies apply to this application:

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

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

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

|       |  |
|-------|--|
| DSP1  | Sustainable Development  |
| DSP2  | Environmental Impact   |
| DSP3  | Impact on Living Conditions  |
| DSP6  | New Residential Development Outside of the Defined Urban Settlement Boundaries |
| DSP13 | Nature Conservation  |
| DSP14 | Supporting Sites for Brent Geese and Waders                                    |
| DSP15 | Recreational Disturbance on The Solent Special Protection Areas                |

4.2 In addition to the adopted Local Plan, the emerging Fareham Local Plan 2037 has been through its examination and is therefore at a relatively advanced stage. Some weight can be applied to its emerging Policies:

##### **Emerging Fareham Local Plan 2037**

|     |  |
|-----|--|
| DS1 | Development in the Countryside                       |
| DS2 | Development in the Strategic Gaps                    |
| DS3 | Landscape  |
| H1  | Housing Provision                                    |
| HP1 | New Residential Development                          |
| HP4 | Five Year Housing Land Supply                        |
| HP5 | Provision of Affordable Housing                      |
| HP9 | Self and Custom Build Homes                          |
| CC1 | Climate Change                                       |
| CC2 | Managing Flood Risk and Sustainable Drainage Systems |

|      |  |
|------|--|
| NE1  | Protection of Nature Conservation, Biodiversity and the Local Ecological Network   |
| NE2  | Biodiversity Net Gain  |
| NE3  | Recreational Disturbance on the Solent Special Protection Areas (SPAs)   |
| NE4  | Water Quality Effects on the Special Protection Areas, Special Areas of Conservation (SACs) and Ramsar Sites of The Solent |
| NE5  | Solent Wader and Brent Goose Sites   |
| NE6  | Trees, Woodland and Hedgerows  |
| NE8  | Air Quality  |
| NE9  | Green Infrastructure   |
| TIN1 | Sustainable Transport  |
| TIN2 | Highway Safety and Road Network  |
| D1   | High Quality Design and Placemaking  |
| D2   | Ensuring Good Environmental Conditions   |
| D3   | Co-ordination of Development and Piecemeal Proposals   |
| D4   | Water Quality and Resources  |
| D5   | Internal Space Standards   |

**Other Documents:**

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

**5.0 *Relevant Planning History***

5.1 There is no recent relevant planning history regarding the application site. However, it is important to note several recent planning applications and appeal decisions on sites nearby:

|                         |   |
|-------------------------|---|
| <b>P/19/1260/OA</b>     | <b>SITE TO THE SOUTH</b><br>Land East of Newgate Lane East<br>Outline planning application for up to 99 dwellings with access from Brookers Lane, Gosport |
| <b>APPEAL ALLOWED</b>   | 28 July 2021  |
| <b>P/18/1118/OA</b>     | <b>SITE TO WEST OF NEWGATE LANE EAST</b><br>Land at Newgate Lane (North)<br>Outline planning application for up to 75 dwellings                           |
| <b>APPEAL DISMISSED</b> | 8 June 2021   |
| <b>P/19/0460/OA</b>     | <b>SITE TO WEST OF NEWGATE LANE EAST</b>  |

Land at Newgate Lane (South)  
Outline planning application for up to 115  
dwellings

**APPEAL DISMISSED** 8 June 2021

## **6.0 Representations**

6.1 One hundred and forty-eight third party representations have been received regarding this application. Of these one is in support and one hundred and forty-seven raise objection. The main points raised are summarised below:

### Objections

- Impact on the Strategic Gap (Policy CS22 of Adopted Local Plan, Policy DS2 in the Emerging Local plan)
- Contrary to the Hampshire County Council's current and emerging Local Transport Plans
- Impact on local amenities
- Increase in carbon footprint
- Increase in nitrate levels
- Increase in air pollution adversely affecting the health and wellbeing of residents
- Increased traffic congestion
- Construction vehicles on inadequate roads
- Lack of public transport along Newgate Lane
- Concerns that Tukes Avenue, Bridgemary, Gosport will become a rat run and have an impact on the safety of children going to and from school
- Brookers Lane will become even more of a driving hazard
- The cycle way will become dangerous with the increase in traffic
- Businesses will be dissuaded from relocating to the Daedalus site
- Impact on wildlife and green areas
- The need for council owned social housing or for people requiring affordable rental properties will not be met
- The development will have an impact on Daedalus airfield by creating extra noise which the airfield already bears the brunt of noise complaints. The future flight paths will be affected by the positioning of the development
- Southern Water Services will not be able to cope with the increased number of households
- Lack of local employment increasing the need to travel to and from work
- Risk of flooding
- Concerns for the security of existing properties
- Increased smell from the sewerage works
- No contact by the developers has been made to Gosport Council
- Loss of agricultural land
- Cumulative impact with 99 houses that have been permitted

- Development should be carried out on Brownfield Sites.
- Council tax will be paid to Fareham Borough Council, but Gosport Borough Council's amenities will be used

### Support

- More housing needed

6.2 Included in the 148 letters received are representations from The Fareham Society, the Gosport and Stubbington Member of Parliament, Caroline Dineage, and the Lee-On-The-Solent Residents' Association. Their concerns largely mirror those of local residents and include:

- Harm to the Strategic Gap
- Insufficient evidence to support the proposed number of houses
- Highway impacts

## **7.0 Consultations**

EXTERNAL

### **Hampshire County Council (HCC) Archaeology**

7.1 No overriding objections to application, subject to appropriate conditions.

### **Hampshire Fire and Rescue Services**

7.2 Comments made to ensure compliance with Building Regulations. No objection.

### **HCC Lead Local Flood Authority**

7.3 No objection subject to conditions

### **Southern Water**

7.4 No objection

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

7.5 No objection raised subject to a financial contribution towards school infrastructure, early years infrastructure, the provision of cycle and footpaths to catchment area schools to encourage active travel and active travel school travel plans. Without the provision the contributions detailed and infrastructure provided to encourage active travel to the catchment area schools, the County Council, as Local Education Authority, would object to the proposal on the grounds that the impact on the existing infrastructure cannot be sufficiently mitigated and therefore the development is unacceptable in planning terms.

### **Gosport Borough Council**

- 7.6 Objection to proposal. Contrary to Fareham Borough Council (FBC) Development Plan, Contrary to emerging FBC Plan. Impact on Strategic Gap and Landscape and conflict with Policies CS14, CS16, CS17, CS22, DSP6 and DSP40. Serious concerns about impact on Newgate Lane East, impacting on the free flow of traffic, detrimental to Gosport residents and Solent Enterprise Zone.

### **HCC Highways**

- 7.7 The County Council notes that the new Fareham Borough Council Local Plan was submitted for examination in September 2021, with examination hearings subsequently taking place in March and April 2022. A report from the Inspector on the outcome of these hearings is expected shortly.

