

OFFICER REPORT FOR COMMITTEE

DATE: 11/12/2024

**P/24/1016/FP
KEVIN JONES**

**TITCHFIELD WARD
AGENT: JAMES PORTER**

CONSTRUCTION OF THREE DWELLINGS WITH ASSOCIATED CAR PORTS,
ACCESS AND LANDSCAPING FOLLOWING DEMOLITION OF SWIMMING POOL
ENCLOSURE

KINGFISHERS, FISHERS HILL, FAREHAM, PO15 5QT

Report By

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1.0 Introduction

1.1 This application is being brought before the planning committee due to the number of third party representations received.

2.0 Site Description

2.1 This application relates to an area of residential land located on the western side of Fishers Hill to the south of the property Kingfishers. The site is located within designated countryside land and within the Meon Strategic Gap. It is also located within Titchfield Abbey Conservation Area.

2.2 The surrounding area is characterised by open countryside to the north and west of the site with traditional cottages located to the south of the site along Catisfield Road and more modern dwellings located opposite the application site.

3.0 Description of Proposal

3.1 The proposal is to construct three detached dwellings with associated garages and car ports, access and landscaping following the demolition of the existing swimming pool structure.

3.2 Plots one and two would be located along the frontage facing onto Fishers Hill and would be set back from the highway with a small landscaped front garden. Both plots have a hipped roof design with a pitched roof features.

3.3 The living accommodation for plots one and two would comprise of a kitchen/dining room, living room, utility/boot room, WC and study at ground floor with four bedrooms, one including an en-suite and a bathroom at first floor.

- 3.4 Car parking for these properties would be located to the north of and to the rear of Plot two. There would also be 6 car ports which would serve all three dwellings
- 3.5 Plot three would be a larger dwelling and would be positioned to the rear of the site. It would have a pitched roof set within a gable projection and would include a balcony on the western and northern elevation. The living accommodation would comprise for a large kitchen/living room, utility boot room, WC, study and snug at ground floor. The first-floor accommodation would comprise of four bedrooms with the master bedroom including an en-suite and walk in wardrobe. The master bedroom would also include a balcony.
- 3.6 The proposed development would include landscaping and an ecological buffer would be located to the north of Plot three and would continue along the northern boundary of the site.

4.0 Policies

- 4.1 The following policies apply to this application

Adopted Fareham Local Plan 2037

- DS1: Development in the Countryside
DS2: Development in Strategic Gaps
DS3: Landscape
H1: Housing Provision
HP1: New Residential Development
HP2: New Small-Scale Residential Development Outside the Urban Areas
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 (SPAs), Special Areas of Conservations (SACs) and Ramsar Sites of the Solent
TIN2: Highway Safety and Road Network
D1: High Quality Design and Place Making
D2: Ensuring Good Environmental Conditions
D5: Internal Space Standards
HE1: Historic Environment and Heritage Assets
HE2: Conservation Areas
HE3: Listed Buildings and Structures and/ or their Settings
HE5: Locally Listed Buildings and Non-designated Heritage Assets

Other Documents:

National Planning Policy Framework (NPPF) 2023

5.0 Relevant Planning History

5.1 The following planning history is relevant:

P/21/1458/FP	Construction of three detached homes with associated garages and carports, access and landscaping following demolition of existing swimming pool structure
REFUSE (Dismissed on appeal)	12 th August 2022

6.0 Representations

6.1 1 letter of objection from the Fareham Society has been received raising objections on the following:

- Very similar to the dismissed appeal
- Impact on rural character and appearance
- Encroachment
- Impact on heritage assets

6.2 19 letters of support have been received on the following grounds

- More housing needed
- Well designed development
- Improve look of area
- Previous concerns have been addressed
- Good for business

6.3 10 letters of objection have been received on the following grounds:

- Highway Safety
- Increase in traffic
- Too similar to previous application
- Harm to character and appearance of Conservation Areas
- Impact on Strategic Gap
- Not in-keeping
- Impact on Ecology
- Single house would be more suitable
- More architectural detailing on design
- Contrary to local plan policies

7.0 Consultations

EXTERNAL

Local Highway Authority - Hampshire County Council

7.1 No Objection subject to conditions

NatureSpace (Great Crested Newts)

