



## Appeal Decision

Inquiry held on 7, 8, 9, 14 and 16 December 2021

Site visits made on 9 November 2021 and 17 December 2021

**by Peter Rose BA MRTPI DMS MCMi**

an Inspector appointed by the Secretary of State

**Decision date: 25<sup>th</sup> February 2022**

---

### **Appeal Ref: APP/A1720/W/20/3254389**

#### **Land east of Posbrook Lane, Titchfield**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Foreman Homes against Fareham Borough Council.
  - The application Ref: P/19/1193/OA is dated 29 October 2019.
  - The development proposed is an outline planning application for the erection of up to 57 dwellings, together with associated parking, landscaping and access from Posbrook Lane, at Land east of Posbrook Lane, Titchfield.
- 

### **Decision**

1. The appeal is allowed and outline planning permission is granted for the erection of up to 57 dwellings, together with associated parking, landscaping and access from Posbrook Lane, at Land east of Posbrook Lane, Titchfield, in accordance with the terms of the application Ref: P/19/1193/OA, dated 29 October 2019, and subject to the conditions set out in the attached Schedule.

### **Preliminary matters**

2. The appeal proposal relates to an outline application with all matters reserved for subsequent approval except access. Only three plans are submitted seeking formal approval: a Location Plan Ref: 16.092.01; a Proposed Site Access drawing Ref: 19-241/003B; and a Parameters Plan Ref: 16.092.21. The application also includes an 'Illustrative Site Plan' Ref: 16.092.02A and to which I have regard but only as a material consideration. The appeal is also supported by unilateral undertakings made by the appellant pursuant to section 106 of the Act and dated 22 December 2021 (the undertakings).

### **Main issues**

3. Following further discussions between the parties, the Inquiry was advised that a number of the earlier objections set out in the Council's putative reasons for refusal had been resolved, either through the terms of the proposed undertakings and/or by conditions to be suggested should the appeal be allowed. These matters principally relate to the integrity of European protected sites; affordable housing; education; and public rights of way.

4. The main issues remaining in dispute are:
- possible implications for local character and appearance, and including the scheme's relationship to the settlement boundary;
  - possible implications for the significance of local heritage assets;
  - development of agricultural land; and
  - the possible need for further public open space.

## **Reasons**

### ***Character and appearance***

5. The red line area of the appeal site comprises some 4.05 hectares of agricultural land. The site is used for grazing and the western part is crossed by two pedestrian rights of way, Footpaths 34 and 39.
6. The site forms countryside beyond, but immediately adjacent to, the settlement edge of Titchfield. It is formally defined in the development plan as an Area Outside of the Defined Urban Settlement Boundaries. Titchfield lies to the north and the settlement boundary comprises residential properties and incidental facilities at Bellfield, a post-war housing development.
7. The appeal site fronts Posbrook Lane to the west and extensive open land is to the east and south. Various buildings lie to the west of Posbrook Lane. A former farmstead is to the south of the site at Great Posbrook, and with further countryside beyond.
8. The scheme seeks to respond to an earlier appeal decision at the site and which dismissed a proposal for up to 150 dwellings and associated facilities.<sup>1</sup>
9. The northern part of the appeal site is now proposed to accommodate up to 57 dwellings, the southern part an area of open land and landscaping. Some 1.65 hectares would physically accommodate dwellings.
10. To the north and south of the red line are areas of 'blue land' of some 8.74 hectares also under the control of the appellant and currently used for grazing. Much of the blue land is proposed as a Bird Conservation Area (BCA) of some 6.5 hectares, and which would also extend across the eastern part of the appeal site.
11. Although the appeal site is not designated for any formal landscape value or quality in the development plan, the previous decision acknowledged the site to form part of a 'valued' landscape for the purpose of paragraph 174a) of the National Planning Policy Framework (the Framework), and that status has not been disputed in this appeal. The status is further reflected in the appeal site's proposed allocation as part of a wider Area of Special Landscape Quality in the Council's emerging Local Plan<sup>2</sup> (the Emerging Plan), but that plan has yet to be adopted or be formally examined.
12. At the County level, the site forms part of Landscape Character Area 3e in the Hampshire Integrated Character Assessment<sup>3</sup>, and which recognises the

---

<sup>1</sup> Appeal Ref: APP/A1720/W/18/3199119 dated 12 April 2019

<sup>2</sup> Fareham Local Plan 2037 Revised, published June 2021

<sup>3</sup> Hampshire County Integrated Character Assessment May 2012

- vulnerability of the landscape to urban expansion. Similar issues are raised by the Fareham Landscape Assessment 2017<sup>4</sup> (the Landscape Assessment), in which the site is included within Local Landscape Character Area 6.1, the Lower Meon Valley, and specifically within Sub-Area 6.1b. The Emerging Plan designation is supported by a technical assessment made by the County and which scores the host Sub-Area 6.1b as a high match against all of the GLVIA3 Box 5.1 criteria.<sup>5</sup> Although the Meon Valley is not a statutorily designated landscape, the evidence is of a landscape with significant undesignated value.
13. The previous decision found the characteristics of the site both consistent with those of the Meon Valley and representative of the Open Valley Side Landscape Type within the Landscape Assessment. It is clear the area south of Bellfield is characterised by an essentially unspoilt rural landscape largely comprising open farmland, sloping landform and views through and across the valley.
  14. Unlike the previous scheme, the proposal retains a wedge of open land of significant extent and to the south of a smaller area of built form. The retained strip would be free of housing to maintain physical separation between Titchfield and Great Posbrook. The scheme would incorporate significant buffer planting immediately south and east of the proposed dwellings. This is indicated to include woodland but its detailed form and design would remain subject to reserved matters. The buffers would, in turn, enclose areas of grassland.
  15. The site slopes away from its Posbrook Lane frontage, and exposure from the north, and west from beyond the road, is relatively limited. Built form would not extend eastwards beyond the south-eastern corner of Bellfield, and the scheme would effectively tuck into, and so make effective use of, the existing angular settlement edge running north-west/south-east. This would provide a significant opportunity for landscape and visual enhancement of the current boundary. Unlike the previous scheme, no development is proposed immediately to the east of Great Posbrook.
  16. In further contrast to the previous scheme, the wedge of landscaped open land would taper back into the site from a relatively wide and exposed frontage at Posbrook Lane and so afford views of the farmstead from the north and through and beyond the site to open countryside to the east. Whilst the scheme would increase the proximity of Titchfield to Great Posbrook, a substantively open rural character would thereby be retained.
  17. In views north from the appeal site, the existing settlement boundary comprises a characteristically urban and relatively ad-hoc arrangement of rear gardens, boundary fences, parking areas and playground. Recent softening of the urban edge through vegetation growth is at best marginal in the context of the character and exposure of the settlement boundary as a whole and the already long-established nature of the planting. As the previous decision found, there is a lack of screening and a harsh and readily visible urban edge prevails.
  18. Although there would be significant numbers of visual receptors affected by the proposal, including recreational users of the wider valley, the effect would not be wholly negative given the proposed benefits to the settlement edge. I also note the Council's assessment of only a 'moderate' impact upon visual