HCC notes that this site was removed from the emerging Plan by Fareham Borough Council following the Regulation 18 Draft Local Plan consultation. Representations were made by the local highway authority on the Regulation 18 Local Plan raising concerns about the proposed allocation. In summary, the local highway authority considered that, on the basis of the evidence available at the time, the proposal would unacceptably undermine the purpose of the Newgate Lane improvements.

It is understood that the site's promoters have subsequently made representations objecting to the omission of this site from the Local Plan and that this matter is the subject of active consideration by the Planning Inspector examining the Local Plan.

In this context it is noted that the emerging Local Plan proposes a spatial distribution for growth in the borough and this has been supported by evidence which considers the cumulative impact of that specific spatial distribution on infrastructure and environmental considerations. Clearly, if the Inspector were to conclude that the Local Plan was unsound, and that there was merit in further consideration of new development sites to help address their concerns, this would be the subject of further work and evidence base preparation.

The impact of this development, were it to be granted for this planning application, has not featured as part of any such recent assessment to date. Noting the scale and location of the proposed development in relation to current highway improvements and other proposed development in the area, the County Council considers that granting permission at this time would be premature. This is particularly the case considering the advance stage of the Plan's preparation.

Notwithstanding the above, the Local Highway Authority has reviewed the evidence submitted by the applicant to date. On the basis of the information provided by the applicant in this regard, the County Council as the local Highway Authority considers that the proposal is contrary to Paragraphs 110, and 111 of the National Planning Policy Framework.

The reasons for refusal may be overcome by the applicant submitting the information detailed below:

- A Walking, Cycling and Horse Riding Assessment and Review of routes to the catchment schools and amenities within Stubbington.
- Consideration of improvements for cyclists on Wych Road, between Tukes Avenue and the Henry Cort Way.
- Consideration of Redlands Lane cycle improvements, between the northern end of Henry Cort Way and The Gillies.
- Agreement of a contribution of £16,000 towards the provision of Real Time Information (RTI) at Tukes Avenue bus stops.
- A sensitivity junction model test for the proposed site access in the 2037 future year scenario, uplifted to the recorded ATC flows.
- Revised traffic flow diagrams to include the bypass straight ahead lane at the Newgate Lane/ Speedfield business park roundabout.
- Extended traffic flow diagrams to include the Gosport Road/ Palmerston Drive junction and associated Newgate Lane flyover.
- Consideration of Physical Infrastructure Access (PIA) mitigation at Newgate Lane/ A32 Gosport Road interchange.
- Address comments relating to the design of the proposed pedestrian and cycle accesses.
- Address comments relating to the proposed southern emergency access link.
- Consideration of lighting of the Brookers Lane/ Woodcot Lane pedestrian and cycle link.
- Consideration of cycle improvements on the route to the catchment schools of Wallisdean Infant and Junior and Fareham Secondary Academy at, and north of, Longfield Avenue.
- Agreement of a contribution of £42,000 towards the producing and delivering School Travel Plans for the catchment schools.
- Address comments relating to the design of the proposed roundabout site access.
- Inclusion of the catchment schools in the pedestrian and cycle demand forecasts.
- Amend the routing and journey times for the destinations noted and resubmit a revised traffic distribution.
- Confirm the distribution of Welborne Garden Village committed development trips from the A27 Gosport Road.
- Compare queue length data with the baseline models to ensure the base models are validated to observed conditions. Calibrate baseline models if necessary.
- Geometry drawings for all off-site highway junction models.
- Updated modelling using a one-hour profile rather than direct flow input for the proposed site access.
- Confirm that HGV percentages are derived from traffic survey data.
- Clarify the discrepancy between the 18.91m effective flare length shown on drawing 1TB10353-GA-105 and the 52.1m coded in the site access junction model.

- Provide modelling to reflect the current scheme being constructed at Peel Common roundabout.
- Address the modelling comments relating to Newgate Lane/ HMS Collingwood Access/ Speedfields Park junction.
- Address the modelling comments relating to Brookers Lane Toucan Crossing.

In summary, the County Council has concerns that the proposal is premature in the context of the emerging Local Plan which is currently at a late stage in its preparation and that it is contrary to planning policy relating to highways operation, safety and accessibility. On the basis of the information submitted in support of the planning application, the Local Highway Authority would recommend that the Local Planning Authority refuse the application due to the following reasons:

The applicant has failed to demonstrate the development would not result in an unacceptable impact on highway operation and safety. On this basis the proposed development would be contrary to NPPF Paragraph 111 in that it would result in a severe impact on the road network.

The applicant has failed to demonstrate that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would be contrary to NPPF Paragraph 110.

### **HCC Countryside and Rights of Way**

- 7.8 No objection to improvements to access to the rights of way network. Concern raised regarding lack of information in relation to horse-riders.

### **Environment Agency**

- 7.9 No comments raised.

### **Natural England (NE)**

- 7.10 The proposals will affect Solent Wader and Brent Goose Strategy (SWBGS) sites. These sites form a network of terrestrial sites located outside of The Solent Special Protection Area (SPA) boundaries that are used by SPA species as alternative areas for roosting and foraging. These sites support the functionality of the designated sites and are therefore protected in this context.

The proposals will result in the total loss of the SWBGS site F23 (4.67ha), a secondary support site with records of use by green sandpiper, greenshank and lapwing. To address this loss, it is proposed that 2ha of on-site land towards the western boundary of the site will be secured in perpetuity as a

bird mitigation area. This area currently forms part of F15, a low use SWBGS site. This on-site bird mitigation area would be managed primarily as short-sward grassland.

A seasonal waterbody is proposed to improve habitat suitability for wading birds (this basin would also form part of the SuDs network for the site). Permitted access would be for management and monitoring purposes, with measures to prevent unauthorised access to include stock-proof fencing and hedgerows planted along the northern and southern boundaries. Given its proximity to the proposed development consideration should be given to enforcement of these measures, in addition to their management in perpetuity, to provide certainty that no unauthorised access would occur.

There is uncertainty as to whether the proposed on-site mitigation area would provide suitable and sufficient habitat to address the loss of F23. Given the relatively small size of this site, and the presence of boundary hedgerows and trees it is unlikely that the site could provide long sight-lines preferred by overwintering bird species. In line with the SWBGS Mitigation guidance, there is a preference for on-site provision to maintain a network of sites across the region. However, it must be sufficient size and of suitable design, with management in perpetuity including controlled access during winter months. 'Significant enhancements' would need to be delivered, such as long term secured management.

In this instance NE raise concerns regarding the small size of the mitigation area proposed, the likelihood of limited sight lines and uncertainty regarding informal access by people and dogs. The current proposals do not provide the certainty needed that the continued ecological function of the SWBGS network would be maintained. Therefore, NE advise consideration should be given to broadening the scope of on-site mitigation, or to funding a suitable offsite project.

This proposal will also result in the loss of 9.92ha of SWBGS site 'F15', representing a partial loss of this low use site, which has records of use by lapwing. All low use sites have the potential to support the existing network and provide alternative options and resilience for the future network.

