

Ecology Statement of Common Ground

Appeal Ref: APP/A1720/W/22/3299739 Appeal by Miller Homes Ltd and Bargate Homes Ltd

Land East of Newgate Lane East, Fareham

Ecology Statement of Common Ground issued by Fareham Borough Council and Miller Homes Ltd and Bargate Homes Ltd

for

“Outline 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”

Fareham Borough Council Ref: P/22/0165/OA

September 2022

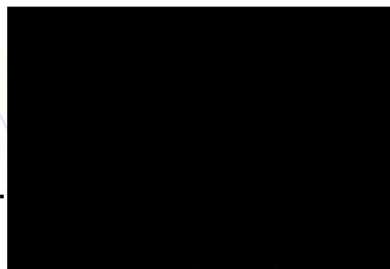
Signed



Associate Director, Tetra Tech
On behalf of the Appellants, Miller Homes Ltd and Bargate Homes Ltd

Date 13th September 2022

Signed ..



Associate Director, The Landscape Partnership
On behalf of the Local Planning Authority

Date: 13th September 2022

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1.0 INTRODUCTION AND BACKGROUND

- 1.1. This draft Ecology Statement of Common Ground (SoCG) has been prepared with regard to Annex R of the Planning Appeal Procedural Guidance and represents what the appellant reasonably considers will not be disputed by the local planning authority. The appellant will proactively engage with the LPA to agree the final form of SoCG which will be submitted in line with the Inquiry timescales.
- 1.2. This Statement of Common Ground has been prepared jointly by Miller Homes Ltd and Bargate Homes Ltd (hereinafter referred to as 'the Appellants') and Fareham Borough Council (hereinafter referred to as 'the Council').
- 1.3. This Statement refers to the Section 78 planning appeals against the Council's non-determination of the outline planning application (reference P/22/0165/OA) for the site known as 'Land East of Newgate Lane East, Fareham.
- 1.4. The agreed description of development for the Appeal development is:
"Outline 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."
- 1.5. The outline planning application was submitted on 28th January 2022 and proposed the construction of up to 375 residential dwellings with access from Newgate Lane East. The application was confirmed as valid from 31st January 2022 and had an initial determination deadline of 2nd May 2022.
- 1.6. As with the Planning SoCG, this topic specific Statement sets out agreed matters of fact and the agreed positions between the Council and the Appellants in respect of this appeal in relation to Ecology Matters. It broadly follows the Pro-forma format recommended by Annex R of the Appeal Procedure Guide.
 - A description of the site and surroundings;
 - Description of Development
 - The planning history of the site;
 - A list of relevant planning policies and documents;
 - Areas of Common Ground, and the extent of disagreement between the parties on them; and
 - Main Issues for the Inquiry.
- 1.7. Core documents relating to this topic are referred to within this document.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1. A full Site location and Description is given in the Planning SoCG.
- 2.2. The site comprises a series of arable fields, bordered by hedgerows, fencing and scattered trees, located in Fareham, Hampshire. The site is centred at OS Grid Reference SU 57430 03563. The fields

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form part of farmland surrounded by the built-up areas of Fareham to the north, Gosport to the east and south and Stubbington to the west. The newly constructed Newgate Lane East is to the west of the site.

- 2.4 There are no statutory designated ecology sites of local, national or international importance on site. The site lies within the zones of influence of the following protected wildlife sites: Portsmouth Harbour SSSI, Portsmouth Harbour SPA and Ramsar, Solent and Southampton Water SPA and Ramsar, Solent Maritime SAC and New Forest SAC, SPA and Ramsar. The site also contains a low use site (F15) and a secondary support area (F23) identified under the Solent Wader and Brent Goose Strategy. These are non-statutory designations which identify areas which may comprise functionally linked habitat for SPA qualifying species.

3.0 PLANNING HISTORY AND APPLICATION BACKGROUND

Site Planning History

- 3.1. Details relating to planning History and Application Background are contained within the Planning SoCG.

4.0 PLANNING POLICY

Development Plan

- 4.1. The Appeal Sites fall within the jurisdiction of Fareham Borough Council (FBC) where the adopted Development Plan consists of three main documents (in addition to the Hampshire Minerals and Waste Plan, adopted in October 2013):
- Local Plan Part 1: 'Core Strategy' (Adopted in August 2011);
 - Local Plan Part 2: 'Development Sites & Policies' (DSP) (Adopted in June 2015); and
 - Local Plan Part 3: The 'Welborne Plan' (Adopted in June 2015).
- 4.2. The Core Strategy contains the strategic policies and the DSP contains the development management policies. The Welborne Plan deals specifically with the development of the new garden village.
- 4.3. Those policies of relevance to the appeal proposals and Ecology matters are listed below:
- Policy CS4 'Green Infrastructure, Biodiversity and Geological Conservation
 - CLP Policy 40: Sustainable Design and Construction
 - DSP13 'Nature Conservation'
 - DSP14 'Supporting Sites for Brent Geese and Waders'
 - DSP15 'Recreational Disturbance on the Solent Special Protection Areas (SPA)'
 - DSP40 'Housing Allocations'
- 4.4. The following are also material considerations of most relevance to the appeal proposals:

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- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Conservation of Habitat and Species Regulation (2017) (as amended)
- Environment Act 2021
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- Natural England's advice for development proposals with potential to affect water quality resulting in adverse nutrient impacts on habitat sites (March 2022)
- Natural England's Nutrient Neutrality Principles (February 2022)
- Natural England's Natural Neutrality a Summary Guide
- Natural England's Nutrient Neutrality Generic Methodology (February 2022)