---

<sup>4</sup> Fareham Landscape Assessment 2017

<sup>5</sup> Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3)

- receptors at Year 15 from the significant and exposed Viewpoint 3 immediately adjacent to the development in Posbrook Lane, and also that no greater levels of impact elsewhere are at issue relative to the assessment presented in the appellants' Landscape and Visual Impact Assessment.
19. There would be some undeniable sense of new housing and urban influences (lighting, comings and goings etc.), but these would be limited and remain to be mitigated as part of the detailed design. In terms of the principle of an outline application as proposed, I do not consider those particular matters to be unduly harmful given the scale of the proposed development and the parameters of the scheme as indicated.
  20. The Council suggests that it would take at least 15 years (and possibly longer) for the mitigation planting to achieve the levels of screening indicated, and would also need to address planting constraints in connection with a sewer easement. Further, the proposed planting would unlikely to be impenetrable in its mitigation. Some residual and relatively marginal sky-lining would also be likely to persist in views from surrounding lower land.
  21. The character of the appeal site itself is undoubtedly closely shaped by the existing physical edge of Titchfield and, in particular, the southern and eastern boundary of Bellfield. Nonetheless, it is important for any assessment of the landscape value of a site to consider not just the site itself and its particular characteristics, but also its relationship to, and the role it plays within, the site's wider context.<sup>6</sup>
  22. The emerging Local Plan status of the Meon Valley relates to the area as a whole and, accordingly, all parts contribute in varying degrees. Notwithstanding the urban-influenced character of the appeal site relative to other more rural areas to the south and east, the underlying rural character of the site still contributes to the quality of the Meon Valley, and development would contribute to piecemeal erosion of that wider proposed designation.
  23. Significant visual and character benefits are integral to the scheme, but the proposal would still involve loss of countryside and loss of its accompanying existing openness, and loss of some views through and beyond the existing open land. In the terms of the previous decision, the scheme would still involve some, albeit significantly less, creeping urbanisation.
  24. There would be moderate net harm to local character and appearance in the short-to-medium term. That impact would reduce over time as the planting matures, but some harm would still persist long-term arising from the permanent loss of countryside and accompanying features, and with implications for the wider valley.
  25. Given the retained open relationship of the appeal site to Great Posbrook, and the proposed extent and treatment of that intervening area, allied to the other wider visual improvements arising elsewhere for the settlement edge, I assess the balance of overall net harm to local character and appearance to be limited.
  26. I therefore conclude that the proposal would be harmful to local character and appearance, and would thereby be contrary to Policies CS6 and CS14 of the

---

<sup>6</sup> As per page 12, The Landscape Institute's Technical Guidance Note 02/21

Core Strategy<sup>7</sup> and to Policy DSP6 of the Local Plan Part 2<sup>8</sup>. These policies provide a presumption against new residential development outside the defined urban settlement boundaries. They seek to ensure in identifying land for development that, amongst other things, priority is given to the re-use of previously developed land within the defined urban settlement boundaries. They intend for built development on land outside the defined settlements to be strictly controlled to protect the countryside from development which would adversely affect its landscape character, appearance and function.

27. I consider these policies to be consistent with the Framework insofar as it requires planning policies and decisions to contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

***Implications for the significance of local heritage assets***

28. The former farmstead at Great Posbrook contains two Grade II\* listed buildings, the former farmhouse and the barn, and associated locally listed buildings. The farmstead is now predominantly in residential use and benefits from an enabling development approved in 2006 and which included further dwellings and other works.
29. The non-designated heritage assets which remain comprise a former stables, cartshed/piggery and small barn/granary. They are sited towards the centre of the farmstead and contribute to a group value in conjunction with the listed buildings. They have no direct relationship with the surrounding open fields and draw significance from their setting within the farmstead and their relationship to the listed buildings. As such, the locally listed assets would be unaffected by the scheme.
30. The appeal site is well to the south of Titchfield Conservation Area and neither its character nor appearance, and nor any other significance, would be affected by the scheme.
31. Great Posbrook remains a medieval farmstead of significance with a historic functional relationship to Titchfield Abbey. The Abbey is physically distant and not in any proximity to the appeal site. The significance of the Abbey itself, and which draws upon a full and wide range of heritage values, would also be unaffected.
32. The substantial aisled barn dates from the late sixteenth or early seventeenth centuries, and the farmhouse from the early seventeenth century. The significance of both listed buildings relates to a range of heritage values, including their architecture, fabric, and the wider historic relationship to their surroundings. An important part of this significance derives from their immediately open, rural setting, and this contributes positively to an appreciation and understanding and experience of the listed assets and of the wider farmstead of which they form an important part. This particularly reflects an historic and functional relationship between the farmstead and its surrounding land, including the appeal site, as one farmed estate.

---

<sup>7</sup> Fareham Local Development Framework Shaping Fareham's Future Core Strategy Adopted August 2011

<sup>8</sup> Fareham Local Plan Shaping Fareham's Future Local Plan Part 2: Development Sites and Policies June 2015 Adopted Version

33. The contribution of setting to the significance of the designated assets is not, however, uniform around the site.
34. Approaching the appeal site from Bellfield to the north, Great Posbrook, whilst evident as a relatively isolated and prominent feature largely surrounded by countryside, is not particularly discernible nor necessarily distinct in its immediate appearance as an historic farmstead. Along the northern and eastern boundary of the farmstead there is very mature and substantial planting. This impedes legibility and affords only relatively glimpsed views of the listed farmhouse from the appeal site.<sup>9</sup> Appreciation of significance would be through prior awareness and research rather than through any immediate impression from the site itself. A significant physical awareness of a particular farmstead-type character becomes more evident at closer quarters and once approaching the west-facing entrance.
35. Approaching the appeal site from beyond the boundary of Great Posbrook to the south, the listed farmhouse and the barn and other non-listed buildings are more readily apparent, and the overall initial impression is clearly of a farmstead. Indeed, the barn is set in an exposed position against the southern boundary of the farmstead. The farmhouse and barn can be seen together as a group in views from both Footpath 34 to the east and from Posbrook Lane itself to the south. It is in such views from the south that the important relationship of the barn and the farmhouse to their wider historic setting are best and most readily seen and appreciated.<sup>10</sup>
36. Unlike the previous scheme, the substantial existing area of land immediately to the east of Great Posbrook, and which also contributes similarly to its setting, would remain open in character and devoid of built form.
37. Further, although the existing degree of separation would be very significantly reduced, unlike the previous scheme, the appeal proposal would not entirely remove the separation of Great Posbrook from Titchfield. The distance between the boundaries of the appeal site and the former farmstead would be some 56 metres at its narrowest, and some 78.8 metres at its widest.
38. Removal of the harsh urban edge at the southern boundary of Titchfield would be a significant improvement to the assets' rural setting. Albeit closer, the existing edge would be replaced by an area indicated to be part planted with woodland and separated from the farmstead by open grassland. This improvement would also enhance the experience and appreciation of the farmstead when travelling north, and particularly from Footpath 34 to the south.
39. I do not accept the retained gap would read as a public open space within a single settlement. Rather, its open, informal character as proposed, allied to its scale, would be consistent with the farmstead's historic open rural hinterland to its north, east and south, and would distinguish Great Posbrook from Titchfield. Great Posbrook would still appear as a detached and relatively isolated feature and the historically significant physical relationship between countryside and farmstead would not be lost. Importantly, a similar conclusion is also reached by Historic England which raises no objection and welcomes retention of the