To address the loss of part of SWBGS site F15, it is proposed that a 5ha off-site Winter Bird Mitigation area is secured in perpetuity at Old Street in Stubbington. Natural England previously agreed that this mitigation area could make provision for the loss of 11.84ha of F15 arising from three developments. Following unsuccessful appeals relating to two of these developments (Land at Newgate Lane North and South), it is proposed that this off-site Mitigation area instead provides for the combined loss from the

third development (Land at Newgate Lane East) in addition to the current development proposal. This would total approximately 13.8ha of loss from F15 according to the applicant, representing an additional c.2ha of loss.

It is advised that further measures are sought to address this additional loss of c.2ha. Options to expand the Winter Bird Mitigation area could be explored, or a suitable contribution made in line with the Solent Wader and Brent Goose strategy could be provided to address any level of uncertainty arising from this increase in loss. NE advise that suitable project(s) are identified to ensure that this contribution will benefit the wider SWBGS network of sites.

A monitoring and management plan for the offsite Winter Bird Mitigation Area has been produced in support of this application (WYG, February 2021). NE advise that this plan should be costed, as the decision maker will need to be satisfied that financial arrangements are in place that will guarantee the provision of sufficient funds to ensure the full delivery of the agreed management plans for the lifetime of the development. The plan should make clear the organisation(s) responsible for delivering the mitigation and should cater for instances where monitoring shows declining effectiveness and allows for remedial management measures.

The mitigation land should be delivered in advance of any loss of SPA functionally linked land and managed by a suitable third party (such as the Local Planning Authority or Non-Governmental Organisation partner, or similar stable management body such as the Land Trust) in perpetuity. Where a management body is employed that is not the public authority, legal step-in rights may be required to take over management of the area in the case where that body fails or folds.

Without the information set out above, Natural England may need to object to the proposal.

### **Landscape**

- 7.11 Nicholson Lockhart Garratt, a private consultancy firm (specialising in Environmental Planning, Landscape Design and Forestry and Woodland Management), have been instructed by the Council to assess the landscape and visual impacts of the proposed development.
- 7.12 In their assessment, the site is in a highly sensitive location and its development would result in a significant and permanent adverse change in the character of the area and the complete loss of any remaining rural integrity. The scale and location of the proposed development is such that it would result in significant coalescence between Fareham and Gosport; this is anticipated to significantly reduce the integrity of the Strategic Gap in this

location. Development would result in permanent significant adverse effects upon visual receptors in the close vicinity of the site.

## INTERNAL

### **Environmental Health (Contaminated Land)**

7.12 No objection

### **Trees**

7.13 No objection

### **Ecology**

7.14 Badgers: The potential impact upon badgers can be satisfactorily mitigated.

Reptiles: A good population of slow-worm and a low population of grass snake has been confirmed on site. No definite receptor area has been secured on site, however it is acknowledged that there will be scope on site for reptile receptor areas in the form of green corridors and bird refuge areas. Provided that a reptile mitigation strategy with necessary updated surveys (no older than 2 years old) is secured via a planning condition, no objection raised.

Bats and Nesting Birds: There are limitations in relation to the surveys carried out on site, as the largest part of the site was surveyed much later than the northern section of the site and therefore the overall assessment of impacts is not considered to be robust enough. This limitation has however been acknowledged and it has been stated that "Five additional surveys are scheduled to be undertaken in 2022 between April and July 2022". The results of these surveys are required.

Whilst it may be acceptable to compensate for the loss of Secondary Support Areas by creating smaller but higher quality habitats, I am not satisfied that the mitigation proposed along the western side of the site will be of such higher value to over-wintering birds.

Concern is raised that it is proposed to plant a hedge along the northern and southern boundaries, along with occasional hedgerow trees. This field already supports a hedge along the eastern and western boundaries. This will affect the clear sight lines that many birds require.

It is also noted that a ditch is proposed outside the northern boundary of the Bird Mitigation Area. This feature could enhance the value of the site and it is not clear why it has been located outside the Mitigation Area.

Most importantly, whilst creation of shallow scrapes will enhance the value of the site for waders, a single large basin which is likely to be a requirement as part of the drainage strategy for the site and not a well-considered enhancement feature designed for the birds, is proposed to be located in this field. No information has been provided in relation to the levels/depths of this feature (other than it will be 0.8m deep) to ensure that it will be suitable for wintering birds recorded on and adjacent to the site.

The 'F15' Low use site is approximately 9.92ha in area. To compensate for the loss of F15, it is proposed that a Winter Bird Mitigation Area measuring 5.0 ha is created at Old Street, Stubbington. It is understood that it was agreed with Natural England that the proposed area was capable of mitigating the loss of F15 associated with three sites (Newgate Lane East, Land at Newgate Lane (South) and Land at Newgate Lane (North)). This combined loss was estimated as 11.84 ha. Following the unsuccessful appeals at the latter two sites, it is now proposed that the strategy is secured to mitigate the loss of F15 for Newgate Lane East and the current proposal. This combined loss is estimated as 13.8 ha by the applicant. The same Bird Mitigation Area at Old Street is now compensating for the loss of an extra area of 2ha. No justification has been provided as to how this Mitigation Area is still suitable.

Based on the above, unable to support the conclusions of the submitted 'REPORT TO INFORM HABITATS REGULATIONS ASSESSMENT' and request that further information is submitted.

### **Fareham Housing**

- 7.15 No objection likely subject to compliance with identified affordable housing requirement for a site of 375 dwellings in Fareham South.

### **Recycling Co-ordinator**

- 7.16 No comments raised at this stage

### **Open Spaces Manager**

- 7.17 Comments only at this stage. Indicative open space layout is acceptable, but SuDS will have impacts on the open spaces which will need to be considered at the detailed design stage. Suitable play facilities should be provided for a development of this size.

### **Conservation/Historic Environment**

- 7.18 No objection

## **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 impact
- e) Strategic Gap
- f) Highway impacts;
- g) Impact on Habitat Sites;
- h) Ecology and protected species
- i) Other matters
- j) The planning balance

**a) The Approach to Decision Making**

8.2 A report titled 'Five Year Housing Land Supply Position' was reported to the May meeting of the Planning Committee. That report set out this Council's local housing need along with the Council's current housing land supply position. The report concluded 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, which states:

*"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) 2021.

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. 'Paragraph 74 of the NPPF also states that the 'supply of specific deliverable sites should in addition include a buffer..... of 20% where there has been a significant under delivery of housing over the previous 3 years, to improve the prospect of achieving the planned supply.'

8.7 Paragraph 11 of the NPPF sets out 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 of 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 January 2022 confirmed that the Council has achieved 62% of its housing target. 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 of paragraph 11 of the NPPF 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 11(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 one.
- 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 habitat sites subject to mitigation.

8.15 The following sections of this 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 that there will be a presumption against new residential development outside of defined urban settlement boundaries (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 It is acknowledged that the site is located immediately adjacent to the urban areas of Bridgemary and Woodcot, in Gosport Borough, and on the southern end of the Speedfields Park, a large commercial area at the southern end of the defined urban area of Fareham. It is also acknowledged that the proposal includes the provision of pedestrian and cycle links to the neighbouring urban areas.

