The Planning Inspectorate

Appeal Decision

Inquiry (Virtual) held on 10 August 2021 - 19 August 2021

Site visit made on 11 & 12 November 2021

by Lesley Coffey BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2022

Appeal Ref: APP/A1720/W/21/3271412
Land South of Romsey Avenue, Fareham, PO16 9TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Foreman Homes Ltd against the decision of Fareham Borough Council.
- The application Ref P/18/1073/FP, dated 20 August 2018, was refused by notice dated 21 September 2020.
- The development proposed is hybrid planning application for residential development of 225 dwellings, bird conservation area. Seeking full planning permission for 58 dwellings and outline planning permission for 167 dwellings with all matters reserved except for access.

Decision

1. The appeal is allowed and planning permission is granted for a residential development of 225 dwellings, a bird conservation area and area of public open space with all matters reserved except for access, at Land South of Romsey Avenue, Fareham, PO16 9TA in accordance with the terms of the application, Ref P/18/1073/FP, dated 20 August 2018, subject to the conditions in the attached schedule.

Applications for costs

2. At the Inquiry an application for costs was made by Foreman Homes Ltd against Fareham Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description above is taken from the application form and was amended during the course of the application. The revised description is "Outline planning application for residential development of 225 dwellings, bird conservation area and area of public open space with all matters reserved except for access." I have considered the appeal on the basis of the revised description.

4. An Environmental Impact Assessment (EIA) has been undertaken and reported in an Environmental Statement (ES) in accordance with the Requirements of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. A revised ES was submitted prior to the Inquiry and has been taken into account in this decision.

5. There were 12 reasons for refusal. Reason for refusal e) was that the proposal failed to provide sufficient information to demonstrate the satisfactory disposal of surface water. On the basis of additional information submitted by the appellant, the Lead Local Flood Authority withdrew its holding objection, and the parties agree that this matter can be addressed by way of a condition. Notwithstanding this, local residents raised concerns about the suitability of the proposed drainage strategy and this matter is addressed below.

6. Reasons for refusal g) – l) relate to the absence of planning obligations in respect of a range of matters, including the provision of affordable housing and education. The appellant submitted two Unilateral Undertakings dated 2 September 2021 to address these matters.

7. The first Unilateral Undertaking (UU) covenants to deliver 40% of the residential units as affordable housing, open space, a Neighbourhood Equipped Area of Play (NEAP), as well as financial contributions towards mitigating the recreational impacts on the Solent, education, Countryside Service, a Traffic Regulation Order, highway and transport improvements, and a Travel Plan.

8. The second UU covenants to provide the Bird Conservation Area together with arrangements for the management, maintenance and monitoring of the Bird Conservation Area. Both UUs are discussed below.

9. The Council and the appellant submitted Statements of Common Ground in relation to Planning and Housing Land Supply. A SoCG with Hampshire County Council (The Highway Authority) in respect of highways and transport matters was also submitted. Notwithstanding the areas of agreement with the Highway Authority set out in the SoCG the Council and local residents remain concerned about the effect of the proposal on parking and highway safety.

10. The site visits were undertaken during term time at the request of local residents.

Main Issues

11. I consider the main issues to be:

- The effect of the proposal on highway safety and the effect of parking displacement on residential amenity;
- The effect of the proposal on on-site biodiversity;
- The effect of the proposal on European Protected Sites with particular reference to Support Areas for brent geese; and
- Whether the location of development outside the settlement boundary is acceptable having regard to Policy DSP40 of the Local Plan Part 2:Development Sites and Policies.

Reasons

12. The appeal site is located adjacent to but outside of the settlement boundary for Portchester. It is about 12.55 hectares in area and is broadly rectangular in shape. Access to the site is from a short stretch of road leading from Romsey Avenue which also provides rear access to some of the Romsey Avenue properties.

13. The northern boundary of the site is formed by the rear gardens of the properties fronting Romsey Avenue, whilst the eastern boundary is formed by recreational open space associated with the development of 120 dwellings of Cranleigh Road that are currently under construction. Wicor recreation ground lies to the south west of the appeal site.

14. The site is located about 1.9 kilometres West of Porchester town centre and 2.8 kilometres east of Fareham town centre. The appellant and the Highway Authority agree that the site is in a sustainable location, within walking and cycling distance of local services and facilities and would allow future residents to make sustainable transport choices, including by foot, by bicycle and public transport.

Highway Safety and Parking Displacement

15. Access to the site would be from the existing access road that currently serves the rear of the properties in Romsey Avenue and a field gate to the site. The access road would be 5.5 metre wide with a 2 metre wide footway on the eastern side. A parking bay is proposed on the western side and would allow up to four cars to be parked.

Highway Safety

16. Beaulieu Avenue and Romsey Avenue are residential streets with approximately 5.5m carriageway widths and unrestricted on-street parking. In order to maintain the free-flow of traffic Hampshire County Council (the Highway Authority) required the provision of parking bays within current verges and double yellow lines adjacent to the junction of the access road and Romsey Avenue and the junction of Romsey Avenue and Beaulieu Avenue. A Traffic Regulation Order (TRO) would be necessary to implement the proposed parking restrictions. The UU includes a financial contribution towards the costs of the TRO.

17. The Highway Authority concluded that the introduction of parking restrictions would not incentivise inappropriate or dangerous parking and would not have a severe impact on the operation of the highway network. It also confirmed that the impact of the increased vehicular use of this section of the highway on walking distances to alternative parking spaces was a matter for the local planning authority.

18. In terms of highway safety, Mr Philpott, on behalf of the Council, explained that whilst yellow lines generally prevent waiting or parking, some activities such as stopping to load or unload, or parking with a valid Blue Badge for up to 3 hours are permissible.

19. Mr Philpott submitted that if a vehicle were to stop on the double yellow lines, service vehicles (particularly larger ones) may be obstructed, and this in turn could give rise to inappropriate manoeuvres or vehicles mounting the footway. He suggested that existing residents may need to stop on the yellow lines in order to load/unload, or for disabled parking. On the basis of the 17 properties with frontages onto the proposed yellow lines he suggests that there could be 2 or 3 vehicles a day for servicing purposes. This figure is based on TRICS data.[1]

[1] Two way flow of 5 vehicles between 0700-1900 per day

20. It is possible that delivery drivers may park on the yellow lines to load/unload, particularly outside of the properties on the south side of Romsey Avenue between the site access and Beaulieu Avenue. However, there are no restrictions on such parking at present, although the Highway Code states that cars should not stop in such locations. Whilst the appeal proposal would increase the number of vehicles using this stretch of Romsey Avenue, including service vehicles, they would be unlikely to add to the number of vehicles stopping in the locations where the yellow lines are proposed.

21. Even on the Council's evidence the number of vehicles visiting these properties would be low. No evidence was submitted to the Inquiry to indicate that there are safety concerns in respect of the existing situation, or that delivery vehicles visiting these dwellings have a detrimental effect on highway safety. The proposed parking restrictions would deter rather than increase the propensity for vehicles to park in these locations, I therefore conclude that there is no substantive evidence to indicate that the proposed parking restrictions would be detrimental to highway safety. Indeed, the proposed parking bays would be likely to improve driver visibility and the free flow of traffic by comparison with the existing situation.

22. I agree with the Highway Authority that subject to the proposed improvements the proposal would not be harmful to highway safety.

Parking Displacement

23. The parties differ as to the number of parking spaces that would be displaced by the appeal scheme due to the introduction of the proposed parking restrictions. There are existing yellow lines at the northern end of Beaulieu Avenue at the junction with the A27. It is proposed to introduce yellow lines at the junction with Romsey Avenue, these would extend a short distance along Beaulieu Avenue, and due to the corner would be unlikely to displace any parking.

24. I acknowledge the Council's view that whilst the Highway Code states that vehicles should not stop within 10 metres of a junction other than in an authorised parking space this is not mandatory or underpinned by legislation. [2] Nonetheless, I consider that few drivers would park in such a clearly inappropriate and potentially dangerous location. The proposed parking bays would be sufficient for 11-12 cars. Given the limited length of the yellow lines proposed along Beaulieu Avenue I do not consider that the appeal proposal would have a significant adverse effect on parking.

25. A parking survey to establish the extent of existing on-street parking in Romsey Avenue and Beaulieu Avenue demonstrated that with the proposed parking there would be sufficient capacity within reasonable proximity to the existing parking locations to accommodate the displaced parking.