---

<sup>9</sup> See, for example, Ms Markham's View 5

<sup>10</sup> See, for example, Mr Smith's Viewpoint 7

open land to mitigate the scheme's impact, allowing the farmstead to continue to be read as a distinct and separate feature.<sup>11</sup>

40. In the terms of the previous decision, Great Posbrook would not be subsumed into Titchfield, and neither would a sense of physical dislocation would be lost.
41. Relatively glimpsed views of the farmhouse would remain from across the retained open land to the north. The open area to the north would also be seen adjacent to woodland planting and historical mapping shows the presence of previous woods in close proximity, albeit relatively isolated and freestanding.
42. There would be inevitably some detracting sense of new housing and urban influences as already identified, but not unacceptably so to the setting, and particularly once the landscaping matures.
43. Setting is only one aspect of the listed assets' significance; and, in turn, one aspect of the assets' setting lies in their relationship to open countryside to the north. Even so, I consider the heritage sensitivities of the site are such that the assets' setting does not offer sufficient capacity to accommodate the particular extent of change proposed without incurring some degree of harm through the loss of open land.
44. There would be less than substantial harm in the short-to-medium term to the setting as a whole. That impact would be offset over time by improvements to the character and appearance of the settlement edge as landscaping matures, but some residual harm would persist. Whilst Historic England raises no objection to the scheme, it still found a minor degree of harm. I concur with that assessment.
45. Given the relatively retained open relationship of the appeal site to Great Posbrook, and the proposed extent and treatment of that intervening area, allied to the other wider visual improvements arising elsewhere for the existing settlement edge, I consider that the balance of overall net harm to the setting of the designated assets would be limited.
46. I therefore conclude that the proposal would be harmful to the setting of the Grade II\* listed farmhouse and barn and thereby to the assets' significance, and so contrary to Policy CS17 and to Policy DSP5. These seek, amongst other things, to respond positively to, and be respectful of, the key characteristics of the area, including heritage assets, and to ensure development does not harm setting.

### ***Agricultural land***

47. The scheme would involve loss of Best and Most Versatile Agricultural Land (BMVAL).<sup>12</sup> Although the appeal scheme has a smaller application site than the previous proposal, the proposal would still incur other loss of BMVAL within the associated blue line area. Including this wider area, the Council estimates the proposal would incur loss of some 7.9 hectares of Grade 3a 'good quality' BMVAL<sup>13</sup>, although some grazing is still indicated to be retained beyond the red line area.

---

<sup>11</sup> Letter dated 12 December 2019

<sup>12</sup> Best and Most Versatile Agricultural Land as defined by the Framework: Land in Grades 1, 2 and 3a of the Agricultural Land Classification.

<sup>13</sup> Mr Jupp's proof at paragraph 9.31

48. Reflecting the conclusion reached in the previous appeal, it is common ground that the loss of BMVAL would not in itself be sufficient to warrant refusal of planning permission. I have little reason to disagree given the appellant's assessment of the grade of the land, and the small area which would be lost relative to overall availability in Fareham.<sup>14</sup> Nevertheless, it remains a harm of limited weight in the overall planning balance.
49. I therefore conclude that the proposal would be contrary to Policy CS16. Whilst this policy seeks to prevent the loss of BMVL Grades 1, 2 or 3a, its application would appear to be more onerous in its restriction than the expectation of the Framework and this further reduces the weight to be afforded to that conflict and the harm arising. The Framework seeks to recognise the economic and other benefits of BMVAL. Whilst BMVAL would be lost, development as proposed would serve to generate alternative economic and other benefits.

***Public open space***

50. The scheme does not propose public open space in a form and of a type as required by the Council. Rather, there is a planning obligation which would provide, should I consider it necessary, for the intervening area of grassland and planting between the housing and Great Posbrook to be made publicly available.<sup>15</sup>
51. A previous local deficiency in parks and open space has been addressed by the recent availability of the Titchfield Meadows Country Park, although this facility is some distance from the appeal site and is estimated by the Council to involve a walk upwards of 23 minutes.
52. Even so, the Country Park lies within the same local authority Ward for the purposes of the assessment made by the Council's Fareham Local Plan Open Space Study 2018 (the Study), and is a very substantial and relatively accessible local facility. The Study is now able to point to a surplus of parks and amenity open space as well as natural greenspace in the Titchfield Ward. This is also similarly relevant to the terms of Emerging Local Plan Policy NE10.
53. The Study also draws attention to the quality of the existing Bellfield facility immediately to the north. This would not be improved by the proposal, but the scheme would include a further Local Equipped Area for Play (LEAP).
54. Dwellings are indicated to be provided with gardens, the LEAP and Titchfield Meadows Country Park would both be available and, as the Council rightly maintains in connection with matters of character and appearance, an important function of the Meon Valley itself is for recreation. The appeal site would also be well served by various footpath and cycleway connections to surrounding areas. All these factors taken together lead me to conclude that further open space would be unnecessary to mitigate the impact of the development.
55. I am also not satisfied use of the intervening area in some form as formal public open space would be appropriate. For other reasons already set out, there would be an overriding sensitivity between the character and appearance of that intervening space and both the surrounding landscape and the setting of Great Posbrook. Such use would serve to lose the informality of the

---

<sup>14</sup> See Agricultural Land Quality Considerations, Kernon Countryside Consultants Limited, June 2020

<sup>15</sup> As edged brown on the accompanying Open Space Plan



scheme's proposed treatment of that area relative to the adjacent farmstead, and serve to negate the necessary physical and functional distinction between Titchfield and Great Posbrook. It could also have implications for the environment of the BCA.

56. I therefore conclude that the proposal would not incur harm in relation to public open space. The needs of future residents would be met by the existing and proposed provision and there would be no conflict with either Policy CS17 or Policy CS21. These seek, amongst other things, for proposals for new residential development to include provision for further public open space where existing provision is insufficient to provide for the additional population, and, more generally, for development to be of a high quality of design.