8.21 In considering whether the site would be accessible, it is important to have regard to the considerations raised by the Appeal Inspectors on the recent cases outline in Section 5.0 of this report. All these sites are located immediately adjacent to this application site, with the allowed appeal site (Appeal A) being located to the south and would be linked via pedestrian and cycling paths through the site to Brookers Lane (to the south). The other two

sites (Appeal B (Newgate Lane North) and Appeal C (Newgate Lane South)) are located immediately to the west of the site, on the western side of Newgate Lane East, both of which were dismissed on appeal.

- 8.22 The Appeal Inspector for Appeal A concluded that whilst the site was “*not perhaps an ideal form of development. It would be sustainable development in terms of the Framework*”. This reflected the site’s direct connection into Gosport, via Brookers Lane for motorists, cyclists and pedestrians. Future residents would only achieve vehicular access via Brookers Lane, with only pedestrian and cycle access westwards across Newgate Lane East. The accessibility of the site, subject to mitigation, was not one of the Council’s objections to the scheme.
- 8.23 The Appeal Inspector for Appeals B and C (located on the western side of Newgate Lane East) identified concerns regarding the ability of future residents to walk to local services and facilities, largely due to the need to cross Newgate Lane East to access both facilities in Bridgemary and Speedfields Park, despite the presence of a pedestrian crossing to the north of the site, and a proposed toucan crossing at Brookers Lane. The Inspector also noted the limited bus services along Newgate Lane East, and the limitations of the site in terms particularly for walking and use of public transport. Furthermore, the sites are not located adjacent to an existing urban settlement boundary. The Inspector concluded the sites were not sustainably located, in terms of accessibility.
- 8.24 The present application site is located immediately adjacent to the urban area of Gosport. In terms of the use of public transport, buses along Newgate Lane East are considered to be limited, but a more regular service along Tukes Avenue would be accessible to future residents. Future residents would have direct pedestrian, cycle and public transport access to the services and facilities in Bridgemary and Woodcot, together with access to services and facilities in Speedfields Park without the need to cross Newgate Lane East.
- 8.25 As identified on the Concept Masterplan, only one pedestrian and cycle link would be created directly to the east, towards the northern part of the site. The greatest proportion of residents living in the central and southern part of the site would be required to walk or cycle some distance to access Tukes Avenue, averaging at least 500 metres to reach either Tukes Avenue or Brookers Lane. Residents would need to travel through the scheme allowed on appeal (Appeal A) to access Tukes Avenue via Brookers Lane or travel northern towards the eastern link (opposite Woodcot Primary School), or via the public right of way along the northern boundary of the site.

- 8.26 Hampshire County Council Children's Services, consider that the catchment for pupils from this development would not be for the schools in Gosport Borough, despite Woodcot Primary School being located to the immediate east of the site beyond Tukes Avenue. HCC consider the catchment for pupils will be schools in Stubbington and Fareham, and this would require both a fairly lengthy walk or cycle, crossing Newgate Lane East to get into Stubbington, or the use of the Bus Rapid Transit (BRT) on Henry Cort Way to access Fareham. No details regarding the need for sustainable and active travel routes to the catchment schools has been provided to the satisfaction of the Local Education Authority.
- 8.27 Planning permission for 99 dwellings, immediately to the south of the present application site, was granted on appeal in July 2021. The Council did not raise objection to that proposal on the grounds of accessibility. It is located adjacent to the existing urban settlement boundaries. It differs from the current application site in that vehicular access will be gained from the east.
- 8.28 Whilst the proposed pedestrian and cycle links on the site are focused towards the northern and southern ends of the site, Officers consider these would provide reasonable accessibility to facilities located to the east. Local bus services can be accessed to the east of the site or on Newgate Lane East, immediately adjacent to the west of the site. Speedfields Park, immediately to the north of the application site contains retail facilities, including large food retail stores.
- 8.29 Having regard to all of the above, it is considered in locational terms that on balance, the site is accessibly located with options for direct access to local services and facilities. The matters and concerns raised by Hampshire County Council in its capacity as the Highway Authority are considered separately elsewhere in this report. Similarly, the comments of Hampshire County Council Children's Services are noted, and any improvements relating to active travel to school will need to be addressed by the applicant.

**d) Landscape and Visual Impact**

- 8.30 Nicholson Lockhart Garratt, a private consultancy firm (specialising in Environmental Planning, Landscape Design and Forestry and Woodland Management), have been instructed by the Council to assess the landscape and visual impacts of the proposed development.
- 8.31 Natural England's National Character Assessment places the site within the South Coast Plain National Character Area (NCA). This is broadly described as a flat, coastal landscape with an intricately indented shoreline lying between the dip slope of the South Downs and South Hampshire Lowlands, and the waters of the English Channel, Solent and part of Southampton

Water. The site and its setting are therefore considered to be moderately representative of this NCA, in particular in relation to the site's presence as an area of farmed land separating developed areas that slopes gently to the south.

8.32 At a county level, the Hampshire Integrated Character Assessment (2012) places the site within Gosport and Fareham Coastal Plain Landscape Character Area (9F). The site and its setting are considered to be strongly representative of the key features outlined by this Character Area, with only exceptions being that that only occur near to the coast. Additionally, the Assessment also places the site within land associated with the Coastal Plain Open Landscape Type, reflecting the majority of the identified key characteristics.

8.33 At the local level, the Fareham Landscape Assessment, published in 2017 places the site within the Woodcot/Alver Valley Landscape Character Area (LCA8), close to the boundary of the Fareham/Stubbington Gap Landscape Character Area (LCA7), which lies beyond Newgate Lane to the west.

8.34 The Woodcot/Alver Valley Landscape Character Area is described as follows:

*“The Alver Valley also forms part of the strategic gap separating Fareham and Gosport but it is very different in character and scale from the open farmed landscape to the west. It comprises a mixed pattern of wooded common, small-scale pasture and ribbon development along the corridors of the River Alver and Newgate Lane and is bounded to the east by the urban edge of Gosport and to the north by the outskirts of Fareham”.*

8.35 The site and its setting are therefore considered to be strongly representative of the Woodcot/Alver Valley Landscape Character Area, representing all key characteristics with the exception of the one that only occurs to the south of the area.