26. The yellow lines would extend in front of 15 properties in this part of Romsey Avenue. Of these, 11 have sufficient space to park two cars on their driveway. The appellant carried out an initial parking survey, and at the request of the Highway Authority undertook further independent surveys in November 2018. The latter identified that a maximum of 13 cars parked either in the bellmouth of Romsey Avenue or within the visibility splays where the parking restrictions

[2] Rule 243

are proposed. This figure formed the basis for the appellant's parking displacement study.

27. The Council suggest that the number of vehicles displaced by the proposal would be greater than suggested by the appellant. It states that there is parking demand for 7 – 9 vehicles within the access road as evidenced by photographs submitted by residents and Google images that show between 7 and 5 vehicles (including a trailer).

28. Based on the available evidence, it would seem that between 4 and 5 vehicles are generally parked on the access road. This is supported by the appellant's parking surveys, evidence from additional visits undertaken by Mr Wiseman on behalf of the appellant, and my own observations from visiting the site at various times of day and different times of year. It may be that on occasion that parking demand exceeds this figure as indicated in the photographs submitted by residents. The Council's position relies on photographs, the most recent of which support the appellant's position, whereas the appellant relies on independent survey evidence. Whilst there may be some variation in the level of parking on the access road, on the basis of all of the evidence submitted to the Inquiry and my own observations, I consider the typical level of parking displacement to be about 5 vehicles, 4 of which would be provided for by the proposed parking bays.

29. The appellant's parking displacement study concluded that the furthest a vehicle would be displaced would be 45.1 metres, whilst the average would be 22 metres. The Council is critical of this figure on the basis of the number of cars to be displaced and the methodology used. It undertook its own assessment (the Mayer Brown Parking Displacement Study).

30. The Council's study considered a number of scenarios including 7 vehicles parked in the access road, with 3 being displaced, and 9 vehicles parked in the access road with 5 displaced. Whilst the Council accept that the scenario put forward by the appellant that assumes that all cars are able to park in the closest space possible to their original position is possible, it considers that in practice displacement would be more random. Therefore, for each scenario it submitted 5 rounds of displacement.

31. For the reasons given above in respect of the number of vehicles displaced from the access road I find scenario 1 to be the most representative. Based on the Mayer Brown Parking Displacement Study about 3 vehicles would be displaced by more than the 45 metres suggested by the appellant. The extent of displacement ranges from 46 metres to 87.8 metres. In each round the majority of vehicles would be displaced by less than 20 metres, and the number of vehicles displaced by more than 60 metres is low in all rounds. Moreover, since the survey on which scenario 1 is based was undertaken, two additional properties now benefit from off-street parking, and therefore the extent of displacement may be less than assessed at the time of the survey. I do however accept Mr Philpott's view that such off-street parking provision may have been provided to accommodate additional cars within the same household. I have therefore relied on the number of vehicles in scenario 1.

32. Although there may be some displacement of existing parking on surrounding roads caused by the parking restrictions, the extent of displacement would not be great. Moreover, many of the properties in Romsey Avenue, including the

locations where yellow lines are proposed have one or more off-street parking space.

33. I therefore conclude that the proposal would not have an adverse effect on highway safety and may even provide some safety benefits due to the improved visibility at junctions and greater width of the running carriageway. Nor would the proposal give rise to a significant loss of amenity due to parking displacement.

34. Overall the proposal would not conflict with Core Strategy Policy CS5 which states that proposals should not affect the safety and operation of the strategic and local road network and Policy DSP40 of the Local Plan Part 2 Development Sites and Policies in so far as it would not have any unacceptable amenity or traffic implications.

On-Site Biodiversity

35. The Council consider that insufficient information was submitted with the application to conclude that it would not harm on-site biodiversity. The appellant subsequently updated the Environmental Statement including Chapter 10 in relation to Ecology and Biodiversity and submitted a Framework Landscape and Ecological Specification Plan (fLEMP)

36. Further clarification in relation to the fencing surrounding the Bird Conservation Area, the badger sett, and the mix of grasses was provided during the Inquiry. As a consequence, the remaining differences between the parties relate to the need for updated surveys and the cumulative effects on badgers arising from the adjacent Cranleigh Road development.

37. The surveys assessed in the original ES took place between 2014-2018. The Phase 1 Habitat and the badger surveys were updated in November 2020. The most recent survey found that the badger sett recorded in the south eastern corner of the site was still active and it is suggested that this is an annex to a main sett on the neighbouring site to the east.

38. The proposal would provide some enhancement in terms of improved foraging for badgers and additional open space. The existing trees and hedgerows on the site would be retained. The Council nevertheless remains concerned that the badger group on the adjoining site would be 'hemmed in' by development to the north, east and west.

39. The lfLEMP sets out that there would be a 30-metre buffer zone around the badger sett in the south east corner of the site. Any works within this area would be carried out under the supervision of an Ecological Clerk of Works and a licence would be sought from Natural England due to the proximity of the proposed fence to the sett.

40. The proposed measures within the fLEMP and the Construction Traffic Environment Management Plan would avoid harm to the badgers on the site. There is sufficient survey information to avoid any significant impact on badgers during construction. Badgers are a mobile species and should any works be required in the vicinity of the setts, further surveys may be necessary as part of the licencing process.

41. In terms of the 'in combination' effects, the hedgerows, which afford foraging opportunities would be retained and enhanced, and further hedgerows would

be planted as part of the Bird Conservation Area proposals. Overall, the proposal would improve the foraging habitat for badgers on the site.

42. The baseline conditions for bats were reassessed following updated manual and automated activity surveys conducted in May 2021 and compared with the previous baseline. The May bat surveys recorded Barbastelle bats in addition to those identified in the previous surveys. As a result of this finding, this species was added to the EIA.

43. Six ash trees in the south west corner of the site were identified as having low potential to support roosting bats. No further roosting features were identified in the November 2020 survey.

44. The updated baseline evidence indicates no significant change to bat activity on the site. The boundary features, including the hedgerows and trees used by commuting bats would be retained and enhanced. Whilst updated bat surveys (that are due to continue until October) may be useful for the determination of the reserved matters, in the light of the updated baseline evidence, and having regard to the characteristics of the site I consider that there is sufficient information in order to assess the likely significant effect of the proposal on bats.

45. The fLEMP includes a number of mitigation measures in relation to biodiversity including areas of semi-improved grassland, hedgerow planting, a kingfisher and sand martin bank. Taken together these measures would deliver a biodiversity net gain. The proposal also includes a number of mitigation measures such as bird and bat boxes, artificial hibernacula for reptiles and amphibians and log piles. The appellant has calculated of 10.04% biodiversity net gain in accordance with the Framework.

46. On site ecological features of interest including badgers, bats, breeding birds and reptiles would be protected. The Ecological Design Strategy, together with the CEMP and the LEMP would deliver include mitigation and enhancement measures. These would be secured through appropriate conditions.

47. I conclude that the effect of the proposal on on-site biodiversity is, subject to the proposed mitigation, acceptable and would comply with Local Plan Part 2 Policy DSP13 which seeks to safeguard protected and priority species and their associated habitats, breeding areas, foraging areas and would also secure a net gain in biodiversity through environmental enhancements.

The effect of the proposal on European Protected Sites

48. Eight Natura 2000 sites fall within either the standard 10km buffer applied during the Ecological Impact Assessment, or separately defined Zone of Influence (ZOI). At its closest point the appeal site is situated 0.2 km from the Portsmouth Harbour Special Protection Area (SPA) and Ramsar, 5.14 km from the Solent and Southampton Water SPA and Ramsar, 6.79km from the Solent Maritime SAC, 6.83 km from the Chichester and Langston Harbour SPA and Ramsar and 7.43 km from the Solent and wildlife Lagoons SAC. Together these are referred to as the Solent Special Protection Areas (SPAs).

49. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') aims to conserve key habitats and species by creating and maintaining a network of sites known as the Natura 2000 network.

50. Core Strategy Policy CS4 seeks to prevent adverse effects upon sensitive European sites and states that the Council will work with other local authorities (including the Partnership for Urban South Hampshire) to develop and implement a strategic approach to protecting European sites from recreational pressure and development. Development likely to have an individual or cumulative adverse impact will not be permitted unless the necessary mitigation measures have been secured.

51. Policy DSP13 of the Local Plan Part 2 states that development may be permitted where it can be demonstrated that amongst other matters designated sites and sites of nature conservation value, as well as protected and priority species populations and their associated habitats, breeding areas, foraging areas are protected and, where appropriate, enhanced and the proposal would not prejudice or result in the fragmentation of the biodiversity network.