## **Other matters**

### ***Housing land supply***

57. It is common ground that the authority is unable to demonstrate a 5-year housing land supply (5YHLS). It is further agreed that available supply falls within a range of between 3.57 years, as maintained by the Council, and 0.93 years, as contended by the appellant.
58. It is undisputed there is a significant shortage of planned housing in Fareham. The Council's pressing need for housing is further underlined by the Government's publication of its most recent Housing Delivery Test results in January 2022. These identify a declining annual performance by the Borough from 79% to 62%.<sup>16</sup>
59. The Borough's housing performance now falls within the terms of Footnote 8 of the Framework as being substantially below (less than 75% of) its housing requirement over the previous three years, and the presumption in favour of sustainable development under paragraph 11d) is thereby engaged. A 20% buffer continues to be required.
60. Further, absent a 5YHLS, Policy DSP40 also becomes engaged and this is a matter to which I return in detail as part of my planning balances.
61. It is common ground that there is a significant unmet need for affordable housing within the Borough.
62. The development plan aspires to deliver new development to meet local housing need. Policies CS2, CS18 and DSP40, amongst other things, commit to generally meeting local housing need, and seek provision of affordable housing on all schemes that can deliver a net gain of 5 or more dwellings.
63. Provision of up to 57 dwellings, including a 40% policy-compliant element of affordable housing to be secured through the undertakings, would be a very significant benefit of the scheme, and would also support the social objective of the Framework and the Government's policy of significantly boosting the supply of homes.

### ***Appropriate Assessments***

64. The development is in proximity to a number of Special Protection Areas (SPA's), and Special Areas of Conservation (SAC's), and several Ramsar

---

<sup>16</sup> These results were published post-Inquiry and comments were subsequently invited from both main parties

designations (all collectively referred to in this decision as 'the protected sites'). These include the Solent and Southampton Water SPA and Ramsar site, the Solent Maritime SAC, the Solent and Dorset Coast SPA, and the Portsmouth Harbour SPA and Ramsar site. The New Forest SAC, SPA and Ramsar site are also relevant.

65. Discounting any allowance for mitigation as proposed, it is clear that the scheme is likely to have a significant effect, whether alone or in combination, upon individual protected sites. Pathways for effect would variously relate to loss of functional land used by qualifying species of birds as supporting habitat, potential for increased nitrate pollution, and an accompanying increase in recreational pressure and disturbance. There would also be likely to be some temporary disturbance to qualifying species arising from adjacent construction works.
66. Accordingly, under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), I have undertaken Appropriate Assessments of the scheme with regard to implications for relevant sites' conservation objectives and associated matters. This included required consultation with the appropriate nature conservation body as part of that process.<sup>17</sup> As competent authority, I may agree the scheme having regard to conditions or restrictions but only where the development would not adversely affect the integrity of European (SPA and SCA) sites. The same protection is also to be afforded to the Ramsar sites.<sup>18</sup>

#### *Solent Brent Geese and Waders*

67. The appeal site itself is designated in the development plan as an area that is uncertain in supporting Brent Geese and Waders. The site is identified in the Solent Waders and Brent Goose Strategy as being a Primary Support Area, and in the Emerging Local Plan as within a Brent Goose and Wader Classification 2 - Primary and Secondary Support Area.
68. The proposal would create a dedicated BCA, providing some 6.5 hectares of enhanced habitat suitable for Brent Geese and Waders and other birds, and suitably secured from human disturbance. It is proposed for an agreement to be reached with the Hampshire and Isle of Wight Wildlife Trust to manage the BCA in perpetuity. The creation and management of the BCA would be secured through the unilateral undertakings, and this includes a commitment to delivery in advance of other works. Access to the BCA would be for management and monitoring only.
69. The Council is satisfied the BCA provides acceptable and appropriate mitigation for the loss of a portion of a Primary Support Area and, subject to details, the proposal is welcomed by Natural England.
70. The undertakings also include contributions required pursuant to the Solent Recreation Mitigation Strategy to mitigate the effects of increased resident disturbance.

---

<sup>17</sup> Natural England was formally consulted by letter dated 13 January 2022 and its response was received by email dated 31 January 2022. Natural England has confirmed it has no objections subject to various details of mitigation

<sup>18</sup> See paragraph 181 of the Framework

*Water quality*

71. The proposal is for an overall reduction in nitrogen generation and for achievement of nutrient neutrality. This would be realised through a range of steps, including cessation of the existing grazing within the red line area, and through introduction of meadow management and low intensity grazing elsewhere with no supplementary feeding in the BCA. Delivery would be supported through the undertakings.
72. The submitted Flood Risk Assessment and Drainage Strategy incorporates commitments to Sustainable Drainage Systems and which would include further detailed matters relevant to water quality management.
73. Whilst Natural England has also referred to possible implications for the Chichester and Langstone Harbours SPA, I agree this is unlikely to alter the conclusions reached.

*New Forest protected sites*

74. Notwithstanding the parties' agreement to the overall proposed package of mitigation accompanying the appeal proposal, there remains a dispute relating to potential increased recreational impacts arising for the New Forest.
75. The appellant's contention is that cumulative recreational impact can be screened out drawing upon the evidence available. This relates to the geography of the actual journeys involved and a declining propensity to visit the New Forest with distance. In contrast, the Council considers there could still be a cumulative recreational impact arising from the appeal scheme. Natural England's position is that such impacts cannot be screened out and that mitigation would be required. The Council has also resolved to adopt the general approach to such assessments taken by Natural England.
76. Notwithstanding these differences, the appellant makes provision for such mitigation in its undertakings but only should be it be required by this decision.
77. The appellant and the Council further agree that, if impacts do apply, the mitigation as proposed by the appellant through its undertakings would adequately address such matters. This approach would also be consistent with other casework and accompanying advice from Natural England.
78. The available evidence suggests there is a reasonable possibility of some residents from Fareham placing additional recreational pressure upon the New Forest sites. Notwithstanding previous deliberations, post-code survey evidence indicates visitors do originate from areas of Fareham and are likely to contribute to an in-combination effect upon these protected sites. Accordingly, applying the precautionary principle, I consider proportionate mitigation is required as set out in the undertakings in order for the integrity of the New Forest sites not to be harmed.

*Appropriate Assessments - conclusion*

79. I have had due regard to the wide suite of relevant evidence submitted before, during and after the Inquiry, and note Natural England's general agreement to the various schemes of mitigation and approaches as proposed, and in the context of the relevant conservation objectives. Aspects of general conditions should I be mindful to allow this appeal, for example, in relation to drainage,

water efficiency and a Construction Environmental Management Plan (CEMP) to mitigate temporary construction disturbance and ensure an environmentally sensitive implementation, would also be relevant.

80. With the benefit of all those actions and provisions as proposed, I am satisfied, beyond all reasonable scientific doubt, that the scheme would not adversely affect the integrity of any of the protected sites identified, but only subject to inclusion of the proposed, but disputed, recreational mitigation in relation to the New Forest.
81. I further conclude that the proposal would not be contrary to Policy CS4, or to Policy DSP13. These seek, amongst other things, to protect habitats important to the biodiversity of the Borough, and for development to be permitted where it can be demonstrated that designated sites and sites of nature conservation value are protected and, where appropriate, enhanced. Policy DSP14 also permits development on uncertain sites supporting Brent Geese and/or Waders where the site has been assessed and it can be demonstrated that it is not of importance or, if of importance, that there would be no adverse impact, including considerations of mitigation.
82. My Appropriate Assessments and their conclusions are also consistent with the expectations of Policy DSP15 in relation to consideration of the protected sites.