8.36 The Fareham Landscape Assessment further divides these areas into Local Landscape Character Areas (LLCAs), of which the application site lies wholly within LLCA 8.1a (Woodcot). The Assessment draws the following conclusion:

*“As a whole, this area is of high sensitivity primarily on account of its critical role in preventing the coalescence of the urban areas of Fareham, Bridgemary and, to a lesser extent, Stubbington, and in defining the edges, setting and separate identity of these settlements. The relatively small size of the area, the high degree of intervisibility and its generally unspoilt, rural character make it particularly vulnerable to change. The generally open nature of the landscape means that it is difficult to integrate development*

*without it being highly visible and potentially affecting the rural undeveloped character across a wide area, as well as eroding the physical, visual and perceived gap between settlements. The situation is further complicated by the proposed new road [now constructed] which will have some effect on the integrity and character of the landscape resource and undeveloped gap. Even a small amount of encroachment of further built development within the area could exacerbate these effects to the point at which the character of the whole area may be fundamentally altered.”*

- 8.37 In relation to the landscape implications of the proposed development, Nicholson Lockhart Garratt advise as follows:

*“The Site and its landscape setting are characterised by their open character as part of the gently sloping Alver Valley, their use as large predominantly arable fields with weak hedgerows, and the important role that they play in preventing the further coalescence and preserving the individual character of Fareham and the Woodcot suburb of Gosport.*

*The Council’s published landscape sensitivity assessment has determined that the sub-area of the Woodcot/Alver Valley Local Landscape Character Area in which the site is located is of high landscape sensitivity to development, with very little scope to accommodate development. It acknowledges the impact of the recent construction of Newgate Lane East in reducing the integrity of the area but concludes that this would in fact increase the sensitivity of the area to further development.*

*The development proposals represent a large-scale residential development, which would act in combination with the recently approved scheme to the south to entirely eliminate the open character of the Woodcot/Alver Valley, and to reduce the rural component to a small collection of arable fields to the north of Peel Common, which are unlikely to remain viable as an agricultural unit. Whilst it is noted that a field in the western part of the scheme is proposed to be retained, this is anticipated to comprise a combination of public open space and engineered sustainable urban drainage features, and therefore its rural integrity would still be permanently lost.*

*The illustrative development design itself is a relatively bland and generic collection of perimeter blocks of residential development, and a significant proportion of the open space within the scheme is given over to storm water attenuation. Whilst a linear park is retained in association with an existing hedgerow, this is truncated in two places by main vehicle routes and flanked by another route, and it is further breached in three places by lesser access routes, therefore it is highly unlikely to function as an effective green infrastructure corridor. Other public access areas are restricted to corners of*

*the scheme, where 'pocket parks' coincide with areas of planting for visual screening. All of these factors indicate that response to the prevailing character and the creation of high-quality places were not significant considerations in the design of this scheme.*

*Whilst it is noted that the planting proposals within the illustrative scheme would result in some reduction in the level of change within the landscape with time as it matures, it is unlikely that this will be to the extent that it would reduce the impact of development within this highly sensitive and inappropriate location to an acceptable level.*

*It is therefore concluded that the proposed development, by nature of its scale and design is inappropriate in principle within this highly sensitive location, and that it would bring about a significant and permanent adverse change in the character of the area and the complete loss of any remaining rural integrity. The illustrative scheme represents a generic design response to the character of the area, and fails to minimise landscape harm, or to recognise the inherent character and beauty of the countryside.”*

8.38 In terms of visual amenity the following points were raised:

*“The applicant’s assessment of visual impacts correctly identifies that the Site occupies a relatively restricted visual envelope, by that the proposed development would be visible from a number of highly sensitive receptors in its vicinity, including the users of Public Rights of Way and recreational facilities, and the occupants of private dwellings. It anticipates that a number of these receptors would experience adverse visual impacts of moderate to major significance upon completion of the scheme.*

*I do not agree that the measures enshrined within the illustrative development design would reduce the significance of effect upon these receptors to the extent stated by the applicant by year 15 because the measures proposed are insufficient, and the species proposed to be used for screening planting are deciduous. As an example, the magnitude of change upon the users of the Meadow Walk Recreation Ground is judged to reduce from medium to low, even though no new planting is proposed along the northern edge of the scheme.*

*Whilst a number of potentially sensitive receptors have been identified to the south of the Site, I am in agreement with the applicant that the delivery of the consented scheme to the south of the Site would reduce the level of change upon these receptors.*

*It is therefore concluded that the proposed development is likely to result in a number of permanent significant adverse effects upon visual receptors in the close vicinity of the Site, but that the restricted visual envelope of the Site is such that significant effects upon wider views are considered to be unlikely.”*

- 8.39 Officers have carefully considered the assessments of landscape and visual impacts, undertaken by the applicants and by Nicholson Lockhart Garratt. Officers consider that the proposed development would result in significant harm upon the local landscape character. The development of the site is inappropriate in principle within this highly sensitive location, and it would bring about a significant and permanent adverse change in the character of the area and the complete loss of any remaining rural integrity, and the visual environment. The development would be contrary to the advice in paragraph 174(b) of the NPPF failing to recognise the intrinsic character and beauty of the countryside and policies CS14 and CS17 of the adopted Core Strategy.

**e) Strategic Gap**

- 8.40 In addition to being located within a highly sensitive countryside location, the site is also identified as being within the Strategic Gap, designated to prevent the coalescence of Gosport, Fareham and Stubbington in this location. Policy CS22 of the adopted Core Strategy states that:

*“Development proposals will not be permitted either individually or cumulatively where it significantly affects the integrity of the gap and the physical and visual separation of settlements.”*

- 8.41 Fareham Borough Council’s Technical Review of Areas of Special Landscape Quality and Strategic Gaps, published in 2020 includes the Fareham - Stubbington Gap. It states the Key Features of the Gap to be as follows:

- Open, predominantly arable farmland and horticulture with some glasshouses, a weak hedgerow structure and few trees
- The settlement edges are for the most part well screened by mature tree canopy, but there is some minor visual intrusion from Fareham, Stubbington and HMS Collingwood
- A few scattered farmsteads/horticultural holdings and a mosaic of small fragments of open farmland and horse-grazing pastures sandwiched between:
- Large-scale non-agricultural uses of Business and airfield development at Solent Airport in Daedalus to the South and the utilities of:
- Peel Common Water Treatment Works enclosed from views by an earth bund and mature tree belt
- Peel Common Solar Farm

- Construction site of Stubbington by-pass, which will provide an East-West and South route through the Gap that has not previously existed
- Urban fringe character of Peel Common residential area
- Recently completed highway works to Newgate Lane, and Peel Common roundabout, with associated noise attenuation fencing and bus and cycle infrastructure.