52. Policy DSP15 states that proposals resulting in a net increase in residential units may be permitted where 'in combination' effects of recreation on the SPAs are satisfactorily mitigated through the provision of a financial contribution that is consistent with the approach being taken through the Solent Recreation Mitigation Strategy. Any proposal likely to have a direct effect on a European-designated site, will be required to undergo an individual Appropriate Assessment. This may result in the need for additional site-specific avoidance and/or mitigation measures to be maintained in perpetuity. Where proposals would result in an adverse effect on the integrity of any SPAs, planning permission will be refused.

53. The proposal has the potential to impact on the integrity of the Solent SPAs through recreational disturbance, the deterioration of the water quality, disturbance during construction, and the loss of supporting habitat for brent geese'

Recreational Disturbance

54. The proposed development would increase the population of the local area and in the absence of suitable alternative recreational space, people are likely to visit the Solent SPAs, including Portsmouth Harbour. This increased recreational pressure may lead to disturbance of SPA designation bird species, and therefore, have potential effects on the features of the SPA.

55. The appellant proposes mitigation for this increased recreational disturbance in accordance with Policy NE3. The mitigation includes a financial contribution based on the Bird Solent Aware payment schedule (April 2021), in accordance with the Solent Bird Aware Solent Recreation Mitigation Strategy and secured through the UU. The Strategy details the mitigation measures implemented to minimise the impacts of increased recreational disturbance. The inclusion of public open space within the proposed development would also be likely to significantly reduce the proportion of daily visits away from the Portsmouth Harbour SPA.

Water Quality

56. The waste water from the new development would introduce an additional source of nutrient loading (Total Nitrogen) to the Portsmouth Harbour SPA, Ramsar catchment. There is existing evidence of high levels of nitrogen and

phosphorus in the water environment with evidence of eutrophication at some designated sites.

57. The appellant submitted a nitrogen budget that demonstrates that the development would be nitrogen neutral and that no mitigation is required. Neither the Council, nor Natural England raise any concerns with regard to the submitted nitrogen budget, subject to a condition that secures water use of 110 litres of water per person per day.

58. On the basis of the submitted nitrogen budget I am satisfied that the proposed development would not have an adverse effect on water quality.

Brent Geese

59. Fareham Borough is an internationally important wintering location for brent geese and wading bird species. These areas are dependent on a network of habitats to provide feeding and roosting areas for brent geese and waders (SPA birds) outside of the SPA boundaries. These supporting sites are functionally linked to the SPAs, and adverse impacts to these supporting habitats may affect the integrity of the SPA.

60. The appeal site is identified within the Local Plan as an 'uncertain' site for brent geese and waders. However, the most recent assessment, *the 2020 Solent Waders and Brent Goose Strategy* (SWBGS), categorises the site as a Primary Support Area for the Portsmouth Harbour Special Protection Area (SPA) and Ramsar site. Primary Support Areas are land that, when in suitable management, make an important contribution to the function of the ecological network for Solent waders and brent geese. Such areas are "important" for the purposes of Policy DSP14 and the loss of such a site requires either evidence to demonstrate that there would be no adverse impact on the site, or that appropriate avoidance and/or mitigation measures to address the identified impacts can be secured.

61. The site forms part of Parcel F21 which includes an agricultural field to the south of the appeal site. It is adjoined by a 'low use' site to the west (F22) and a secondary support area to the south west (F05).

62. Parcel F21 would be reduced in size by about 8.1 hectares. The remaining 10 hectares would include a 4.5 ha Bird Conservation Area within the appeal site of which 3.7 ha would be managed to provide optimal foraging habitat for brent geese. The brent goose mitigation habitat would comprise improved grassland specifically managed as foraging habitat for brent geese and would be located at the southern end of the site to ensure that it would be bordered as much as possible by open arable land. The delivery and future maintenance of this area would be secured by the Bird Conservation Area UU.

63. In terms of Primary Support Areas the SWBGS states that where on-site avoidance or mitigation measures are unable to manage impacts, there may be opportunities for the loss or damage to these areas to be off-set by the provision of new sites to ensure a long term protection and enhancement of the wider wader and brent goose ecological network. In this instance it is proposed to provide mitigation on-site. Such mitigation must ensure the continued ecological function of the wader and brent goose sites is maintained and enhanced.

64. Aside from sightings of individual birds by local residents there are no records of brent geese on the appeal site since 2013. Although winter crops were previously cultivated on the site, since 2014 it is ploughed in November and sown with summer crops in March. This regime means that the earth is bare from November until April when the first crops start to appear and therefore the site has not been in suitable management for brent geese since 2014. Therefore, the suitability of the mitigation needs to be assessed against the potential of the land to support brent geese when in suitable management. The last recorded brent geese on the site were in 2012 and 2013 when 300 geese were recorded on the site.

65. Although the *SWBGS - Guidance on Mitigation and Off-setting Requirements* does not set out criteria against which mitigation should be assessed, the remaining land with mitigation in place should fulfil the same special contribution and particular function of the areas lost. I therefore consider that given the significant reduction in the size of the Primary Support Area that the criteria for off-set land within the SWBGS provide a useful guide as to the suitability of the proposed mitigation. These are habitat type; disturbance; area/size of habitat; timing and availability of habitat; and geographic location. These factors are closely related to the concerns raised by Natural England in relation to the appeal scheme, namely the size of the proposed reserve, the loss of openness, restricted sight lines and the close proximity of new development.

66. *Habitat Type* It is proposed to provide 3.7 ha of improved grassland, with the remainder of the Parcel F21 outside of the site remaining in agricultural use. Overall, in comparison with the agricultural use of the site, even when in favourable management, the proposed habitat would represent an enhancement. This enhancement must be balanced against the overall loss of habitat and the ability of the mitigation land to accommodate brent geese at a comparable level to that previously recorded on the site.

67. *Disturbance* At the present time the rear gardens of the dwellings on the south side of Romsey Avenue back on to the appeal site. Anecdotal evidence from the appellant suggests that some residents use the site for recreational purposes. The SWBGS states that buildings within 50 – 500 metres of the support site make it less suitable for brent geese. There are already numerous dwellings within this distance and the proposed development would not make a significant difference in this regard.

68. There is also a potential for greater disturbance from recreational use and unmanaged public access to the public open space on the site and the site to the east. The mitigation proposals include a 2 m high perimeter fence to prevent access to the Bird Conservation Area, as well as a ditch along the length of the fence on the reserve side with a single point of access for maintenance/security. These measures would assist with limiting disturbance. The Bird Conservation Area UU includes provision to transfer the area to the Hampshire and Isle of Wight Wildlife Trust, the RSPB or another body together with a monitoring fee to cover the costs of an annual report for the first 10 years, with provision for additional monitoring every 10 years, in perpetuity, in accordance with the SWBGS Mitigation and Off-setting requirements. On this basis I am satisfied that the proposed measures would remain effective for the lifetime of the development.

69. *Area/Size* The appellant submitted details of other Primary Support Areas or Core Areas[3] nearby that support a similar or greater number of geese and are considered to be comparable in character and size with the proposed Bird Conservation Area.[4] A number of these areas are used as sports facilities and also have urban development close by. They nonetheless continue to support a similar or higher number of brent geese as recorded at the site when it was under suitable management.

70. These sites range in size from 2.92 ha to 5.6 ha and with the exception of G30C all record in excess of 300 brent geese during surveys. The number of birds observed fluctuates annually with 400-500 being typical, but occasions where 900-1,200 birds have been recorded. The sites are generally used as sports pitches or amenity grassland. Some are surrounded by more open land by comparison with the appeal site, but a number are adjoined by residential or commercial development and located adjacent to roads. I viewed these sites at the time of my site visit and with the exception of G30C they are comparable in size to the brent goose foraging area and for the most part have a similar or greater proximity to development as the Bird Conservation Area proposed. Unlike the Bird Conservation Area proposed by the appeal, the primary use of these sites is generally for recreational sporting purposes and not as a dedicated conservation site. G30C differs from the other sites in that it is bisected by a road and the northern part is an area of woodland and therefore the available land is less that the 2.92ha suggested. It is notable that this is the only area that did not record a significant number of brent geese.

71. Timing/Availability of habitat/Geographic location The UU secures the provision of the Bird Conservation Area and requires it to be laid out prior to the commencement of any other development. The site forms part of the Primary Support Area for brent geese and therefore is suitable in terms of location.

72. Overall, I conclude that the proposed mitigation would be consistent with the requirements of the SWBGS Mitigation Strategy, and would, subject to the measures within the Bird Conservation Area UU mitigate the loss of the part of the Primary Support Area and would therefore comply with Policy DSP14.