7.2 No Objection subject to a Precautionary Working Methods Statement secured via a planning condition.

7.3 Natural England

No Objection subject to securing Appropriate Mitigation

INTERNAL

Ecology

7.4 No Objection subject to conditions

Environmental Health (Noise and Pollution)

7.5 No Objection

Tree Officer

7.6 No Objection subject to recommendations of tree report being implemented and conditions relating to landscaping and tree planting scheme

Conservation Planner

7.6 Objection - Looking at the nature of the submitted proposals, although the design of the proposed dwellings differs slightly from the previous application, in principle, the overall development is not sufficiently different from the previously refused scheme to negate the concerns raised by the appeal inspector. Having compared the previous application with the current proposals, arguably the new design is even less appropriate than the last scheme as the previous scheme did to a certain extent attempt to copy the rural vernacular style of some of the other buildings in the Conservation Area. The buildings currently now being proposed are more urban in nature and do not really attempt to take any design cues from the surrounding area.

7.7 Looking at the revised and amended plans, the previous comments have not really been taken on board and now the proposals would still have a negative effect on the overall character of the Conservation Area. Consequently, the submitted revised proposals can still not be supported in Historic Environment Policy terms.

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) Implications of housing delivery in Fareham
- b) Principle of development;
- c) Impact upon Strategic Gap and Landscape
- d) Impact on Conservation Areas
- e) Impact upon residential amenity;
- f) Highways and parking;
- g) Trees;
- h) Ecology and Biodiversity Net Gain
- i) Impact on Habitat Sites
- j) The Planning Balance

a) Implications of housing delivery in Fareham

8.2 The starting point for the determination of this planning application is 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'.

8.3 In determining planning applications there is a presumption in favour of policies of the extend Development Plan (Fareham Local Plan 2037) unless material considerations indicate otherwise. Material considerations include the planning policies set out in National Planning Policy Framework 2023.

8.4 The National Planning Policy Framework (the NPPF) highlights at paragraph 60 that the Government is seeking to significantly boost the supply of housing.

8.5 Paragraph 76 the NPPF states that

'Local Planning Authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' works of housing for decision making purposes if the following criteria are met:

- 'a) Their adopted plan is less than five years old; and,*
- b) That adopted plan identified at least a five year supply of specific deliverable sites at the time that its examination concluded'*

8.6 These criteria are met and therefore the Council is not presently required to demonstrate a five-year supply of housing sites. However, the Council is also

subject to further consideration from Government through the Housing Delivery Test. The Housing Delivery Test (HDT) is an annual measurement of housing delivery published by Government. The HDT measures the number of new homes built over the previous three years against the Council's housing requirement.

8.7 The latest HDT results published by the Government relate to housing delivery between 2019 and 2022. The results were first published on 19 December 2023 and subsequently amended by the Department for Levelling Up, Housing and Communities as it was then known in April 2024. The results published in April 2024 confirm a HDT result of 55% for the Borough (568 dwellings delivered against a requirement of 1,028 dwellings).

8.8 In accordance with paragraph 79 of the NPPF:

'Where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer'.

8.9 For decision-taking, the application of the presumption in favour of sustainable development 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-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed 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'.*

8.10 Footnote 7 to paragraph 11 reads as follows:

'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 187) 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 72); and areas at risk of flooding or coastal change’.

8.11 Footnote 8 to paragraph 11 reads:

‘This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.’

8.12 NPPF paragraph 11(c) indicates that where the proposed development accords with the Council’s local plan it should be approved.

8.13 If the development does not accord with the local plan, the development must be considered against NPPF paragraph 11(d). As above, the first limb of paragraph 11(d) indicates that there are specific policies in the NPPF which protect areas of assets of particular importance referred to within footnote 7, namely habitat sites and heritage assets. Therefore, a judgement will need to be reached as to whether policies in the Framework provide a clear reason for refusing the development. Where this is found to be the case, the development should be refused.