8.42 The Technical Review considers the potential impact of development within the Fareham-Stubbington Gap to be high. The Technical Review further narrows down consideration to a smaller area, the Strategic Gap Study Area (8c), which comprises the area of the application site. The Review states:

*“Despite the proximity of Fareham and Gosport in the north part, the gap is currently still effective in providing a ‘sense of separation’ but it is at risk. Substantial vegetation around boundaries currently prevents visual coalescence. There is a defined boundary along settlement edges and a gap of sufficient scale and coherence of character...Further development within the gap in addition to the road scheme [Newgate Lane East], together with existing urban fringe activity, is likely to cause visual, or even physical, coalescence of settlements on either side of the new road corridor.”*

8.43 Nicholson Lockhart Garratt summarised the implications upon the Strategic Gap as follows:

*“The scale and location of the proposed development is such that it would result in significant coalescence between Fareham and Gosport, with only formal open spaces remaining in the space between these areas. This is anticipated to significantly reduce the integrity of the Strategic Gap in this location.*

*The site currently performs an important role with regard to the perception of the Gap, in terms of the sense of leaving Fareham and entering the Alver Valley countryside travelling south along Newgate Lane East, and this role will become more important with the delivery of the recently consented scheme to the south of the Site. The proposed creation of a new roundabout on Newgate Lane East is also anticipated to further urbanise this route and erode the perception of a pause between settlements.*

*The Council’s recently published Technical Review of its Strategic Gaps identifies a number of important views across the Site...in particular between the urban edges of Woodcot and the ribbon development along Newgate Lane, with the open character of the Site emphasising the open, shallow nature of the Alver Valley. Furthermore, the belt of mature oak trees on the*

*eastern boundary of the Site is identified as playing an important role in containing the urban character of Woodcot and separating it from its adjacent countryside.*

*The implications of the proposed development would be that these identified views across and along the Alver Valley would be lost, as would the sense of transition between the urban edge of Woodcot and adjacent agricultural countryside.*

*It is therefore concluded that the proposed development would fail to protect the integrity of the Strategic Gap and would result in the physical and visual coalescence of Fareham and Gosport.”*

- 8.44 In addition to the considerations above, it is also important to have regard to the conclusions of the two Appeal Inspectors on Appeal A and Appeal B & C set out in Section 5.0 above, in terms of both landscape and Strategic Gap impacts. In all appeal decisions the Inspectors concurred that the developments of the sites would result in significant harm to the character and appearance of the area and impact on the integrity of the Strategic Gap.
- 8.45 Whilst Appeal A (South of the application site) was allowed due principally to the lack of a five-year housing land supply position, the Planning Inspector noted that ‘The development would, however, reduce the physical and visual separation between Peel Common and Bridgemary/Woodcot at roughly its most narrow point. ... due to the extent of narrowing at this already fairly narrow point between settlements, the effect of the appeals development on the physical and visual separation of settlements would be reasonably significant. In this respect it would conflict with Policy CS22 of the LP1’.
- 8.46 Appeals B & C would have resulted in a development of approximately 190 dwellings and would therefore be substantially smaller than the current application proposal of 375 dwellings, with the Inspector concluding that:
- “...the proposal would cause significant harm to the character and appearance of the area, having regard to the location, disposition, likely scale and landscape treatment, each would fail to minimise the adverse impact on the countryside”.*
- 8.47 The current application would introduce a large scale urban development on the eastern side of Newgate Lane East, significantly impacting on the integrity of the Strategic Gap in this location, resulting in the physical and visual coalescence of settlements, contrary to Policy CS22.

**f) Highway Impacts**

- 8.48 The proposed development would have a single vehicular access point from Newgate Lane East. A new four-arm 50m diameter roundabout at the junction of old Newgate Lane/Newgate Lane East would be provided. The other proposed access would be limited to emergency vehicles only and would link the application site to the permitted scheme to the south, with access to Brookers Lane, Gosport.
- 8.49 The application and its supporting technical highway assessments have been carefully considered by Hampshire County Council as the Highways Authority. A number of comments were made in respect of the current submission, for which the applicant needs to address a wide range of issues and to submit additional information. This additional information was not provided at the time the notification of the planning appeal was received.
- 8.50 A significant number of concerns have been raised by the Highway Authority in respect of potential traffic growth, particularly having regard to committed developments, such as Welborne Garden Village and forecasting traffic from the current planning application for Land South of Longfield Avenue (Newlands), Fareham.
- 8.51 Further information was sought in respect of the junctions at the site access roundabout, Peel Common roundabout, Newgate Lane/HMS Collingwood/Speedfields Park, Newgate Lane/Longfield Avenue roundabout, and the Brookers Lane Toucan Crossing. None of this additional information has been provided at the time of the notification of the appeal. Other concerns have also been raised regarding the wider highway network, including lack of details regarding disruption to be caused during the construction of the access roundabout and increased traffic emissions as a result of the introduction of the roundabout on Newgate Lane East.
- 8.52 The Highway Authority has raised objection to the planning application as it currently stands. It has concluded that the highway proposals are premature in the context of the emerging Local Plan, which is currently at a late stage in its preparation. On the basis of the information currently submitted, the Highway Authority considers that the applicant has failed to demonstrate the development would not result in an unacceptable impact on highway operation and safety and that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the development would therefore be contrary to Policy CS5 of the Council's adopted Core Strategy and paragraphs 110 and 111 of the NPPF.

**g) Impact on Habitat Sites**

- 8.53 Core Strategy Policy CS4 sets out the strategic approach to Biodiversity in respect of sensitive habitat sites and mitigating the 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.
- 8.54 The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 percent 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.
- 8.55 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).
- 8.56 Regulation 63 of the Habitat 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.
- 8.57 When considering the proposed development there are likely significant effects on Habitat Sites, relating to increased nutrients entering The Solent and recreational disturbance. In addition, the site is identified in the Solent Waders and Brent Goose Strategy as a Secondary Support Area (Area F23) and Low Use Site (Area F15). The development of the site would result in the loss of this functionally linked habitat, which the applicant proposes to mitigate through a combination of on-site and off-site habitat creation. The likely significant effects are considered in turn below.

***Nutrient Neutrality***

- 8.58 The first likely significant effect on HS relates to deterioration in the water environment through increased nutrients (particularly nitrates) entering The

Solent. Natural England has highlighted that there is existing evidence of high levels of nutrients 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.

- 8.59 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.
- 8.60 The applicant submitted a shadow Habitat Regulations Assessment (sHRA) which has been assessed by both the Council's Ecologist and Natural England. The sHRA undertakes a nitrogen budget calculation, based on the 2020 Natural England methodology entitled 'Advice on Achieving Nutrient Neutrality for New Development in the Solent Region'. The calculation appears to demonstrate that the development of the site would result in a significant reduction in nutrient output (-66.779 kg TN/year) due to the change from agriculture to residential and open space.
- 8.61 Since the submission of the planning application, NE has issued (March 2022) a revised methodology and updated calculator. The latest methodology and calculator markedly change the nutrient loading of the development to now result in a significant increase in nitrogen output from the development of 191kg TN/year which would require mitigation.
- 8.62 Without appropriate mitigation being secured the development would result in a significant adverse impact on the integrity of the HS and would be contrary to Policies CS4 and DSP13 of the adopted Local Plan.

#### ***Recreational Disturbance***

- 8.63 The second of the likely significant effects on HS, relates to disturbance on The Solent coastline and New Forest SPA, SAC and Ramsar sites through increased recreational use by visitors to these sites.
- 8.64 With regard to The Solent SPAs, Policy DSP15 of the adopted Fareham Borough Local Plan Part 2: Development Sites and Policies explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation upon

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 to 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 contrary to Policy DSP15.