73. The appellant also submits that the designation of the site as a Primary Support Area is not justified on the basis of the SWBGS which uses a metric methodology to categorise sites. The metrics are based on the survey results which took place over a three-year period from 2016/17. The records were collated along with the previous records from the 2010 Strategy, and supplemented with bird data from Hampshire Ornithological Society, Hampshire & Isle of Wight Wildlife Trust (HIWWT), the Solent Birds Studies bird surveys and Solent Birds Recording App, as well as additional surveys by Hampshire Biodiversity Information Centre surveys for the coastal local authorities.

74. The appeal site has not provided suitable foraging conditions for brent geese since 2014 when due to damage to winter crops due to Canada geese the farmer adopted a new farming regime. The ES confirms that prior to this change there are records of 300 brent geese on the site during 2012 and 2013

[3] Core Areas are considered essential to the continued function of the Solent waders and brent goose ecological network and have the strongest functional-linkage to the designated Solent SPAs in terms of their frequency and continuity of use by SPA features.
[4] Shadow HRA pages 30 -35

when the management involved the management of a winter wheat crop rotation.

75. There is limited information available in relation to these records and the appellant questions the extent to which they can be relied upon. The SWBGS includes a mechanism for the re-classification of support sites, but these require 3 consecutive years of survey to the agreed survey methodology under appropriate habitat management conditions.

76. It is undisputed that the current management regime renders the site unsuitable for brent geese and the appellant states that the land will not return to winter crops. Whilst this may be the intention of the current tenant farmer the situation could change in the future. The loss of this land without mitigation would result in the permanent loss of foraging habitat for brent geese. Whilst the site has not fulfilled this function for a number of years, its loss without either mitigation, or clear evidence that under a suitable management regime it would not provide suitable foraging for brent geese, would be contrary to Policy DSP14 and DSP15 due to the potential effect on the integrity of the SPA.

77. Observations from local residents suggest that the birds may be disturbed by on-going construction noise. It is proposed that the Bird Conservation Area would be provided before construction commences and that a Construction and Environment Management Plan (CEMP) including an Ecological Avoidance and Mitigation During Construction Plan, identifying all sensitive habitats on-site. Notwithstanding this, disturbance during construction may deter some birds from using the site, however, they are a mobile species and the areas they occupy will vary from year to year.

78. Details of a sanctuary for brent geese in Southsea were submitted to the Inquiry. The evidence suggests that the area was not used and was removed for summer months when it is not required by the geese. Brent geese are a mobile species and their failure to use a site each year does not necessarily mean that mitigation is unsuccessful. On the basis of the available information I do not consider that the failure of the brent geese to use the Southsea site has implications for the mitigation proposed by this appeal.

Appropriate Assessment (AA)

79. The Solent Disturbance and Mitigation Project found that a significant effect on the SPA arising from new housing development around the Solent could not be ruled out. Therefore, avoidance and mitigation measures are required for all residential development within 5.6 km of the Solent SPAs to ensure there is no adverse effect on the integrity of the SPAs from the in-combination effects of new housing.

80. The Habitats Regulations (the Regulations) require that if likely significant effects on a European site cannot be excluded, permission may only be granted after having ascertained that it would not affect the integrity of the site either alone or in combination with other plans or projects. If adverse effects on the integrity of the protected site cannot be excluded on the basis of objective scientific evidence, then it must be assumed that they will occur. However, this is an outline application, and my assessment should be proportionate to the amount of evidence before me.

81. The appeal site lies within buffer zone or Zone of Influence for 8 Natura 2000 sites. These sites are recognised for the international importance of the Solent harbours and estuaries for wintering waterbird assemblages, and/or individually important populations of one or more species. Portsmouth Harbour SPA qualifies under Article 4.2 of the Birds Directive for supporting internationally important numbers of wintering dark-bellied brent geese and nationally important numbers of grey plover, dunlin and black-tailed godwit.

82. The proposed development has the potential for the following effects:

- Recreational pressure impacts from the proposals alone or in combination on Solent and Southampton Water SPA and Portsmouth Harbour SPA;
- Potential air quality impacts on Portsmouth Harbour SPA;
- Potential impacts of construction noise disturbance on Portsmouth Harbour SPA and supporting habitat loss impacts on Portsmouth SPA.
- Potential for harm to water quality was screened out due to the submitted nitrogen budget.

83. The conservation objectives for the SPA areas are to ensure that, the integrity of the SPA is maintained or restored as appropriate, and that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring:

- the extent and distribution of the habitats of the qualifying features
- the structure and function of the habitats of the qualifying features
- the supporting processes on which the habitats of the qualifying features rely
- the populations of each of the qualifying features
- the distribution of qualifying features within the site.

84. Four out of ten condition features of the Solent and Southampton Water SPA are in poor condition and/or are currently impacted by anthropogenic activities. The remaining six features are in good condition and not impacted. For the Portsmouth SPA 3 out of the 4 condition features are in good condition, with the remaining one in poor condition.

As part of the updated ES the appellant submitted a shadow Habitats Regulation Assessment. This was considered by Natural England prior to the Inquiry. Natural England is satisfied in terms of the recreational, air quality and disturbance during construction. I address Natural England's concerns with regard to the loss of supporting habitat below. *Recreational Disturbance*

85. Both the Local Plan and Natural England's condition assessment conclude that, in the absence of mitigation, any new residential development within 5.6 kilometres of the Solent SPA sites is likely to lead to a significant effect on the condition features of the sites through additional recreational disturbance either alone or in-combination.

86. Policy NE3 of the Fareham Borough Local Plan provides a financial mechanism through which the impacts of recreational disturbance from new residential developments can be mitigated. Policy NE3 is implemented through the Solent Bird Aware Solent Recreation Mitigation Strategy. The scale of developer

contributions was updated in April 2021 and the submitted UU makes provision for the appropriate sum.

87. The contribution would be used to fund a team of seven rangers who would engage with visitors, explaining the vulnerability of the birds, and advising people how they can avoid bird disturbance. The aim is to secure behavioural change through awareness raising, including through communications, marketing and education. Monitoring would help confirm that mitigation measures are working as anticipated, and whether refinements or adjustments are necessary. In the longer term, it would establish whether the mitigation strategy is being effective.

88. Natural England is satisfied that the proposed mitigation would be acceptable.

Air Quality

89. There are nine pinch point locations within 5km of the site where additional traffic from the proposed development would travel within 200m of the Solent SPA sites. The sensitive qualifying features of the sites could be exposed to emissions.

90. The changes in the Annual Average Daily Traffic (AADT) for these nine locations were under the threshold AADT for the development alone. However, seven of the locations exceeded the 1000 AADT when assessed cumulatively with other proposed developments.

91. Changes in key pollutants emitted by road traffic that are known to have negative impacts on the natural environment were calculated. The modelled figures show that the critical loads for NH_3 (Airborne ammonia) are not exceeded at any of the pinch points in relation to the qualifying feature species that the SPA is designated for ($3\mu g/m^3$). Therefore there would be no adverse effects on the SPA site arising from increased ammonia associated with the development or in combination with other projects.

92. Critical loads for NOx were exceeded slightly in relation to the qualifying feature species that the SPA is designated for ($30\mu g/m^3$) at two pinch points. These are both located on the main roundabout that links the A27 west out of Portchester, with the A27 running north to south from the M27 with Fareham. This is immediately adjacent to the Portsmouth Harbour SPA at the northern tip of Salterns Lake/Fareham Creek. The habitats within this location of the SPA are largely tidal mudflats. This habitat type is inundated with sea water at least twice every 24 hours. Tidal mudflats are therefore not generally sensitive to increased deposition of airborne pollutants, as they are not able to accumulate.

93. A small section in the north-western part of the creek is not intertidal. In this location the total Predicted Environmental Concentration does not exceed the Critical Level either in combination with other projects.

94. The structure and function of the habitats of qualifying features would not be adversely affected by predicted airborne pollutants or deposition. There would be no significant impact on the qualifying features nor the conservation objectives of the Solent SPA sites through airborne pollution arising from the proposals alone, or in combination with other proposals in the Local Plan.

Construction Phase Noise Impacts

95. The proposed development site is about 200 metres from the closest boundary of the Portsmouth Harbour SPA. During the construction phase of the development, noise levels would significantly increase from the baseline, through groundworks, site preparation and the building phase. The qualifying features of the SPA (specifically brent geese) are sensitive to construction noise within 300 metres of the SPA. Any additional noise created within this zone is likely to disturb or prevent brent geese feeding within the SPA. Similar considerations apply to the proposed brent geese foraging area.