### ***Ecology (general)***

83. The scheme includes a commitment to achieving at least 10% biodiversity net gain and which is broadly consistent with the Framework. National policy encourages opportunities to improve biodiversity in and around developments integrated as part of their design, and to secure measurable net gains. Further commitments relate to a Landscape and Ecological Management Plan (LEMP) for that part of the application site not within the BCA, and specific measures in relation to dormice, reptiles, badgers, and all nesting and over-wintering birds.

### ***Strategic Gap***

84. The appeal site is identified by the development plan as forming part of a Strategic Gap.
85. The previous decision, for a significantly larger extent of built form, did not identify any conflict with the site's Gap function and no objection is raised by the Council to the current proposal on those terms.
86. The Strategic Gap is a spatial designation and, particularly given the retained open elements of the scheme, I agree there would be no conflict with Policy CS22. This seeks, amongst other things, not to permit development where it significantly affects the integrity of the Gap and the physical and visual separation of settlements.

### ***Alternative sites***

87. Reference has been made to possible availability of other less sensitive sites for development. A plan-led approach identifying sufficient housing and other land to meet the Borough's needs is intended to materialise in due course through the Emerging Plan, but that strategy has not yet been subject to independent examination and there remain unresolved objections to be considered. Further, no specific details of currently available alternatives were offered in evidence.

88. The Framework sets out how arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both: the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by pre-determining decisions about the scale, location or phasing of new development that are central to an emerging plan; and any emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.<sup>19</sup> Neither circumstance applies in this instance.

### ***Location***

89. Whilst outside the settlement boundary, the site occupies a reasonably accessible location within walking and cycle distance of local services and facilities. This is consistent with the Framework's recognition of the need for accessible services in the context of its social objective for achieving sustainable development.

### ***Access and highway implications***

90. There is no objection to the scheme by the highway authority, and I have little reason to suggest there would be adverse implications for the free and safe movement of vehicles and pedestrians in the vicinity.

91. The Framework requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. Neither circumstance applies in this instance.

92. I therefore conclude that the proposal would be comply with Policy CS5. This seeks, amongst other things, to permit development which does not adversely affect the safety and operation of the strategic and local road network and is designed and implemented to prioritise and encourage safe and reliable journeys by walking, cycling and public transport.

### ***Other factors***

93. I have regard to a number of other concerns identified by local interested parties, including issues of drainage, and aspects of living conditions. From the evidence before me, significant harm would not arise in those regards, but such matters will be reflected and safeguarded, as appropriate, in the details of subsequent planning conditions should I conclude that the appeal be allowed.

94. Other appeal decisions have been referred to throughout the evidence, and I am mindful of the importance of consistency in decision-making. Whilst I have regard to underlying principles and approaches as highlighted in the evidence, each case is necessarily fact and context sensitive. My decision turns on the specifics of this particular appeal scheme and site as identified and as presented in the parties' evidence.

### ***Unilateral undertakings***

95. The undertakings make various commitments to mitigation additional to those already indicated, including for education, and for rights of way.

---

<sup>19</sup> Paragraph 49

96. The mitigations as proposed generally accord with relevant aspects of the Council's planning obligations supplementary guidance.<sup>20</sup> This seeks, amongst other things, for planning obligations from new development to deliver essential infrastructure, to address the effects of developments, and to control and/or enhance specific aspects of the scheme. This is similarly reflected in Policy CS20. The approach set out in the undertakings is also broadly consistent with the expectations of the Government's Planning Practice Guidance and Framework. The undertakings specific to affordable housing generally accord with Policy CS18.
97. I am satisfied with the form and content of the undertakings as deeds. I find the undertakings to be compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

## **Planning balances**

### ***Heritage and public benefits***

98. The Framework advises that heritage assets are an irreplaceable resource, and requires them to be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, it requires great weight to be given to an asset's conservation, and irrespective of the scale of harm. It further requires that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the Framework requires such harm to be weighed against the public benefits of the proposal.
99. The setting of a listed building benefits from protection in its own right as a matter of statute. There follows a strong presumption against granting planning permission for development which would harm the setting of a listed building because the desirability of preserving the heritage asset is a consideration of considerable importance and weight.
100. Nevertheless, the weight to be attached to any specific harm in the overall balances remains a matter of planning judgement, reflecting both the scale of the harm itself and the particular significance of the asset.
101. There would be a range of benefits arising from the scheme. These would include additional market and affordable housing, and for which there is significant and continuing unmet need. Environmental improvements to the southern and eastern boundaries of the settlement would arise in the longer term. Whilst the BCA is proposed in the nature of mitigation, it would still formalise and safeguard the important ecological value of the surroundings over and above the existing status quo, and biodiversity net gain would be generated.
102. The economic benefits of development would include investment in construction and related employment for its duration. There would also be an

---

<sup>20</sup> Planning Obligations Supplementary Planning Document for the Borough of Fareham (excluding Welborne) Adopted April 2016

increase in subsequent local household expenditure and demand for services and which could be expected to benefit the local village and services.

103. The public benefits arising from the scheme as described would therefore be considerable and of a scale to out-weigh the collective but limited harm to the heritage significance of the assets.
104. Accordingly, policies in the Framework that protect areas or assets of particular importance, and which include listed buildings, do not provide a clear reason for refusing the development proposed in heritage terms.<sup>21</sup>

***The development plan as a whole***

105. I consider the development plan policies which are most important are those referred to and variously applied in my assessment of the main issues and other considerations.
106. I have found broad compliance with a range of development plan policies, but also conflict in relation to Core Policies CS6, CS14, CS16 and CS17 and with Local Plan Part 2 Policies DSP5 and DSP6.
107. The housing requirement underlying Policies CS6, CS14 and DSP6 as set out in Policy CS2 pre-dates the Framework and is agreed to be out-of-date. The restrictive settlement boundaries derived from that housing requirement and identified in those policies are thereby also out-of-date and, accordingly, the weight to be attached to any conflict with them is reduced.
108. Policies CS17 and DSP5 are in themselves up-to-date and attract full weight. Notwithstanding some conflict with DSP5, the policy further specifies that harm or loss to heritage assets will require clear and convincing justification in accordance with national guidance, and that requirement has now been fulfilled in the preceding heritage balance.
109. Policy DSP40 is an over-arching policy and which applies in circumstances such as this where the authority is unable to demonstrate a 5YHLS. It seeks to safeguard housing delivery by making provision for additional non-allocated housing sites to be permitted outside the urban area boundary, but subject to five criteria.
110. Policy DSP40 therefore serves to complement the other more restrictive policies in situations where some development in the countryside is inevitable in order to satisfy an up-to-date assessment of housing need. Through its criteria, it assists the decision-taker in determining the weight to be applied to the conflict with other restrictive policies, and it provides a mechanism for the controlled release of land through a plan-led approach. It also accords generally with the housing delivery expectations of Framework policy.
111. Of Policy DSP40's five criteria, compliance with only two is in dispute: whether the proposal is sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the countryside and, if relevant, the Strategic Gaps (criterion iii)); and whether the proposal would have any unacceptable environmental, amenity or traffic implications (criterion v)).