- 8.65 With regards the New Forest HS, research undertaken by Footprint Ecology has identified that planned increases in housing around the New Forest's designated sites will result in increased visitors to the sites, exacerbating recreational impacts upon them. It was found that the majority of visitors to the New Forest's designated sites, on short visits/day trips from home, originated from within a 13.8km radius of the sites, referred to as the 'Zone of Influence' (ZOI). The western and southern side of the Borough of Fareham falls within this 13.8km radius, measured on the basis of 'how the crow flies'.
- 8.66 This Council's Interim Mitigation Solution to address this likely significant effect, was approved by the Council's Executive on 7<sup>th</sup> December 2021. The Interim Mitigation Solution was prepared in consultation with Natural England. The mitigation comprises a financial contribution from the developer to mitigate against any impacts through improvements to open spaces within Fareham Borough and a small financial contribution to the New Forest National Park Authority. 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 Council's Interim Mitigation Solution. 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 contrary to Policies CS4 and DSP13.

***Solent Wader and Brent Goose Sites***

- 8.67 A significant proportion of the application site is covered by land identified as both secondary support areas and low use sites for Solent Waders and Brent Goose, as defined by the Solent Waders and Brent Goose Strategy (SWBGS). The Secondary Support Area (F23) covers 4.67ha of the site and the Low Use Area (F15) covers 9.92ha of the site.
- 8.68 To mitigate the loss of the Secondary Support Area (F23), an on-site Winter Bird Mitigation Area would be created, located on the western field between the housing development and Newgate Lane East. This field currently forms

part of the Low Use Area (F15). To mitigate the partial loss of the Low Use site, it is proposed that 5ha of land in Old Street, Stubbington would be created as a Winter Bird Mitigation Area to enhance the Network. Overall, the proposals would result in a reduction in the amount of land available as part of the Solent Waders and Brent Goose Network. The applicant considers that the measures proposed would mitigate this reduction in site area.

- 8.69 The impact on the SWBGS has been considered by both the Council's Ecologist and Natural England, and both consultees have raised concerns regarding the proposals and the impact on both the Secondary Support Area and Low Use Area.
- 8.70 The mitigation area for the Secondary Support Area is only 2ha in area. Whilst a reduction in site area can be acceptable, concern is raised that its location, along with the boundary planting required to mitigate the visual impact of the development, would prevent clear sight lines for certain bird species in turn discouraging them from using the site. Furthermore, the makeup of the site with a single large drainage basin (part of the SuDS strategy) is not a well-considered enhancement feature, as Solent Waders and Brent Geese prefer shallow scrapes.
- 8.71 To address the loss of the Low Use Area, the applicant proposes the use of an area of 5ha in Old Street, Stubbington. The site in Old Street was previously considered by Natural England as acceptable to address proposed developments at Land at Newgate Lane (North and South) (Appeals B & C) which were dismissed at appeal. The Old Street site is also agreed to be used as mitigation for the allowed appeal on Land East of Newgate Lane East (Appeal A). As the current application site is larger than the area of land proposed for development under Appeals B & C, additional mitigation land may well be needed to address the difference (approximately 2ha).
- 8.72 Additional clarification was provided by the applicant in response to the points raised by both consultees, but these did not overcome the concerns raised by the Council's Ecologist. No additional comments have been received by Natural England.
- 8.73 Officers conclude that without appropriate clarification to address the concerns raised regarding the mitigation for the impact of the development on the Solent Waders and Brent Goose network, the development would have a harmful impact on this functionally linked habitat, contrary to Policy DSP14 of the Local Plan.

#### **h) Ecology and Protected Species**

- 8.74 The application has been supported by an Ecological Impact Assessment and Biodiversity Net Gain Assessment and DEFRA Metric Calculation. No comments have been raised regarding the Biodiversity Net Gain, and Natural England is content to ensure that all mitigation and enhancement measures are secured by condition and agreed with the Council's Ecologist.
- 8.75 The Council's Ecologist has raised no concerns regarding Biodiversity Net Gain or impact on badgers and reptiles on the site. However, concerns regarding the impact on bats and nesting birds was raised, due to an insufficiently robust assessment of impacts. Additional surveys were requested but these have not been provided to date. Subsequently it is considered that the proposed development could result in an unacceptable impact on protected species and would therefore be contrary to Policy DSP13 of the Local Plan.

**i) Other Matters**

- 8.76 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 a 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.
- 8.77 Policy CS16 seeks to prevent the loss of the best and most versatile (BMV) agricultural land. The application site is identified as a mixture of Grade 3a and 3b Agricultural Land. Grade 3a is classified as the best and most versatile (BMV) agricultural land. The application has been supported by a Statement on Agricultural Land. Approximately 59% of the site is classified as Grade 3a, with the remaining being Grade 3b which is not considered best and most versatile. The proposal would be contrary to Policy CS16 and the permanent loss of BMV agricultural land weighs against granting planning permission in the balance of issues.

**j) The Planning Balance**

- 8.78 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".*

- 8.79 As set out in paragraph 8.13 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 sites (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”.*

- 8.80 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 site, then the application can be determined in accordance with Section 38(6) under the ‘straight’ balance. In this particular case the Officer recommendation would have been to refuse planning permission so it would not have been necessary for the authority to carry out an Appropriate Assessment. As the application is the subject of appeal, it will fall to the Inspector as the Competent Authority to undertake an Appropriate Assessment, in the event they are minded to grant planning permission.
- 8.81 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 the Local Plan Part 2: Development Sites and Policies.
- 8.82 The development would harm the landscape character, appearance and function of the countryside contrary to Policies CS14 and CS17. It would also physically and visually reduce the separation of settlements of Fareham, Gosport and Stubbington and in doing so significantly adversely affect the integrity of the Strategic Gap, contrary to Policy CS22. The proposal would result in the loss of best and most versatile agricultural land.
- 8.83 Hampshire County Council in its capacity as the highway authority has raised objection to the proposals as currently submitted and concluded they would be contrary to the NPPF as well as the Council’s adopted policies.
- 8.84 Officers have furthermore concluded that there would be likely significant effects upon Habitat Sites as a result of additional nutrients (nitrates) generated by the development entering The Solent, the loss of functionally linked habitat, and recreational disturbance to Habitat Sites following occupation. The proposal would fail to address the impact on the HS and would therefore be contrary to Policies CS4, DSP13 and DSP14.
- 8.85 Officers have carefully weighed the benefits which would be delivered by the proposals, namely the provision of up to 375 dwellings, including a policy

compliant proportion of affordable housing on the site. However, in the view of Officers', the harm identified in the preceding paragraphs and conflict with the development plan outweigh the benefits arising from the scheme.

8.86 If having carried out an Appropriate Assessment, the Inspector judges that the proposal would not adversely affect the integrity of the HS, 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 with paragraph 11(d) of the NPPF. In this instance, Limb (i) of paragraph 11(d) would be met (there would be no clear policies in the NPPF that protect areas or assets of particular importance) and the application would fall to be determined under Limb (ii), applying the presumption in favour of sustainable development. This approach has become known as the 'tilted balance' in that it tilts the planning balance in favour of sustainable development and against the Development Plan.

8.87 In summary, in undertaking a detailed assessment of the proposals throughout this report, and assuming that the 'tilted balance' was applied to those assessments (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.