8.14 The second limb of 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 1.

8.15 In the absence of the Council being able to pass the HDT, it is necessary to have regard to the relevant policies of the NPPF to determine the suitability of development on this site, including most notably the overarching objective of the Government to significantly boost the supply of housing. The following sections of the report assess the application proposal 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) Principle of Development

8.16 Policy HP1 of the Fareham Local Plan 2037 states that residential development within the Urban Area boundary will be supported in principle and residential development outside of the Urban Area boundary will be permitted where one of the following applies:

- a) It involves a conversion of an existing non-residential building where:
 - 1) the building is structurally sound and capable of conversion without the need for significant extension, alteration or rebuilding; and
 - 2) evidence has been provided to demonstrate that no other suitable alternative uses can be found, and conversion would lead to an enhancement to the building's immediate setting.*
- b) It is for a replacement dwelling which is of an appropriate character to the location.*
- c) It has been demonstrated that there is an essential need for a rural worker to live permanently at or near their place of work.*
- d) It accords with Policies HP2, HP3, HP4, and HP6.*

8.17 The site does not involve the conversion of an existing non-residential building, is not for a replacement dwelling nor is it for a rural worker to live in and therefore the application does not meet the criteria of HP1 (a), (b) or (c). the proposed development is assessed against the criterial of HP1 (d) below.

8.18 Policies HP3, HP4 and HP6 are not relevant in the determination of this application therefore only Policy HP2 will be considered in this instance.

8.19 Policy HP2 (New Small-scale Development Outside the Urban Areas) states that new small-scale housing development outside of the Urban Areas boundary, as shown on the Policies map, will be permitted where:

- 1) The site is within or adjacent to the existing areas of housing; or*
- 2) The site is well related to the settlement boundary; and*
- 3) The site is within reasonable walking distance to a good bus service route or train station as well as safe walking and cycling routes that connect to a local district of town centre; and*
- 4) It comprises development that does not adversely affect the predominant development form of the area, taking particular account of:
 - a) Building line and scale of adjacent dwellings;*
 - b) Plot size and proportion*
 - c) Site coverage/ratio*
 - d) Space between dwellings*
 - e) Landscape and views to countryside and beyond**
- 5) It comprises development:*

- a) *Or no more than 4 units; and*
- b) *Where the design and external appearance of each dwelling is demonstrably different, unless a terrace or semi-detached form is appropriate; and*
- c) *That does not extend the settlement frontage*

8.20 The application site is located immediately to the north of existing areas of housing. The site is also located immediately to the west of the Urban Settlement Boundary therefore, the proposed development complies with parts (1) and (2).

8.21 The site lies only a short walk to Highlands Road, which is the main distributor road serving Fareham, and is regularly served by buses, which also run continuously along The Avenue (A27) to the south of the site. The buses provide good connectivity to Highlands Road parade of shops, whilst buses along The Avenue connect directly to Fareham Town Centre. Further, Titchfield Village is located to the southwest of the site and is accessible at less than 1km walk away from the site. Therefore, it is considered that the development complies with part (3).

8.22 In terms of part (4) the proposed development would be comparable to other plot sizes along Fishers Hill and Catisfield Lane. Therefore, the site coverage and space between dwellings would be acceptable. The impact on landscape and views to the countryside and beyond will be addressed in the next section.

8.23 In terms of the impact in part (5) the development would be no more than 4 units and the design of the dwellings would be demonstrably different. As the site is located within an existing residential garden does, it does not extend the settlement frontage. Therefore, the development complies with part (5). Overall therefore, Officers consider the development proposal is in general conformity with Policy HP2 of the Fareham Local Plan 2037.

c) Impact upon Strategic Gap and Landscape

8.24 The Proposals Map of the Fareham Local Plan 2037 identifies the site to be within a designated Strategic Gap.

8.25 Policy DS2 of the Local Plan States:

In order to prevent the coalescence of urban areas and to maintain the separate identity of settlements, Strategic Gaps are identified as shown on the Policies map between the following areas:

- 1) Fareham / Stubbington and the Western Wards (Meon Gap)*
- 2) Fareham / Bridgemary and Stubbington / Lee-on-the-Solent (Fareham-Stubbington Strategic Gap)*

Development proposals will not be permitted where they significantly affect the integrity of the gap and the physical and visual separation of settlements or the distinctive nature of settlement characters'