4.5. Whilst the whole framework is material, of particular relevance are the following paragraphs:

- Paragraph 174 – conserving and enhancing the natural environment
- Paragraph 175 – strategic approach to maintaining and enhancing networks of habitats and green infrastructure
- Paragraph 179 – protect and enhance biodiversity and geodiversity, plans should: a) identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks,
- Paragraph 180 – avoiding significant harm to biodiversity
- Paragraph 11-13 – presumption in favour of sustainable development
- Paragraph 182 – presumption in favour of sustainable development applies where significant effects on habitats sites are likely, but an appropriate assessment confirms there would be no adverse effect in integrity

4.6. The PPG is material to the appeal. The following sections are considered of most relevance.

- Appropriate Assessment
- Natural Environment

5.0 AREAS OF COMMON GROUND

Methodology and Baseline

5.1. The Council and Appellants agree that, following the submission of updated survey information as part of an updated Ecological Impact Assessment (ECOSA, 2022), ecological baseline of the sites as described in the submitted reports by ECOSA, as set out below, represents a sound baseline for assessment and all surveys listed below have been undertaken in accordance with best practice guidance:

- Land East of Newgate Lane East, Ecological Impact Assessment (ECOSA, 2022)

On-site Effects and Mitigation

5.2. The Council and Appellants agree that, in respect of on-site ecological features, including habitats, reptiles, bats and breeding birds, the Appeal scheme will not give rise to significant adverse effects upon these species and their habitats found within the site, subject to the application of appropriate mitigation measures, identified within the Ecological Impact Assessment and to be secured by S106 Agreements and/or conditions.

5.3. Reason for refusal (g) has therefore been overcome by the 2022 ECOSA report; the Council no longer wishes to contest this point at Inquiry.

Effects on Habitats Sites

5.4. The Council and Appellant agree that the Habitats Sites which require screening for likely significant effects are:

- Portsmouth Harbour SPA and Ramsar
- Solent and Southampton Water SPA and Ramsar
- Solent Maritime SAC
- New Forest SPA, SAC and Ramsar

5.5. The Council and Appellant agree that there is no potential for likely significant effects upon the Solent and Dorset Coast SPA.

5.6. The Council and Appellant agree that there is a requirement for updated nutrient neutrality calculations as a result of updated guidance issued by Natural England (most recently on 20 April 2022).

5.7. The Council and Appellant agree that potential likely significant effects as a result of the appeal development are:

- Portsmouth Harbour SPA and Ramsar – disturbance of qualifying species through increased recreation; degradation of water quality from increases in nitrogen outputs;
- Solent and Southampton Water SPA and Ramsar – disturbance of qualifying species through increased recreation; degradation of water quality from increases in nitrogen outputs; loss of functionally linked habitat for qualifying species;
- Solent Maritime SAC – degradation of water quality from increases in nitrogen outputs;

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- New Forest SAC, SPA and Ramsar – disturbance of qualifying species and degradation of qualifying habitats through increased recreation.
- 5.8. The Council and Appellant agree that mitigation for recreational disturbance can be provided through a suitable financial contribution to the Solent Recreation Mitigation Strategy, and the Council's interim strategy for mitigation for recreational impacts upon the New Forest. This should be secured via legal agreement(s) and with the application of this mitigation no adverse effect on the integrity of Portsmouth Harbour SPA and Ramsar, the Solent and Southampton Water SPA and Ramsar or the New Forest SAC, SPA and Ramsar will occur. If the S106 legal agreement is in place prior to the Inquiry, Reason for refusal (e) will have been overcome and the Council would not contest this point at Inquiry.
- 5.9. The Council and Appellant agree that in principle, degradation of water quality from increased nitrogen outputs can be mitigated through the purchase of nitrogen credits from the Whitewool Stream Wetland Project, which is approved for use in Fareham Borough. This should be secured via legal agreement(s), that confirms the capacity to mitigate the required level of nitrogen and secures the necessary amount of mitigation in the event the Appeal is allowed. It is agreed that the development would provide an additional nitrogen load of 152.97kg per year. It is this amount of nitrogen which must be mitigated for, through the purchase of nitrogen credits. If the agreement for this purchase is in place prior to the Inquiry, Reason for refusal (d) will have been overcome and the Council would not contest this point at Inquiry.
- 5.10. The Council and Appellant agree that in principle, the loss of functionally linked habitat can be mitigated through the creation of an off-site Winter Bird Mitigation Area at Land West of Old Street Stubbington, and the creation of an on-site Winter Bird Mitigation Area at the north west corner of the Appeal site. This is subject to the provision of suitable detailed design and management measures for the on-site area, and a suitable legal agreement for the off-site area which secures the delivery (including any necessary funding) in-perpetuity. If the design and management measures, and legal agreement, are in place prior to the Inquiry, Reason for refusal (f) will have been overcome and the Council would not contest this point at Inquiry.
- 5.11. With the provision of the identified avoidance and mitigation measures (and securing by appropriate legal agreement) it is agreed that the Appeal scheme is in accordance with NPPF Paragraph 174 and 180 and Policies DSP13, DSP14, DSP15 and DSP40(v) of the Local Plan. The Appeal is also in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), and as no adverse effect on integrity will occur, the presumption in favour of sustainable development applies in accordance with Paragraph 182 of the NPPF.

6.0 MATTERS OF DISPUTE

- 6.1. Subject to the satisfactory security of nutrient mitigation, legal agreement and design and management proposals for the on-site bird mitigation area, there remain no matters of dispute between the Council and Appellants.