8.88 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 PLANNING PERMISSION for the following reasons:

The development would be contrary to Policies CS2, CS4, CS5, CS6, CS14, CS16 CS17, CS18, CS20 and CS22 of the Adopted Fareham Borough Core Strategy 2011, Policies DSP6, DSP13, DSP14 and DSP15 of the Adopted Local Plan Part 2: Development Sites and Policies 2015 and paragraphs 110

and 111 of the National Planning Policy Framework 2021 and is unacceptable in that:

- a) The provision of residential development in this location would be contrary to adopted Local Plan policies which seek to prevent additional residential development in the countryside;
- b) The application site lies outside of the defined urban settlement boundary within the open countryside. The proposed development would result in a range of significant adverse landscape and visual effects, harmful to the landscape character, appearance and function of the countryside and failing to respect or respond positively to the key characteristics of the surrounding area;
- c) The proposed development would physically and visually reduce the separation between settlements significantly adversely affecting the integrity of the Strategic Gap;
- d) The proposal would have likely adverse effects on the integrity of Habitat Sites alone and in combination with other developments due to additional nutrients entering the water environment of The Solent and the absence of appropriate and appropriately secured mitigation;
- e) In the absence of appropriate and appropriately secured mitigation, the proposal would have likely adverse effects on the integrity of Habitat Sites alone and in combination with other developments due to additional recreational disturbance arising from residents of the development;
- f) The proposal would have likely adverse effects upon the integrity of Habitat Sites and the wider Solent Waders and Brent Goose network due to the unacceptable loss of functionally linked Special Protection Area habitat. Insufficient information has been provided to demonstrate that adequate mitigation for the loss of Secondary Support Area and Low Use Areas is being provided;
- g) The applicant has failed to provide sufficient evidence to demonstrate that the development would not result in unacceptable harm to protected species that may be present on site or affected by its development;
- h) The proposal would result in the loss of best and most versatile agricultural land;
- i) The applicant has failed to demonstrate the development would not result in an unacceptable impact on highway operation and safety, nor that the

development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users, including those travelling by sustainable modes. On this basis the proposed development would result in a severe impact on the road network;

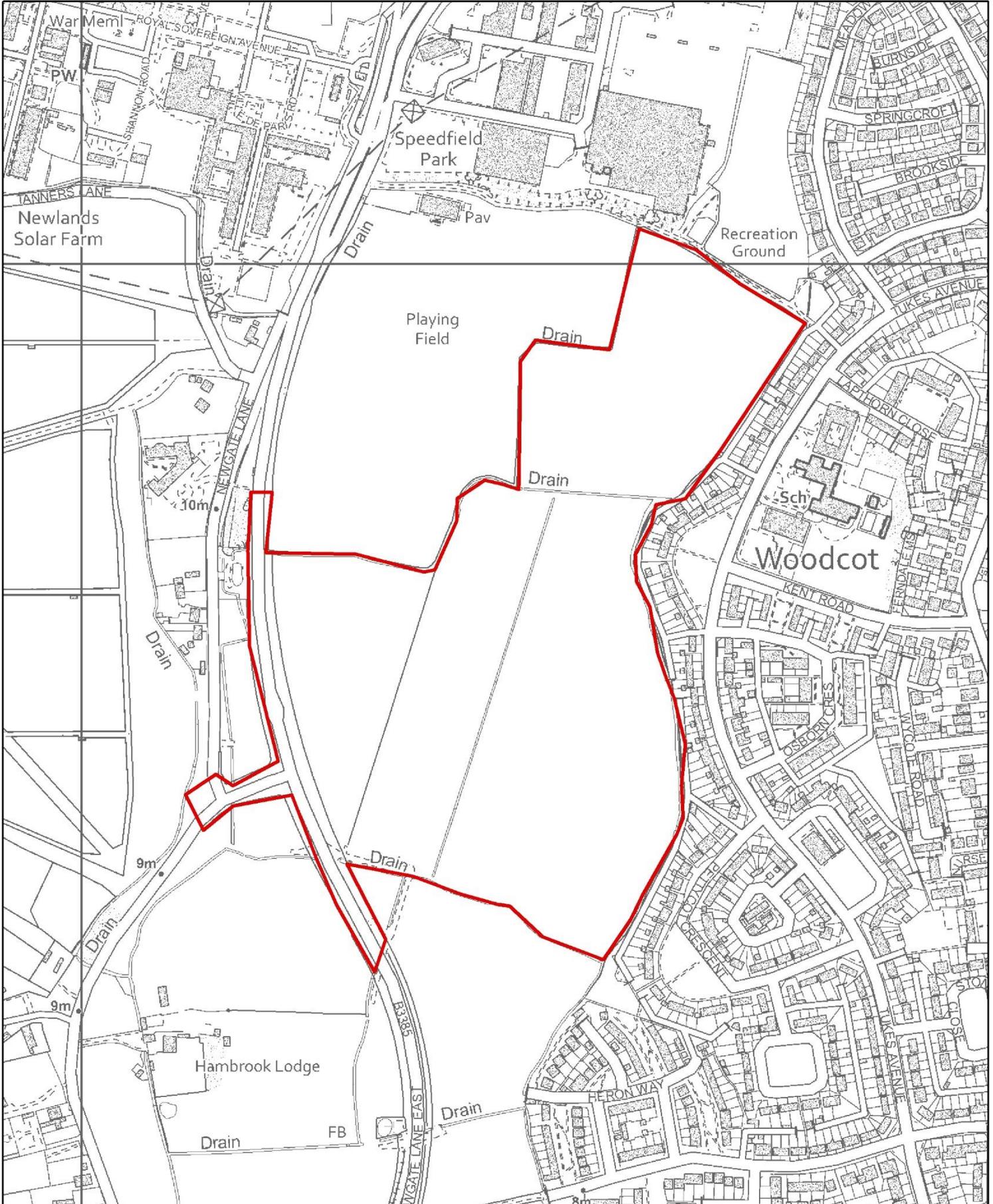
- j) Had it not been for the overriding reasons for refusal, the Council would have sought to secure the details of the SuDS strategy including the mechanisms for securing its long-term maintenance through an appropriate legal agreement;
- k) In the absence of a legal agreement to secure such, the proposal fails to secure on-site provision of affordable housing at a level in accordance with the requirements of the Local Plan;
- l) In the absence of a legal agreement to secure provision of the open space and facilities and their associated management and maintenance, the recreational needs of residents of the proposed development would not be met;
- m) In the absence of a legal agreement to secure the submission and implementation of a full Travel Plan, payment approval and monitoring fees and provision of a surety mechanism to ensure implementation of the Travel Plan, the proposed development would not make the necessary provision to ensure measures are in place to assist in reducing the dependency on the use of the private motorcar;
- n) In the absence of a legal agreement to secure such, the proposal would fail to provide a financial contribution towards education provision.

#### **10.0 Notes for Information**

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 Newgate Lane East  
Fareham  
Scale 1:5,000



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