- 8.26 The application site is also located within an Area of Special Landscape Quality which is detailed within Policy DS3 (Landscape). This Policy states that development proposals shall only be permitted in these areas where the landscape will be protected and enhanced. The Policy goes on to state that development in the countryside shall recognise the intrinsic character and beauty of the countryside, paying particular regard to the intrinsic character, quality and important feature, visual setting, including to/from key views and local character and setting of buildings and settlements, including their historic significance.
- 8.27 Within the Council's Landscape Character Assessment (2017), the site is located within the Upper Meon Valley (LCA6.2A), which is identified as having high sensitivity, as one of the most distinctive and important landscape resources within the Borough. The Assessment continues to highlight that the potential for development accommodated within this area is consequently very low.
- 8.28 Whilst there are limited views of the site from Mill Lane (to the west of the site) that runs along the lower part of the valley side, glimpsed views of the site can be seen from the western side of the valley along Cartwright Drive, and from within Abbey Meadows Country Park. However, there are intervening features between these views and the site, including existing boundary planting and a large protected Oak tree outside the site's boundary which would be unaffected by the proposal. Glimpsed views of Plot three would be achieved, although this property would be finished in natural materials and would therefore be seen in the context of the neighbouring residential properties to the north and south of the site.
- 8.29 The development would also not project further into the countryside than the existing properties to the south along Catisfield Lane or Harvester Drive. The limited views of the site from the wider countryside together with the existing pattern of development where views are achievable ensure that the low level of development on this site would not significantly impact on the landscape character or appearance of this part of the countryside.
- 8.30 This is echoed by the Inspector in the appeal decision (APP/A1720/W/22/3307609) who considered application P/21/1458/FP in 2022, who stated that:

“As the visual impact of the proposed development would be difficult to perceive from further afield beyond Fishers Hill, and the proposal would essentially involve an incremental change in terms of the amount of built development across the site in the context of the Upper Meon Valley as a whole, I consider that the proposed development would not significantly affect the integrity of the Meon Strategic Gap or adversely impact on the valued landscape of the Meon Valley”.

8.31 Officers therefore consider that the proposed development complies with Policies DS2 and DS3 of the Fareham Local Plan 2037.

d) Impact on Conservation Areas

8.32 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, with regard to any buildings or other land within a conservation area, in the exercise of relevant functions under the Planning Acts ‘*special attention shall be paid to the desirability of preserving or enhance the character of the appearance of that area*’.

8.33 Policy HE1 (Historic Environment and Heritage Assets) states that all development should seek to conserve and enhance the historic environment and heritage assets, in line with local and national policy. The Council will take appropriate positive steps to conserve and enhance the Borough’s historic environment and heritage assets.

8.34 Policy HE2 (Conservation Areas) states that development affecting a Conservation Area should preserve or enhance the special architectural, historic character or appearance of the Conservation Area. This should be achieved by ensuring the design of all development within the Conservation Area or within its setting is of high quality which responds appropriately to the special architectural, historic character of appearance of the area and surrounding buildings in terms of scale, height, layout, design, detailing and materials.

8.35 Policy HE3 (Listed Buildings and Structures and/or their Settings) states that where development would affect a listed building/structure and/or its setting, proposals should preserve or enhance any features of special architectural or historic interest they possess.

8.36 In considering the impact on heritage assets significant weight is given to previous appeal decision (Ref APP/A1720/W/22/3307609). The proposed development would have the same layout to the previously dismissed scheme. The difference would be Plots 1 and 2 would have a different scale and appearance and they would both face out onto Fishers Hill. There are also some minor changes to the car parking layout and provision of landscaping.

Plot three would also have a different design and would be positioned further south within the plot.

8.37 The Inspector stated that the application sites makes a meaningful contribution to the largely undeveloped and tranquil rural landscape which surrounds Titchfield Abbey within the Titchfield Abbey Conservation Area.

8.38 The Inspector raised concerns that the quantum of development of three dwellings resulting in an increase in comings and goings to the site would urbanise the site and much of the frontage of the site would be dominated by build form. They highlighted that the application site is characterised by undeveloped grassy nature which contributes to the rural informal rural character and appearance of Fishers Hill. The Inspector stated that:

“The harm caused to the rural nature of Fishers Hill would consequently serve to weaken the largely undeveloped and tranquil rural landscape which forms an important part of the Titchfield Abbey Conservation when considered as a whole would thereby result”.