96. Mitigation will be required to limit the short-term impacts of noise generated by construction disturbing SPA bird species. Mitigation measures will be conditioned through a CEMP. This would limit what operations can take place on site during the sensitive period for brent geese and other SPA species. The construction schedule for the site would be configured to restrict disturbance noise level creating operations outside of the sensitive period for SPA birds, between October and February inclusive. A condition is proposed to secure this.

97. With the appropriate mitigation measure applied through a CEMP, there are unlikely to be significant effects from construction noise on the qualifying feature bird species for the Portsmouth Harbour SPA. There would be no effect on the conservation objectives and the integrity of the Solent SPAs would be maintained.

Loss of Supporting SPA Habitat

98. The appeal site is a Primary Support Area for brent geese and waders and when in suitable management has the potential to make an important contribution to the function of the ecological network for Solent waders and brent geese and is functionally important for the integrity of these internationally important sites.

99. Prior to the Inquiry Natural England acknowledged that the proposed bird mitigation land could be successful, but nonetheless consider that there is no certainty that the reserve would replicate the current ecological function of the appeal site due to the combined influence of a number of factors.

100. A number of documents were submitted during the course of the Inquiry including the Bird Conservation Area UU, the Framework Landscape and Environmental Management Plan, the Winter Bird Mitigation Technical Note and the Funding for Bird Conservation Area Proposals.[5]

101. Together these documents outline the design, management and costing of the Bird Conservation Area, the necessary financial contribution, the timing and provision of the Bird Conservation area and its transfer to an appropriate body such as the RSPB or the HIWWT. Subsequent to the Inquiry, these documents were submitted to Natural England for comment.

102. Natural England state that mitigation measures may be acceptable where, together with long term management, the habitat quality in the remainder of the Primary Support Area can be significantly improved so as to provide for a greater capacity for the target species than the original site.

[5] INQ 39,INQ 25 & INQ 26

103. Its current position is that the suitability of the Bird Mitigation Reserve is still uncertain, and it is unable to advise with certainty that the Bird Mitigation Reserve would fulfil or exceed the same special contribution and particular function of the existing Primary Support Area and protect the integrity of the Portsmouth Harbour Special Protection Area.

104. In its present condition the appeal site does not provide suitable foraging for brent geese and has not done so since 2014. The current farming regime does not benefit brent geese, and this seems unlikely to change in the foreseeable future. Notwithstanding this, in the absence of suitable mitigation the permanent loss of part of the Primary Support Area as proposed would have the potential to harm the integrity of the SPA.

105. The proposed development would result in the loss of Solent Wader and Brent Goose habitat. Parcel F21 would be reduced in size by about 8.1 ha, with about 10 ha remaining including the Bird Mitigation Reserve (4.5ha). This would include 3.7 ha of improved grassland specifically managed as a lush sward which is the highest preference forage habitat for brent geese. There would be a central scrape providing a winter source of freshwater. The northern boundary between the development and mitigation area would have a perimeter fence of sufficient height to screen the area from human disturbance. The southern boundary would be retained as is, to maintain permeability between the brent goose reserve and southern field parcel of F21.

106. The mitigation area would be smaller in size than the existing Primary Support Area. The suitability of the grazing for brent geese would be significantly improved. There is clear evidence, based on the comparative sites submitted by the appellant, that in terms of size of the area proposed the Bird Conservation Area has the potential to accommodate a much greater number of birds than were previously recorded at the appeal site. Moreover, this area would form part of the remaining 10 ha Primary Support Area for brent geese. The quality of the habitat would be secured through the Bird Management and Monitoring Plan that would detail the exact specifications for establishment, fencing, management and monitoring of the site in perpetuity. The site would be managed by a conservation body, so the potential to remove suitable grazing habitat for several years, or even in the longer term, would be removed.

107. Unlike the present Primary Support Area, or the sites in the appellant's Shadow HRA, the site would not be subject to dual use or accessible to the public and any consequential disturbance. Unlike these other areas the Bird Conservation Area would be specifically managed to provide a high-quality foraging habitat for brent geese. The mitigation includes measures to screen the area from the effects of human disturbance, and in any event would be no closer to the proposed dwellings by comparison with the existing site. These measures would be secured by the UU. The level of openness would be reduced from the existing due to the proximity of the proposed development, but the area to the south, between the Bird Conservation Area and the SPA would remain unchanged. It would be significantly more open that many of the sites I visited, some of which were enclosed by built development or other urban features on three or more sides.

108. The Bird Mitigation Reserve proposed through the Romsey Avenue development would secure suitable brent goose and wader habitat linked to the

remainder of F21 in perpetuity and would greatly exceed the current ecological function of the appeal site as a Primary Support Area.

109. The appeal proposal would provide suitable habitat that would be secured for the foreseeable future and would be suitably managed and monitored. The proposed mitigation would provide enhanced suitability by preventing disturbance and ensuring the habitat within the site is suitable throughout the winter period in perpetuity. I therefore conclude that subject to the proposed mitigation the scheme would not harm the integrity of the SPA.

110. Taking all of these matters together, I find that there is certainty that the site would be managed for the benefit of brent geese in perpetuity, and that, and it would replicate or exceed the potential ecological function of the existing Primary Support Area in the event that it were to be returned to favourable management conditions for brent geese. I conclude that the proposal would not have an adverse effect on the integrity of the Portsmouth Harbour SPA either alone or in combination with other projects.

Development outside of the settlement boundary

111. The parties agree that due to an absence of a 5 year housing land supply Policy DSP40 is triggered. This states that where it can be demonstrated that the Council does not have a five year supply of land for housing against the requirements of the Core Strategy, additional housing sites, outside the urban area boundary, may be permitted where they meet the specified criteria. There is no dispute between the parties in relation to the first four criterion. These relate to the scale and location of the development, the character of the area and the deliverability of the proposal.

112. The Council submit that the proposal would fail to comply with the fifth criterion since it would give rise to environmental harm due to the adverse effect on the integrity of Europeans sites, harm to on-site ecology and the loss of Best and Most Versatile Agricultural (BMV) and. It also considers that displacement of parking in Beaulieu Avenue and Romsey Avenue would be unacceptable in terms of highway safety and amenity.

113. As set out above the difference between the parties in terms of the impacts on on-site ecology have narrowed significantly since the application was determined. I have found above, that subject to the proposed mitigation the effect of the proposal on on-site biodiversity is acceptable.

114. I also conclude that subject to the mitigation measures secured by the UU the proposal would adequately mitigate the loss of part of the Primary Support Area and avoid harm to the integrity of the SPA. Whilst there would be a loss of BMV land, the Council and the appellant agree that it is a matter to be weighed in the overall balance and would not in itself justify the refusal of planning permission

115. The proposal would not have an adverse impact on highway safety and would perhaps provide some benefits. Whilst the displacement of parking may give rise to some inconvenience at times this would not be at an unacceptable level.

116. I therefore conclude that the proposal would comply with Policy DSP40 as a whole and the principle of the development outside of the settlement boundary is acceptable.

Other Matters

Highway Issues

117. A number of interested parties, including Councillors Nick and Sue Walker, raised concerns about the impact of the proposal on the safety of children walking and cycling to and from school.

118. The Transport Assessment assessed the effect of the proposed development on cyclists and pedestrians during the construction and operational phases. The addendum Transport Assessment included a detailed Pedestrian / Cycle Audit to consider the routes from the site to key destinations. As a consequence, a number of mitigation measures are proposed.

119. The appellant proposes a financial contribution towards improved footway provision along the routes towards Fareham town centre and the railway station and cycle safety improvement schemes at Cornerway Lane roundabout, as well as improvements to footpaths in the vicinity of the site. Other measures include a school travel plan for Wicor Primary School which is a 12-minute walk from the proposed site. Subject to these measures the Highway Authority confirm that the proposed development is acceptable in terms of highway safety and sustainability.

120. I visited the area at the beginning and end of the school day to observe traffic conditions in the vicinity of the Wicor Primary School. As is often the case with primary schools, congestion was greatest at the end of the school day when the immediate vicinity was subject to parking pressure. The proposal would not add significantly to school traffic and with the proposed School Travel Plan to encourage walking and cycling and the proposed mitigation measures I do not consider that the proposed development would have an adverse effect on the safety of children travelling to and from school by foot.

121. I also noted at the time of my visit a considerable number of Secondary School students cycling to and from school. The importance of maintaining a safe cycle route to and from school for these students cannot be under-stated. Whilst there would be a modest increase in the number of overall number of vehicles using Romsey Avenue and Beaulieu Avenue at the beginning and end of the school day, the visibility at the junctions would be improved due to the proposed parking restriction and there would also be a wider carriageway in Beaulieu Avenue and safety improvements for cyclists at Cornerway Lane roundabout. Therefore, having regard to the evidence submitted to the Inquiry I do not consider that the proposed development would have a significant effect on the safety of cyclists in the surrounding area.