---

<sup>21</sup> Paragraph 11d)i. refers

112. In respect of criterion iii), the policy does not require no harm to the countryside. Rather, it recognises there will be harm by developing outside settlement boundaries, but instead requires that such harm be 'minimised'. There is no harm to the integrity or function of the Strategic Gap.<sup>22</sup>
113. I apply 'minimise' in the context of the scale of a housing shortfall which the policy is intended to serve as per criterion i). Taken at its highest in accordance with the Council's own, albeit disputed, figures, this shortfall is still substantial: a 5YHLS of 3.57 years set against an agreed minimum five-year requirement of 3,234 dwellings means the housing needs of significant numbers of people in Fareham remain unaddressed. Whilst the parties may disagree as to the precise extent of the shortfall, there is no dispute that it remains significant and that corresponding weight should be attached. I also apply minimise in the context of the specific site and scheme characteristics described, and in recognition of the fact that any built development upon open countryside will incur some degree of harm in terms of loss of open rural character. Any lesser application and the policy would be likely to become self-defeating.
114. In light of the reduced scale of development and its relatively sensitive relationship to its surroundings and seen in the above context, I consider that the adverse impact upon the countryside would be minimised and this aspect of criterion iii) to be met.
115. In respect of criterion v), Policy DSP40 similarly does not require no harm to the historic environment. Whilst there would be harm as identified, given that the scheme satisfies wider Framework policy in respect of conserving and enhancing the historic environment, there would, accordingly, be no resultant 'unacceptable' environmental impact in this regard under criterion v).
116. For the reasons identified, the loss of BMVAL would also not represent an unacceptable environmental implication in the terms of criterion v).
117. Policy DSP40 is fundamental and serves as the single most important policy for determination of this appeal.<sup>23</sup> It renders the development plan substantively up-to-date and I afford the policy full and overriding weight.
118. The scheme demonstrates compliance with Policy DSP40 and this offsets other areas of policy conflict predicated upon the existence of a 5YHLS. I therefore conclude the proposal would correspondingly accord with the development plan as a whole.

### ***Other material considerations***

119. The Framework requires that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.<sup>24</sup> This is also not precluded in this instance by the conclusions of my Appropriate Assessments as the integrity of the habitats sites would not be adversely affected.<sup>25</sup>

---

<sup>22</sup> See also Statement of Common Ground at paragraph 3p)

<sup>23</sup> See also Statement of Common Ground at paragraph 4.6

<sup>24</sup> Paragraph 11c)

<sup>25</sup> See Framework paragraph 182



120. The scheme therefore benefits from the presumption in favour of sustainable development and which is a further material consideration. Securing sustainable development with minimum negative impact on the environment, in turn, would also be further consistent Policy CS15.

***Final planning balance***

121. The proposal would accord with the development plan as a whole, and other material considerations do not indicate a decision other than on those terms. Accordingly, planning permission should be granted, subject to conditions.

**Conditions**

122. I have considered as a starting point the suggested list of conditions put forward by both main parties to the Inquiry and the accompanying discussions. I have regard to the advice set out in the Guidance and in the Framework in terms of both the tests for individual conditions, and the need for clear, precise and enforceable wording.

123. Reflecting the appellant's commitment to early development of the site, the timescale for submission of reserved matters is one year as agreed. The development shall commence not later than the expiration of two years from the date of this permission, or one year from the date of approval of the last of the reserved matters to be agreed, whichever is later, and shall not commence until such time as all necessary matters have been approved.

124. For reasons of certainty, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings, including the Parameters Plan. Conditions are similarly attached specifying the number of dwellings, and addressing the need for a phasing plan. The phasing plan is also to include programming of areas to be considered for woodland and for semi-mature planting so as to ensure timely realisation of that important mitigation. A condition also makes clear the extent of approval as it relates to access and confirms that all details of internal circulation remain to be submitted and approved in conjunction with other reserved matters. For similar reasons of clarity, details are required of proposed floor levels.

125. Conditions are required to protect and promote the ecological interests of the site. These include the LEMP and provisions for existing wildlife. They also reflect the appellant's commitment to promote biodiversity net gain. Aspects of various conditions also refer to matters necessary to safeguard the integrity of the protected sites.

126. To safeguard the relationship between the character and appearance of the appeal site and surrounding countryside, and to safeguard the settings of the adjacent heritage assets, it is necessary to ensure the identified Landscape Areas remain unoccupied by built form.

127. Details of external lighting are to be agreed. This reflects important implications for safeguarding the future ecological value of the land, the general significance of views in and around the site during the hours of darkness, and concerns for public safety.

128. To safeguard any hitherto unrevealed heritage interest within the site, a scheme of archaeological investigation is necessary.

129. To ensure a satisfactory living environment for occupiers and neighbours, and to contribute to a sustainable development, conditions require details to be submitted and approved relating to surface water and foul water drainage. For similar reasons, a scheme of investigation and remediation is required in relation to any existing site contamination.
130. To further promote sustainable development, a scheme of mineral recovery is required. Arrangements are also necessary for vehicle charging and water efficiency. These requirements are also consistent with Policy CS16 which seeks to safeguard the use of natural resources.
131. To protect the living environment of neighbours during construction, and to protect important ecological interests, it is necessary for the works to be undertaken in accordance with a suitably robust CEMP. Similarly, it is necessary to restrict hours of operation of external works to reasonable times.
132. I agree that matters relating to the LEAP and BCA are fully addressed in the accompanying undertakings and further conditions are unnecessary. Building heights would fall to be considered as part of subsequent reserved matters.
133. Matters relating to contamination, drainage, archaeology, ecology, phasing, the CEMP, mineral recovery, and floor levels are all to be addressed before development commences. This is necessary given the importance of those matters to the sensitivities of the site and its development, and the implications which could otherwise arise should works proceed in the absence of their prior resolution.

### **Conclusion**

134. For the reasons given above, I conclude that the appeal should be allowed, subject to the conditions identified.

*Peter Rose*  
INSPECTOR

## **SCHEDULE OF CONDITIONS**

### **Reserved matters and time limits**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter referred to as 'the reserved matters') shall be submitted to and be approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than one year from the date of this permission.
3. The development hereby permitted shall commence not later than the expiration of two years from the date of this permission, or one year from the date of approval of the last of the reserved matters to be approved, whichever is later.
4. No development shall take place until full details of all reserved matters have been submitted to and been approved in writing by the Local Planning Authority.