8.39 With regards to the impact on the Catisfield Conservation Area, the Inspector also raised concerns that the development would impact the setting of this conservation area. This was due to the fact that the urbanisation effect due to the quantum of development would amount to built form proposed to be situated near the frontage of the site and this would result in the erosion of the country-lane type character. The Inspector stated:

“The setting, including the appeal site, contributes to the significance of the Catisfield Conservation Area would be harmed by the proposed development within its setting”.

8.40 Concerns were also raised regarding the design of the dwellings and stated that *“Plots 1 and 2 would not be visually attractive in this heritage-rich context”*. Whilst the design of Plots 1 and 2 are different to the previous scheme in particular the dwellings are orientated with a principal frontage onto Fishers Hill. However, the design of the dwellings would not enhance the appearance when viewed from Fishers Hill.

8.41 In considering the impact of the proposed development on the nearby listed buildings which include The Old Post Office and 42 and 50 Catisfield Lane the Inspector took the view that the application site was considered part of the immediate context of the surrounding area and therefore the development would have an impact on the setting of the nearby listed buildings.

8.42 The Inspector concluded that the development would result in less than substantial harm to the nearby listed buildings. Paragraph 208 of the National Planning Policy Framework (NPPF) states that:

'Where a development will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.

8.43 The Inspector concluded that the economic benefits of provide three dwellings would not outweigh the harm caused to the significance of the heritage assets.

8.44 Therefore, as the proposed development would have a very similar layout to the previously dismissed scheme, it is considered that the development would not preserve or enhance the character of appearance of the Titchfield Abbey Conservation Area, and the proposed development would harm, and therefore fail to preserve, the settings of the Catisfield Conservation Area and the nearby listed buildings.

8.45 The development would therefore be contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act, and Policies, HE1, HE2 and HE3 of the Fareham Local Plan 2037.

e) Impact on Residential Amenity

8.46 Policy D2 of the Fareham Local Plan 2037 concerns the impact on living and environmental conditions. The Policy states that development proposals should ensure that there will be no unacceptable adverse impacts upon environmental (living) conditions on the site or neighbouring development by way of loss of sunlight, daylight, outlook and/or privacy.

8.47 The Fareham Borough Design Guidance Supplementary Planning Document (hereafter referred to as the Design SPD) requires first floor windows to be at least 11 metres from the boundaries they look towards and no less than 22 metres from facing windows.

8.48 Plot one is approximately 5.7m from the boundary with the property to the south known as Mardale and approximately 8m from the side elevation. Having regard to the large separation distance, it is considered that the proposed development would not result in an overbearing impact upon the living conditions of Mardale. The only first floor window on the southern elevation facing onto Mardale would be obscure glazed. Therefore, it is considered that the proposed development would not result in any loss of privacy to the occupiers of Mardale.

- 8.49 There would be a 3.5m separation distance between Plot 3 and the boundary of the property to the rear at 38 Catisfield Lane. There would be an additional 25m separation distance between the rear elevation of Plot 3 and 38 Catisfield Lane and therefore there would be a sufficient separation distance and the proposed development would meet the requirements specified within the Design Guidance SPD.
- 8.50 In terms of the impact on the proposed future occupiers, the development has been assessed against the Nationally Described Space Standards. The Nationally Described Space Standards set out acceptable minimum standards for property sizes based on the number of bedrooms and intended number of occupants and contains a minimum standard for single-bedrooms and double-bedroom sizes. The proposal is fully compliant with the Space Standards and therefore accords with the requirements from Policy D5 (Space Standards) of the Fareham Local Plan 2037.
- 8.51 It is noted that there is a large amount of tree coverage to the rear of the proposed dwellings. However, there is sufficient separation distances between the trees and the dwellings/rear gardens. Therefore, it is considered that the proposed gardens would not have excessive shading.
- 8.52 Officers therefore consider that the proposed development would not result in an unacceptable adverse impact on the living and environmental conditions to the neighbouring occupiers or future occupants at the site. Furthermore, the development proposal is considered to accord with the requirements of the Design SPD and Policies D2 and D5 of the Fareham Local Plan 2037.