122. The Transport Assessment and the Addendum Transport Assessment assessed the operational capacity of a number of junctions within the vicinity of the appeal site. It was agreed that the site access and Romsey Avenue operate with reserve capacity, as does Romsey Avenue and Beaulieu Avenue. The Beaulieu Avenue junction with the A27 would, with the proposed widening works and adjustments to the bellmouth radii, operate within capacity. The Cornerway Lane junction would operate with reserve capacity. The A27 Downend Road signalised junction is forecast to operate with negative practical reserve capacity in future years and the appellant has provided a financial contribution to mitigate against the effects of development. The A27 Delme

Arms roundabout is proposed to be improved and the appellant has agreed a financial contribution towards this improvement.

Housing Land Supply

123. The parties submitted a housing land supply Statement of Common Ground. It is agreed that the Council is unable to demonstrate a five year supply of housing land. Although the parties differ as to the extent of the shortfall, they agree that this matter should be afforded significant weight.

124. The housing requirement falls to be measured against the local housing need figure calculated using the standard method. Together with the Housing Delivery Test results published in February 2021, it is agreed that it is appropriate to apply a 20% buffer to the requirement.[6] This results in a minimum five year requirement of 3,234 dwellings for the five year period 1 January 2021 to 31 December 2025.

125. The Council submits that it has a five year land supply sufficient for 2,310 dwellings. This results in a shortfall of 924 dwellings and a supply of 3.57 years. The Appellant considers the supply to be 600 dwellings. This results in a shortfall of 2,634 dwellings and a supply of only 0.93 years.

126. It is common ground between the Council and Appellant that the Council is not meeting paragraph 59 of the Framework, thus engaging the presumption in favour of sustainable development at paragraph 11(d) of the Framework unless disapplied by virtue of paragraph 177.

127. Whilst the Council and Appellant disagree as to the extent of the shortfall, it is nevertheless agreed, on either position, that the shortfall is considerable and the weight to be attached to the delivery of housing from the Appeal Scheme is significant. Therefore it is not necessary for me to conclude on the precise extent of the shortfall.

128. It was suggested by a local resident that Portchester has already accommodated considerably more than the 57 dwellings indicated within the Core Strategy. Core Strategy policy CS2 states that 3,729 dwellings would be provided within the Borough to meet the South Hampshire sub-regional strategy housing target between 2006 and 2026. The accompanying text suggests that about 57 of these dwellings would be provided within the Portchester area, this position is confirmed by Policy CS11 which expects about 60 dwellings to be provided in Portchester over the plan period.

129. At the date at which the Part 2 Local Plan was adopted there was a residual requirement for 872 dwellings over the remainder of the Plan period from April 2014. Since the adoption of the Core Strategy the National Planning Policy Framework was published in 2012, and the most recent iteration is dated July 2021. Amongst other matters it supports the Government's objective of significantly boosting the supply of homes and requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement. Where (as in the case of Fareham) the strategic policies are more than five years old local housing need should be calculated using the standard method as set out in National Planning Guidance. Where there has

[6] The recently published 2021 Housing Delivery Test results indicate that 62% of the required homes have een delivered over the past three years.

been significant under delivery of housing over the previous three years a buffer of 20% should be applied, to improve the prospect of achieving the planned supply. Accordingly, the current housing need for Fareham considerably exceeds that within the Core Strategy.

Other Issues

130. An interested party referred to an appeal decision in Harrogate[7] that also involved the loss of agricultural land. The Inspector's conclusions turned on a number of other factors, that when taken together did not justify allowing the appeal. The circumstances in this appeal differ from the Harrogate appeal, and whilst the loss of BMV land is a matter to be weighed in the overall planning balance, the parties are in agreement that the loss of such land would not in itself justify dismissing the appeal. Therefore the Harrogate decision does not alter my view above.

131. Each appeal is fact specific. I consider that the circumstances in this appeal differ from the Harrogate appeal in that even on the Council's figures the shortfall is greater than in Harrogate. It would also seem that in the Harrogate case the housing land supply was agreed to be 4.06 years, whereas in the context of this appeal the housing land supply is not agreed. Based on the submitted evidence, is likely to be between 3.57 years and 0.93 years and as such significantly lower than in the Harrogate case. Notwithstanding this, the loss of BMV land is a matter to be weighed in the overall planning balance.

132. A number of local residents referred to the importance of the natural environment in terms of recreation and their well-being. They consider the area to be unique and that the change to the view of the site would adversely impact on their well-being. Reference was also made to policies within the Framework, including the definitions of open space, Heritage Coast and Green Infrastructure.

133. The appeal site does not come within the definition of open space or Heritage Coast and there would be no loss of public open space. The proposal makes provision for green infrastructure in terms of the Bird Conservation Area and Public Open Space. The UU includes provision for open space, a neighbourhood equipped area of play (NEAP) and maintenance contributions. It also includes contributions towards the improvement of public footpaths and the Wicor Countryside Service.

134. The proposal would therefore accord with paragraph 92 of the Framework in so far as the layout would encourage walking and cycling.

School Places

135. Residents advise that there is a shortage of primary school places within the area. Hampshire County Council Children Service Department confirm that Wicor Primary School is full. The UU includes an education contribution calculated in accordance with the Council's formula for the provision of additional infrastructure at Wicor Primary School. This would mitigate the effect of the proposed dwellings on the primary education within the area.

AFC Portchester

[7] APP/E2734/W/16/3160792

136. Local residents are concerned that if the appeal is allowed that the activities of Portchester AFC may be limited due to disturbance to new residents from noise. Evidence presented to the Inquiry indicates that social activities at the Club continue until 01:00 or later, and whilst existing residents may be tolerant of this, new residents may not be.

137. The clubhouse may also be used by other local sporting teams for evening meetings on weekdays. Together the lease and planning permission provide that the clubhouse shall not be let or hired out for use for private social functions or used outside of 09:00-23:00 Monday-Sunday. There are also requirements prohibiting nuisance to neighbours. Although there have been some complaints in recent years these have been low in number and would seem to be isolated incidents. The closest of the proposed dwellings would be a similar distance from the Club to the existing dwelling at Cranleigh Avenue. Therefore provided the Club complies with the terms of the lease and planning permission it should not give rise to any undue disturbance to future residents. Accordingly, subject to suitable acoustic mitigation the proposed development would not restrict the operation of the club.

Drainage

138. Dr Farrell, an interested party, submitted that visible algal mats indicate that the substrate beneath the top soils indicate that the soil has been saturated for a long period of time and may be unsuited to infiltration.

139. Dr Farrell believes that infiltration rates would be greatly reduced or eliminated if the water table was close to the surface and therefore total reliance upon soakaways on land known to remain saturated over the winter months is unsound, as the water table is likely to be close to the surface rendering the soakaways inoperable. For this reason, he considers the drainage plan to be unsound.

140. The soil investigations were carried out at an appropriate time of year and did not encounter groundwater within any of the twelve trial holes or in the updated 2019 infiltration testing. In order to satisfy the Lead Local Flood Authority (LLFA) the appellant undertook further infiltration tests. The updated report concluded that "given the observed infiltration over the test period, it is considered that some areas of the site would be suitable for the adoption of surface water soakaway systems". The LLFA was satisfied with this conclusion.

141. As explained in the appellant's technical note the algal mats referred to by Dr Farrell could be the result of compaction associated with the current farming activity on the existing soils.

142. Although the most recent infiltration testing was undertaken in May, the original testing was undertaken in January and February when no groundwater was encountered in trial pits at depths in excess of 2.5 metres. The suitability of the site for a drainage strategy based on infiltration was a specific concern of the LLFA. On the basis of additional information submitted in June 2021 the LLFA was satisfied in this matter and withdrew its objection.

143. I am satisfied that this matter has been considered in detail by the LLFA and it is satisfied with the proposed strategy. Taking account of all of the available information I have no reason to conclude otherwise.

Unilateral Undertakings

144. As set out above the appellant submitted two Unilateral Undertakings. The Framework states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. I shall consider the main UU first, followed by the Bird Conservation Area UU in the context of the guidance in the Framework, PPG and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The UU includes a mechanism (sometimes known as a 'blue pencil' clause) at 3.3 which provides that should the decision-maker conclude that any of the obligations do not pass the statutory tests such obligations shall have no effect and consequently the owner and/or other covenanters shall not have liability for payment or performance of that obligation.