### **Details and drawings**

5. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - a) Location Plan Ref: 16.092.01;
  - b) Proposed Site Access Ref: 19-241/003B; and
  - c) Parameters Plan Ref: 16.092.21.
6. The development hereby permitted shall comprise no more than fifty-seven (57) dwellings.
7. Submission of reserved matters shall reflect and be consistent with the principles set out in Parameters Plan Ref: 16.092.21.
8. The approval of access conferred by this decision relates solely to the proposed highway junction details set out on drawing Ref: 19-241/003B, and not to any proposed circulation and other arrangements within the site and which remain to be submitted and be approved. Such submissions shall be made to and be approved in writing by the Local Planning Authority prior to the commencement of any development, and the details shall be undertaken as approved and in accordance with an agreed programme.

### **Other pre-commencement**

9. No works shall take place until a phasing plan for the development has been submitted to and been approved in writing by the Local Planning Authority. The plan shall include, amongst other details, an indicative programme for provision of areas to be subsequently considered in the reserved matters for woodland and for semi-mature planting. The development shall be implemented in accordance with the terms of the phasing plan as approved.
10. No development shall take place until detailed surface and foul water drainage schemes have been submitted to and been approved in writing by the Local Planning Authority. The schemes shall be based upon the principles

set out within the submitted Flood Risk Assessment and Drainage Strategy dated October 2019, and shall include confirmation of all detailed technical measures necessary to ensure protection and contingencies in any matters relevant to Special Protection Areas, Special Areas of Conservation, and Ramsar designations (the protected sites). The submissions shall include full technical and other relevant details of all aspects of the proposed schemes and accompanying arrangements, and shall include responsibilities for subsequent management and maintenance.

The schemes and arrangements shall be implemented and maintained in accordance with the approved details and an agreed programme.

11. No development shall take place until a Minerals Recovery Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The Statement shall include details of:

a) how minerals that can be viably recovered during the construction process will be safeguarded and put to beneficial use; and

b) how the quantity of recovered minerals to be re-used on-site or off-site will be recorded and how this data will be reported to the Mineral Planning Authority.

The development shall be undertaken in accordance with the Statement as approved.

12. No development shall take place until an investigation of the nature and extent of any existing contamination within the site has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority and a consequent remediation scheme and accompanying programme of works shall also have been submitted to and been approved in writing by the Local Planning Authority before any development begins.

The remediation scheme shall be carried out in accordance with the details and the programme as approved.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this further source of contamination shall be submitted to and be approved in writing by the Local Planning Authority. Works shall be immediately halted in the area/part of the development affected until such time as the further remediation works have been agreed and which shall be implemented as approved and in accordance with an agreed programme.

Following completion of all measures identified in the approved remediation schemes, verification reports demonstrating that full details and specifications of the approved measures have been implemented shall be prepared in accordance with an agreed timescale and be approved in writing by the Local Planning Authority.

13. No development shall take place until a scheme of archaeological investigation has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include:

- a) the programme and methodology for site investigation and recording;
- b) the programme and arrangements for post-investigation assessment;
- c) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
- d) the provision to be made for archive deposition of the analysis and records of the site investigation; and
- e) the nomination of a competent person or persons/organisation to undertake the works to be set out within the approved scheme.

The development shall be undertaken in accordance with the details as approved. The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow that person to observe the excavations and record items of interest and finds.

Any historic or archaeological features not previously identified which are revealed when carrying out the development shall be retained in-situ and be reported immediately in writing to the Local Planning Authority. Works shall be immediately halted in the area/part of the development affected until provision has been made for retention and/or recording in accordance with details that shall have been first submitted to and been approved in writing by the Local Planning Authority. Such further remedial works shall then be implemented as approved and in accordance with an agreed programme.

14. No development shall take place until details of the internal finished floor levels of all proposed buildings and of all finished external ground levels relative to existing ground levels within the site and relative to the adjacent land have been submitted to and been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details as approved.
15. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and been approved in writing by the Local Planning Authority. The CEMP shall include details and arrangements for the following:
- a) parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) route management and access supervision for lorries during the course of the works;
  - d) storage of plant, materials and chemicals used in the construction of the development;
  - e) measures to control the emission of dust and dirt during construction, including arrangements for wheel washing, and for site screening;
  - f) measures to prevent chemical and/or fuel run-off from construction into nearby watercourses;
  - g) measures to prevent or otherwise mitigate noise, visual, vibrational and any other impacts upon birds and any other features specifically associated

with the protected sites, and with particular regard to implications arising from percussive piling and works with heavy machinery;

h) a risk assessment of potentially damaging construction activities to all other wildlife and proposals for subsequent mitigation. This shall include identification of particular biodiversity protection zones, and arrangements for the location and timing of sensitive works to avoid harm to biodiversity features, including any other nesting and over-wintering birds. Consideration shall also be given to the timing and accompanying arrangements during construction when specialist ecologists will need to be present on site to monitor/oversee works; and

i) any such other practical measures, including sensitive working practices and method statements, necessary to generally avoid and/or reduce impacts during construction.

The approved CEMP shall be adhered to and implemented throughout the construction period and strictly in accordance with the approved details.

16. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and been approved in writing by the Local Planning Authority and relating to the scheme's proposals for all parts of the application site beyond the Bird Conservation Area.

The content of the LEMP shall include the following details:

a) a scheme of landscaping and ecology mitigation and enhancement, and reflecting accompanying stated conservation aims and objectives;

b) a programme of works;

c) details of the appropriate persons, body or organisation responsible for implementation of the plan;

d) details of a scheme for on-going monitoring; and

e) the proposed contribution of those parts of the application site to biodiversity net gain.

The LEMP shall also include details of the legal and funding arrangements by which the long-term delivery and management of the plan will be secured. The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the full ecological benefits of the originally approved scheme. The LEMP shall be implemented in accordance with the approved details and accompanying programme.

17. No development shall take place until full details of all necessary ecological mitigation, compensation and enhancement measures with particular regard to dormice, reptiles, badgers, and of all nesting and over-wintering birds, have been submitted to and been approved by the Local Planning Authority. This shall be in the form of a Wildlife Mitigation and Enhancement Strategy, and identify full details of each corresponding mitigation/enhancement provision and the programming of the proposed measures. Such details shall be in accordance with the outline ecological mitigation measures set out

within the submitted Reptile Mitigation Strategy, the Dormouse Mitigation Strategy, and the Outline Proposal for the Bird Conservation Area. The development shall be carried out in accordance with the approved details and an agreed programme, and all measures shall be maintained in perpetuity in accordance with an agreed management plan.

- 18.No development shall take place until full details of arrangements for the scheme to deliver at least 10% biodiversity net gain have been submitted to and been approved in writing by the Local Planning Authority. The arrangements shall be consistent with national guidance and methodologies, and be implemented and maintained in accordance with the approved details and an agreed programme.