f) Highways and Parking

- 8.53 Policy TIN2 of the Fareham Local Plan 2037 states:

'Development will be permitted where:

- a) There is no unacceptable impact on highway safety, and the residential cumulative impact on the road networks is not severe;
and*
- b) The impacts on the local and strategic highway network arising from the development itself of the cumulative effects of development on the network are mitigated through a sequential approach consisting of measures that would avoid/reduce the need to travel active travel, public transport and provision of improvements and enhancements to the local network or contributions necessary or relevant off-site transport improvement schemes'*

8.54 With regards to car parking, the Residential Car Parking Standards Supplementary Planning Document requires 3 car parking spaces for a 4+ bedroom dwelling. The submitted site plan demonstrates that the proposed development would provide 11 car parking spaces through allocated car parking spaces and car ports. Therefore, the proposed development complies with the Residential Car Parking Standards.

8.55 The Local Highway Authority at Hampshire County Council has reviewed the submitted application. They are satisfied with the access arrangements and are satisfied that adequate visibility splays will be provided at the access to the junction. Furthermore, the redundant dropped kerbs are to be replaced with full-height kerbs.

8.56 The plans also demonstrate that vehicles will be able to turn around within the site. Whilst some car parking spaces may require multiple back-and-forth manoeuvres when parking or turning these are not considered a highway safety issue.

8.57 Officers therefore consider that the proposed development is acceptable in highways terms and complies with Policy TIN2 of the Fareham Local Plan 2037.

g) Trees

8.58 There are a number of mature trees within the application site. The Tree Officer has reviewed the submitted Arboricultural Method Statement included within the Tree Report and is satisfied that the development will have no significant adverse impact on the contribution of the trees to the public amenity or the character of the wider setting.

8.59 The Tree Officer has suggested that conditions are imposed requesting details of the landscaping and tree planting.

h) Ecology and Biodiversity Net Gain

8.60 Strategic Policy NE1: Protection of Nature Conservation, Biodiversity and the Local Ecological Network states that development will be permitted where:

- a) Designated international, national sites and local sites of nature conservation value are protected and enhanced, reflecting their status in the hierarchy of nature conservation designations; and
- b) Protected and priority habitats and species, including breeding and foraging areas are protected and enhanced; and
- c) Proposals do not prejudice the Ecological Network or result in its fragmentation.

- 8.61 The submitted Ecological Report highlights the presence of slow worms, grass snake on the site. The applicant has provided additional supporting reports which details the management and mitigation which the Council's Ecologists considers to be acceptable.
- 8.62 The application site is also located 240m away from a pond where there is a likelihood of Great Crested Newts (GCN). Therefore, to further safeguard GCN it is recommended that a Precautionary Working Methods Statement is secured via a condition.
- 8.63 With regards to Biodiversity Net Gain, if granted the proposed development of the site would be subject to the mandatory requirement to deliver 10% Biodiversity Net Gain (BNG) which came into effect on 12 February 2024.
- 8.64 A Biodiversity Net Gain Assessment was submitted with the application along with the biodiversity net gain (BNG) metric calculation. The submitted information concludes that the development would result in a net biodiversity gain of 11.07%.
- 8.65 Had the application been considered acceptable the application would be subject to the statutory biodiversity gain plan condition which requires submission of a biodiversity gain plan prior to the commencement of development, including a habitat management and monitoring plan to demonstrate how this gain would be maintained over a 30 year period.

i) Impact on Habitat Sites

- 8.66 Policy NE1 of the Fareham Local Plan 2037 sets out a requirement to ensure that designated international and national sites and sites of local nature conservation value are protected and enhanced. Policy NE3 concerns the effect of increased recreational disturbance on the Solent SPA's and Policy NE4 concerns the effect of nutrients from increased wastewater on water quality within Habitat Sites.
- 8.67 The Solent is internationally important for its wildlife. Each winter, it hosts over 90,000 waders and wildfowl including 10 per cent of the global population of Brent geese. These birds come from as far as Siberia to feed and roost before returning to their summer habitats to breed. There are also plants, habitats and other animals within the Solent which are of both national and international importance.
- 8.68 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).