145. Schedule One undertakes to provide 40% of the dwellings as affordable housing in accordance with a mix that has been agreed with the Council. The provision of affordable housing accords with Core Strategy Policy CS18. The Council's Affordable Housing Strategy (2019-36) states that there is a current need for around 3,000 affordable homes in the Borough, with around 1,000 households on the waiting list. I conclude that the affordable housing obligations meet the tests within the Framework.

146. Schedule Two includes obligations in relation to the provision of open space. It requires the provision of open space in accordance with the Council's minimum requirements and the payment of an open space maintenance contribution. It also requires the provision of a Neighbourhood Equipped Area for Play (NEAP) to be provided and transferred to the Council, or the transfer of land for the NEAP together with the NEAP contribution to allow the Council to layout and equip the NEAP. There is also a requirement for a NEAP maintenance contribution.

147. The provision of open space is necessary to comply with policy CS21 and to meet the recreational needs of the proposed development.

148. Schedule Three concerns environmental and habitat obligations. It requires the payment of the Bird Aware Solent contribution which is necessary to mitigate the recreational pressure arising from future residents on the Solent SPA. It is necessary to make the development acceptable and maintain the integrity of the SPA. It is also directly related to the development and fairly and reasonably related in scale and kind.

149. Schedule Four undertakes to make a financial contribution towards Primary Education. Wicor Primary School is at capacity and the contribution would be used to provide additional infrastructure at the school, including a School Travel Plan to meet the educational needs of the development. Therefore the contribution is necessary to make the development acceptable and I am satisfied that it is fairly and reasonably related in scale and kind.

150. Schedule Five relates to Countryside Services. It covenants to make a financial contribution towards re-surfacing footpaths 110 and 111a. It also includes a financial contribution towards the Wicor Countryside Service. The contributions are necessary to mitigate the increased use of the footpaths and country service by future residents. These contributions are directly related to the development and fairly and reasonably related in scale and kind.

151. Schedule Six includes a number of highway obligations. These include financial contributions towards highway improvements in the vicinity of Delme roundabout, Downend Road/A27, Cornerway Lane Roundabout cycle improvements, footway widening in the vicinity of the site, walking audit measures and a school travel plan. It also includes a contribution towards the Traffic Regulation Order for Beaulieu Avenue and Romsey Avenue and a Travel Plan and monitoring contribution.

152. The need for these measures were identified in the Transport Assessment and the Transport Assessment Addendum. They are necessary to make the development acceptable and fairly and reasonably related in scale and kind.

Bird Conservation UU

153. This requires the provision of the Bird Conservation Area and its future management. It requires the owners and the appellant to use their best endeavours to transfer the Bird Conservation Area to Hampshire and the Isle of Wight Wildlife Trust or the RSPB to be managed and maintained in accordance with the Bird Conservation Area Scheme. It also requires the Bird Conservation Area Commuted Sum to be paid to the management Company or the party that the Bird Conservation Area is transferred to, as well as a Bird Conservation Area monitoring fee. For the reasons discussed above these obligations would meet the tests with the Framework and the statutory tests.

Conditions

154. I have assessed the suggested conditions in light of the tests set out at paragraphs 55 and 56 of the Framework and the advice in the PPG. The reserved matters need to be submitted for approval. In some instances I have adjusted the suggested wording in the interests of precision. Given the urgent need for housing within the District the timeframe for the submission of reserved matters and commencement of development have been reduced to 12 months. in each case. In order to provide certainty in respect of the matters that would not be reserved for future consideration, a condition requiring the development to be carried out in accordance with the approved plans is necessary.

155. Although a drainage strategy has been submitted and the LLFA consider it to be acceptable in principle the application is in outline and further details are necessary. An assessment of the risks from any contamination on the site is necessary in order to safeguard human health and the environment, as well as a condition in the event that any unexpected contamination is encountered.

156. Details of finished floor levels are necessary in order to safeguard the amenity of surrounding residents and ensure that the development would harmonise with its context. In order to ensure that the living conditions of future occupants would not be unacceptably affected by noise from AFC Portchester, a noise survey in relation to noise emanating from AFC Portchester is necessary, together with details of any required noise mitigation measures.

157. A Construction Environmental Management Plan (CEMP) is necessary in order to safeguard the amenities of surrounding residents and minimise any harm to biodiversity. Although the condition references the Framework Construction Environmental Management Plan, it includes measures in relation to biodiversity on-site and I am satisfied that it would assist with informing the

CEMP. Due to the proximity of the site close to the Portsmouth Harbour SPA and the mitigation to be provided for the brent geese I agree that a programme of construction is necessary to avoid an adverse impact on the species that use the SPA. At the Inquiry the appellant confirmed that the proposed condition was acceptable. An Ecological Design Strategy in respect of the public open space and the boundary hedges is necessary in the interests of biodiversity. In the interest of safeguarding the ecological value of the site in the longer term, including the habitat for brent geese and other species, a Landscape Environmental Management Plan is also required.

158. Details of the Bird Conservation Area and the Bird Conservation Area monitoring scheme are necessary to ensure that the mitigation proposals for brent geese are satisfactory. The implementation of these measures are secured by the UU.

159. In the interests of sustainability an electric vehicle charging strategy is required. A condition to limit water consumption per resident per day would be necessary in the interests of biodiversity and sustainability. In order to safeguard residential amenity the hours of construction should be limited.

160. A lighting design strategy is necessary in the interests of biodiversity. The Council also suggested a condition requiring a review of the ecological measures secured through conditions in relation the conditions in relation to the programme of construction (condition 11), the LEMP (condition 13) and the formation and layout of the Bird Conservation Area (condition 14) should works not commence within 2 years of the date of this decision.[8] In summary the condition would require updated ecological surveys and the identification of any new ecological impacts.

161. Although the reserved matters need to be submitted within a year of this decision, it may take time for them to be approved, as such the suggested condition could require the measures secured by the relevant conditions to be reviewed a short time after they have been discharged. Condition 11 simply restricts construction work during winter months to safeguard the SPA. I can see no justification as to why the passage of time would require updated ecological surveys in relation to this matter. The LEMP set out management objectives for the site including areas of habitat creation and on-going ecological assessments. Whilst badgers are a mobile species and their distribution across the site may change prior to the commencement of works they are protected under the Protection of Badgers Act 1992, this makes it illegal to kill, injure or take a live badger or to interfere with badger setts. Any such activities would require a licence from Natural England. I therefore do not consider the suggested condition to be necessary, and consider that it could introduce uncertainty and delay in terms of ecological mitigation, I have therefore not imposed it.

162. Since I have decided to grant permission contrary to the advice of Natural England I have included a condition that prohibits commencement of development from 21 days of the date of that decision.

[8] These are condition 9, 11 and 12 on the schedule submitted by the Council (INQ 27)

Planning Balance

163. I have found above that the proposal would not be harmful to highway safety or have a significant effect on amenity due to parking displacement. The proposed development would provide satisfactory mitigation in relation to on-site biodiversity. Subject to the mitigation measures proposed in terms of the Bird Conservation Area and the financial contribution to mitigate the recreational impacts on the Solent SPAs, the proposal would not harm the integrity of the SPAs.

164. The appeal site is situated in a sustainable location with access to a range of facilities by walking and cycling. The Council has a significant shortfall in housing land supply and a pressing need for affordable housing. The proposed development would contribute towards meeting this need thereby contributing to the social aspect of sustainability.

165. There would be some harm arising from the loss of BMV agricultural land, however, as agreed by the parties the loss of this land would not in itself warrant refusal of planning permission. I therefore find that the proposal would comply with Policy DSP40, and the development plan as a whole.