### **Pre-occupation**

- 19.No occupation of the development shall take place until full details of a scheme for external lighting within the site have been submitted to and been approved in writing by the Local Planning Authority.

The scheme shall identify details of how and where external lighting will be installed, and its form, so as not to disturb, impede or otherwise prevent wildlife presence or movement. The scheme shall also be designed to minimise general external light pollution and unnecessary illumination of the development in views from outside the site and in relation to the settings of nearby heritage assets.

All external lighting shall be installed in accordance with the approved details and an agreed programme.

- 20.No development shall proceed beyond damp proof course level until an Electric Vehicle Charging Strategy has been submitted to and been approved in writing by the Local Planning Authority. The Strategy shall identify the form, specification and location of all electric vehicle charging points to be provided. The development shall be carried out in accordance with the details as approved and in accordance with an agreed programme.

- 21.No dwelling shall be occupied until details of water efficiency measures have been submitted to and been approved in writing by the Local Planning Authority. The water efficiency measures shall be designed to ensure potable water consumption does not exceed a maximum of 110 litres per person per day. The measures shall be implemented in accordance with the details as approved and an agreed programme.

### **Other**

- 22.No external works (and including all works of site preparation and clearance in advance of other operations) shall take place before the hours of 8am or after 6pm Monday to Friday, or before 8am or after 1pm on Saturdays, and not at all on Sundays or Public Holidays, unless otherwise first agreed in writing by the Local Planning Authority.
- 23.The areas identified as Landscape Areas within the submitted Parameters Plan shall be kept clear of all built form at all times and shall be retained and maintained as open land.

End of conditions 1-23.

## **APPEARANCES**

### **For the local planning authority:**

**Ned Helme** of Counsel, instructed by the Southampton and Fareham Legal Partnership

He called:

Ben Croot – Associate, LDA Design Consulting

Lucy Markham – Partner, Montagu Evans

Stephen Jupp – Planning Consultant

Richard Wright (Principal Planner), and Hilary Hudson (Solicitor) for the Council also contributed to round-table discussions

### **For the appellant:**

**Christopher Boyle** of Queen’s Counsel, instructed by Woolf Bond Planning

He called:

Jeremy Smith – Director, SLR Consulting

Ignus Froneman – Director, Cogent Heritage

Steven Brown – Principal, Woolf Bond Planning

Paul Weeks (Solicitor, Moore Barlow) also contributed to round-table discussions

### **Interested parties:**

**Robert Marshall** – The Fareham Society



**INQUIRY DOCUMENTS**

The following documents were submitted to and accepted by the Inquiry:<sup>26</sup>

<b>Reference</b>	<b>Title/subject</b>
ID 1	List of appearances on behalf of the appellant
ID 2	List of appearances on behalf of the Council
ID 3	Opening submissions on behalf of the appellant
ID 4	Opening submissions on behalf of the Council
ID 5	Council's section 106 obligations justification statement
ID 5a	Appendix 1 to ID5
ID 5b	Appendix 2 to ID5
ID 6	Draft schedule of conditions
ID 7	Summary of obligations contained in the unilateral undertakings
ID 7a	Unilateral undertaking dealing with general provisions (draft)
ID 7b	Unilateral undertaking dealing with recreational disturbance upon the New Forest protected sites (draft)
ID 7c	Official copy of title plan
ID 7d	Official copy of register of title
ID 8	Email to Natural England from the Council dated 6 December 2021
ID 8a	Email attached to ID8 enclosing response from Natural England to appeal at Land East of Crofton Cemetery and West of Peak Lane, Stubbington
ID 9	Comments from Southern Water dated 6 December 2019
ID 9a	Plan 1 attaching to ID 9
ID 9b	Plan 2 attaching to ID 9
ID 10	Drawings PL-20, PL-21, and Nos. 22 and 23 submitted by the appellant on 6 December 2021
ID 11	Extract from heritage proof provided by Mr Brown
ID 12	Report to the Council's Executive for Decision on 7 December 2021 – Implications of Natural England Advice on New Forest Recreational Disturbance
ID 13	Email from Mr Wright confirming the decision made by the Council's Executive on 7 December 2021
ID 14	Parameters Plan Ref: 16.092.21
ID 15	Updated schedule of draft conditions dated 13 December 2021
ID 16	Council's updated section 106 obligations justification statement (v2 dated 13 December 2021)
ID 17	Ecology Addendum Statement of Common Ground (dated 13 December 2021)
ID 18	Summary of obligations contained in the unilateral undertakings
ID 19	Revised unilateral undertaking (general) issued 15 December 2021
ID 19b	Land ownership plan
ID 19c	Parameters Plan (duplicate)
ID 19d	Indicative Parks and Amenity Open Space Plan
ID 19e	LEAP transfer document
ID 19f	Tetra Tech technical note relating to the BCA

<sup>26</sup> This list reflects the content and referencing of the Council's web site library as maintained throughout the event, but is also inclusive of matters post-Inquiry

ID 20	Council's updated section 106 obligations justification statement (v3)
ID 21	Unilateral undertaking dealing with recreational disturbance upon the New Forest (draft)
ID 22	Biodiversity net gain calculation (dated 14 December 2021)
ID 23	Updated schedule of draft conditions (dated 15 December 2021)
ID 24	Closing submissions on behalf of the Council
ID 25	Closing submissions on behalf of the appellant
ID 26	Final set of draft conditions (dated 21 December 2021)
ID 27	Summary of ecology references relating to the New Forest protected sites as per point 7. of the Inspector's Post-Inquiry Note dated 20 December 2021
ID 28	Final (unsigned) unilateral undertaking relating to the New Forest protected sites (issued 21 December 2021)
ID 29	Signed and dated unilateral undertaking (New Forest) (dated 22 December 2021)
ID 29a	Signed and dated unilateral undertaking (general) (dated 22 December 2021)
ID 30	Comments from Natural England dated 22 December 2021
ID 31	Council's response dated 5 January 2022 to Natural England's comments dated 22 December 2021
ID 32	Appellant's response dated 7 January 2022 to Natural England's comments dated 22 December 2021
ID 33	Inspector's letter to Natural England dated 13 January 2022
ID 34	Natural England's email response dated 31 January 2022 to Inspector's letter dated 13 January 2022
ID 35	Council's response dated 11 February 2022 to Natural England's email dated 31 January 2022
ID 36	Appellant's response dated 11 February 2022 to Natural England's email dated 31 January 2022
ID 37	Inspector's request for comments dated 14 January 2022 related to publication of 2021 Housing Delivery Test results
ID 38	Appellant's response dated 21 January 2022 to Inspector's request dated 14 January 2022 related to 2021 Housing Delivery Test results
ID 39 <sup>27</sup>	Email from Mr Brown dated 15 December 2021 setting out information links for Titchfield Meadows Country Park

<sup>27</sup> Not originally included on the web site