8.69 Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'Competent Authority' if it can be shown that the proposed development will either not have a likely significant effect on designated 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 sites. This is done following a process known as an Appropriate Assessment (AA). 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 the Local Planning Authority.

8.70 To fulfil the requirements under the Habitat Regulations, Officers have carried out an AA in relation to the likely significant effects of the proposed development on the HS. The key considerations within the assessment of the likely significant effects are set out below.

Water Quality (nitrates)

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

8.72 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. Due to the uncertainty of the effect of the nitrogen from the development on the HS, adopting a precautionary approach, and having regard to NE's advice, the Council will need to be certain that the output will be effectively mitigated to ensure at least nitrogen neutrality before it can grant planning permission.

8.73 A nitrogen budget has been calculated in accordance with the latest Natural England advice and updated calculator (May 2024) which confirms that the development will generate 2.39kg TN/year. In the absence of sufficient evidence to support a bespoke occupancy rate, Officers have accepted the use of the national average occupancy rate of 2.4 persons per dwelling in line with

the NE Advice. The existing use of the land for the purposes of the nitrogen budget is considered to be residential urban land.

- 8.74 Due to the uncertainty of the effect of the nitrogen from the development on the HS, adopting a precautionary approach, and having regard to NE advice, the Council will need to be certain that the output will be effectively mitigated to ensure at least nitrogen neutral before it can grant planning permission.
- 8.75 Should planning permission be granted, a planning condition would be imposed requiring the applicant to present evidence of the purchase of the required minimum amount of nitrates mitigation prior to the commencement of development from one of the Council approved third party nitrate mitigation schemes. The approved nitrate mitigation schemes involve either taking agricultural land out of production or result in the creation of a wetland on the mitigation land. The schemes reduce the amount of nitrogen entering The Solent marine environment within the same catchment area as development within Fareham.
- 8.76 The purchase of nitrate credits would have the effect of allocating a proportion of this reduction in nitrates to this development, meaning the scheme can demonstrate nutrient neutrality.
- 8.77 A planning condition would also secure details of the water efficiency measures to be installed within the dwellings to ensure that water consumption would not exceed 110L per person/per day to reflect the assumptions of the nitrate budget.

Air Quality

- 8.78 The second aspect is impact on air quality, where the designated sites can be adversely affected through airborne pollution from development sites generated either during construction or operation / occupation. The Council's Air Quality Habitat Regulations Assessment (HRA) for Short-Term Development in Fareham Borough by Ricardo Energy and Environment (2020) has undertaken an assessment which avoids the need for relying on the assumption of a 200-metre zone of influence by including dispersion modelling of emissions from all roads with modelled traffic flows within the Fareham study area, whether or not they are located within 200m of a designated site. The Study concluded no likely significant effect alone or in combination with other plans and projects for all qualifying features of the protected HS.

Recreational Disturbance

- 8.79 The last of the likely significant effects on HS concerns disturbance on The Solent coastline through increased recreational use by visitors to the sites. The development is within 5.6km of The Solent SPAs and is therefore considered to

contribute towards an impact on the integrity of The Solent SPAs as a result of increased recreational disturbance in combination with other development in The Solent area.

8.80 Policy NE3 of the Fareham Local Plan 2037 explains that planning permission for proposals resulting in a net increase in residential units may be permitted where the 'in combination' effects of recreation on the Special Protection Areas are satisfactorily mitigated through the provision of a financial contribution to the Solent Recreation Mitigation Strategy (SRMS).

8.81 In addition, research undertaken by Footprint Ecology has identified that planned increases in housing around the New Forest designated sites will result in an increase in use of the sites and exacerbate recreational impacts. It was found that the majority of visitors to the New Forest 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 Councils Interim Mitigation Solution to address this likely significant effect was approved by the Council's Executive Committee on 7th December 2021 and was prepared in consultation with Natural England. The mitigation comprises a financial contribution from the developer to mitigate against this impact through improvements to open spaces within Fareham Borough and a small contribution to the New Forest National Park Authority.

8.82 Had the proposal been found acceptable in all other regards, the applicant would have been invited to make a financial contribution through the SRMS and New Forest SPA.

8.83 In this particular case, no Appropriate Assessment has been carried out by the Local Planning Authority under the 'habitat regulations'. Regulation 63 of the Habitats and Species Regulations 2017 provides that planning permission can only be granted by a 'Competent Authority' (in this case the Local Planning Authority) if it can be shown that the proposed development will either not have a likely significant effect on designated Habitat Sites or, if it is likely to have a 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. However, since the application is being recommended for refusal, there is no requirement to carry out an Appropriate Assessment.

8.84 It is therefore concluded that the development will have an adverse impact on the integrity of these protected Habitat Sites due to the absence of secured mitigation and the adverse effects arising through increased wastewater output and recreational disturbance on the Habitat Sites.

8.85 The development therefore fails to accord with the Habitat Regulations and is contrary to Policies NE3 and NE4 of the Fareham Local Plan 2037.

j) The Planning Balance

8.86 Section 38 (6) of the Planning and Compulsory 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'

8.87 Officers have carefully assessed the proposals against the policies contained within the NPPF and the relevant policies of the Fareham Local Plan 2037. The site lies outside of the defined Urban Area Boundary. The principle of the development of the site would be contrary to Policy HP1 of the adopted Fareham Local Plan 2037. However, despite being compliant with Policy HP2 as the latest Housing Delivery Test results for the Borough indicate that the delivery of housing was below 75% of the housing requirement over the previous three years, policies contained within the Fareham Local Plan 2037 are regarded as 'out of date' by virtue of paragraph 11 of the National Planning Policy Framework.

8.88 As set out earlier in the report, paragraph 11(d) of the NPPF clarifies the presumption in favour of sustainable development in that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- i) The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed 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'

8.89 In the previous appeal decision the Inspector acknowledged that the proposal would contribute to the Government's objective of significantly boosting the supply of homes by way of providing 3 new dwellings, thereby adding to the delivery of homes. Furthermore, the Inspector also highlighted the various economic, social and environmental benefits of the development. However, the Inspector stated that when considered cumulatively they would only provide

modest support for the proposal and gave moderate weight in favour of the development.

8.90 The Inspector stated that:

“The proposal would give rise to adverse impacts in that it would not preserve or enhance the character of appearance of the Titchfield Abbey Conservation Area, and the proposed development would harm, and therefore fail to preserve, the setting of the Catisfield Conservation Area and the nearby Listed Buildings. Given that the Framework provides that paragraph 189 that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations, I ascribed very substantial weight to the totality of these combined harms”.

8.91 The Inspector concluded that:

“Overall, as a matter of planning judgment I find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan identified”.

8.92 Having regard to the similarities of the proposed scheme to the dismissed appeal, the impact on the heritage assets provides a clear reason for refusing the development and therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Summary

8.93 It is considered that the proposed development would result in harm to the rural character of Fishers Hill which makes a significant contribution to the Titchfield Abbey Conservation Area.

8.94 Furthermore, given that the scheme is very similar in layout and quantum to the previous scheme, the previous concerns raised by the Planning Inspector have not been addressed.

9.0 Recommendation

9.1 REFUSE PERMISSION, on the following grounds:

The development would be contrary to Policies HE1, HE2, HE3, NE3 and NE4 of the Fareham Local Plan 2037 and is unacceptable in that:

- i) The design and quantum of development would fail to have regard to the rural character of Fishers Hill and would fail to preserve or enhance the character and appearance of the Titchfield Abbey Conservation Area and the setting of Catisfield Conservation Area and the nearby Grade II Listed Buildings.
- ii) The proposal would have likely adverse effects on the integrity of the protected Habitat Sites in combination with other developments due to the additional generation of nutrients entering the water environment and the lack of appropriately secured mitigation.
- iii) The site lies within 5.6km of The Solent Waters Protection Areas. The proposal fails to provide appropriate mitigation against the impact of increased recreational disturbance created from the provision of additional residential accommodation within this area.
- iv) The site is within 13.8km of the New Forest Special Protection Area. The proposal fails to provide appropriate mitigation against the impact of increased recreational disturbance created from the provision of additional residential accommodation within this area.

10.0 Background Papers

10.1 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.

Kingfishers, Fishers Hill, Fareham