Conclusion

166. For the reasons given above I conclude that the appeal should be allowed.

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

FOR THE APPELLANT:

Christopher Boyle QC
He called

David Wiseman BA(Hons), MRTPI	Stuart Michael Associates(Highways)
Adam Day BSc(Hons), MSc ACIEEM	Fpcr Environment and Design (On-Site Ecology)
Paul Whitby BSc(Hons), CIEEM	The Ecology Co-op (European Sites)
Tim Wood	Stuart Michael Associates (Drainage)
Nigel Burton	Temple Group (Noise)
Steven Brown BSc(Hons) DipTP MRTPI	Wolf Bond Planning

FOR THE LOCAL PLANNING AUTHORITY:
Ned Helme of Counsel
He called

Alec Philpott BEng MCIHT	Mayer Brown (Highways)
Nicholas Sibbett CEcol CMLI CEnv MCIEEM	The Landscape Partnership (Ecology)
Mark Sennitt MRTPI	Paris Smith (Planning)

INTERESTED PARTIES:

Councillor Nick Walker
Councillor Sue Walker
Councillor Roger Price
Fareham Society
Carol Puddicome
Dr Farrell
Gillian Marshall
Melanie Hefford
Mike Towson
Simon Brown
Claire Martin
Darren Jones

DOCUMENTS SUBMITTED AT THE INQUIRY

INQ 1 - Opening Submissions on behalf of the Council
INQ 2 - Opening Submission on behalf of the Appellant
INQ 3 - Submission from Robert Tutton
INQ 4 - Submission from Carol Puddicome
INQ 5 - Submission from Cllr Nick Walker and Cllr Sue Walker
INQ 6 - Submission from Dr Farrell
INQ 7a - Submission from Gillian Marshall
INQ 7b - Submission from Gillian Marshall
INQ 8 - Submission from Mel Hefford
INQ 9a - Submission from Mr M Towson
INQ 9b - Submission from Mr M Towson
INQ 9c - Submission from Mr M Towson
INQ 10a - Submission from Mr Simon Brown
INQ 10b - Submission from Mr Simon Brown
INQ 10c - Submission from Mr Simon Brown
INQ 10d - Submission from Mr Simon Brown
INQ 10e - Submission from Mr Simon Brown
INQ 10f - Submission from Mr Simon Brown
INQ 10g - Submission from Mr Simon Brown
INQ 10h - Submission from Mr Simon Brown
INQ 11 - Existing Local Off Street Parking
INQ 12 - Site Plan distance mark up
INQ 13 - Newgate Lane East Appeal Decision
INQ 14a - SMA Table 1 - Adjusted Parking Displacement
INQ 14b - Table 2 - MB Scenario 1 Parking displacement
INQ 14c - Table 3 - MB Scenario 2 Parking displacement
INQ 14d - Table 4 - MB Scenario 3 Parking displacement
INQ 15 - Submission from Claire Martin
INQ 16 - AFC Portchester Lease
INQ 17 - AFC Portchester Licence
INQ 18 - AFC Portchester Planning Permission P_10_0453_FP (relating to use of clubhouse)
INQ 19 - AFC Portchester Planning Permission P_12_0463_FP (relating to use of clubhouse)
INQ 20 - AFC Portchester Noise Complaints to FBC
INQ 21 - Submission from Mr Towson. Brent geese refuge on Castle Field, Southsea
INQ 22 - Final Submission from Dr Farrell
INQ 23 - Technical Note - Drainage
INQ 24 - Acoustic Review of Additional Information Re. AFC Portchester - Technical Note - 17.08.21
INQ 25 - Bird Mitigation Tech Note – 17.08.21
INQ 26 - Foreman Bird Conservation Area Note – 17.08.21
INQ 27 - Suggested Draft Conditions – 17.08.21
INQ 28 - Email chain
INQ 28a - S106 - UU (17.08.21)
INQ 29 – Reply to Inspector on S106 points
INQ 30 – Section 106 Unilateral Undertaking – Main – Final Draft 18.08.21
INQ 31 – Section 106 Unilateral Undertaking – Bird Conservation Area – Final Draft 18.08.21
INQ 32 - Comments from Mr Daren Jones

INQ 33 - Response to S106-UU queries by The Council
INQ 33a - Appendix A - HCC Cabinet Decision Report 29.09.2020 - Major Develop & Infrastructure Funding (s.106 Monitoring)
INQ 33b - Appendix B - Plan showing proximity of public rights of way network
INQ 34 - Romsey Ave - Suggested Site Visit Itinerary – 18.08.21
INQ 35 - Developer Contribution Guidance Document August 2018
INQ 36 - WoolfBond Romsey Ave Costs
INQ 37 - FINAL FBC Response to Costs App Romsey Avenue Inquiry
INQ 38 - S106-MAIN UU FINAL VERSION 19.08.21
INQ 38a - Main UU Plan 1
INQ 38b - Main UU Plan 2
INQ 38c - 5611.025C - Proposed Access Arrangements Offsite Junction Footway Cycleway and Parking Improvements
INQ 38d - 5611.002D - Proposed Site Access
INQ 39 - S106- Bird Conservation Area UU Final 19.08.21
INQ 39a -Bird Conservation Area UU Plan 1
INQ 39b - Bird Conservation Area UU Plan 2
INQ 39c - Bird Conservation Area UU Plan 3
INQ 40 - Email chain
INQ 41 - E21837 Portchester Ecology note for inspector 19.08.21
INQ 42 - WoolfBond Romsey Ave Costs Reply
INQ 43 - WoolfBond Romsey Ave Closing
INQ 44 - FINAL Closing Submissions for FBC in Romsey Avenue Inquiry

DOCUMENTS SUBMITTED FOLLOWING THE INQUIRY

INQ 45 - Email dated 13 January 2022 from Natural England commenting on additional evidence submitted during the Inquiry

Schedule of Conditions
Appeal Ref: APP/A1720/W/21/3271412

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and 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 1 year from the date of this permission.

3) The development hereby permitted shall be begun before the expiration of two years from the date of this permission, or before the expiration of one year from the date of the approval of the last of the reserved matters to be approved, whichever is later.

4) The development hereby permitted shall be carried out in accordance with the following approved plans:
   (i) Site Location Plan No. 16.140.01C
   (ii) Site Areas Plan No. 16.140.28
   (iii) Proposed Access Drawing No. 5611.002D (included in the Transport Addendum (Oct 2019))
   (iv) Highway Works Plan No. 5611.025C (included in the Transport Addendum (Oct 2019)).

5) No development hereby permitted shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be based on the principles set out within the Updated Surface Water Drainage Technical Note dated 26/5/21 and shall include:
   a) A technical summary highlighting any changes to the design from that within the approved documentation.
   b) Infiltration test results undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed once further plot specific details are submitted.
   c) Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
   d) Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
   e) Evidence that urban creep has been included within the calculations.
   f) Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.
   g) Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.
   h) A timetable for its implementation.
   i) A management and maintenance plan for the lifetime of the development.

   The development shall be carried out and maintained strictly in accordance with the approved details.

6) No development shall commence until an intrusive site investigation and risk assessment has been carried out, including an assessment of the risks posed

to human health, the building fabric and the wider environment such as water resources. Where the site investigation and risk assessment reveal a risk to receptors, a detailed scheme for remedial works to address these risks and ensure the site is suitable for the proposed shall be submitted to and approved in writing by the local planning authority.
The development shall be implemented in accordance with the approved scheme.

7) The presence of any unsuspected contamination that becomes evident during the development of the site shall be immediately reported to the local planning authority. This shall be investigated to assess the risks to human health and the wider environment and a remediation scheme shall be submitted to and approved in writing the local planning authority. The approved remediation works shall be fully implemented before the permitted development is first occupied or brought into use.

On completion of the remediation works and prior to the occupation of any properties on the development, the developers and/or their approved agent shall confirm in writing that the works have been completed in full and in accordance with the approved scheme.

8) No development hereby permitted shall commence until details of the internal finished floor levels of all the proposed buildings and finished external ground levels in relation to the existing and finished ground levels on the site and the adjacent land have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.

9) The reserved matters submitted pursuant condition 1 shall include the findings of a noise survey that captures noise levels from the current activities at AFC Portchester. If required by the survey findings, or as may be required by the local planning authority, the reserved matters shall include a scheme of noise mitigation to achieve an appropriate internal and external noise levels at the proposed dwellings in line with BS8233: 2014. Any mitigation measures shall be implemented prior to the first occupation of the dwellings.

10) No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall follow the principles of the Framework Construction Traffic Environmental Plan prepared by Stuart Michael Associates (Issue 2 dated June 2021) to include, but not limited to the following:

a) The parking of vehicles of site operatives and visitors.
b) Loading and unloading of plant and materials.
c) The routing of lorries in accordance with Plan No. 6729.002.
d) Storage of plant and materials used in the construction of the development.
e) Measures to control the emission of dust and dirt during construction.
f) A risk assessment of potentially damaging construction activities.
g) identification of "biodiversity protection zones.

h) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) including in relation to the protection of badgers.
i) the location and timing of sensitive works to avoid harm to biodiversity features including nesting birds.
j) the times during construction when specialist ecologists need to be present on site to oversee works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

11) No development shall take place until a programme of construction, including the restriction of construction works in the period of October to February in the following year (to avoid the sensitive period for birds of Portsmouth Harbour SPA), has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved programme of construction and no restricted construction works as identified in the approved programme shall be carried out in the period of October to February.

12) No development shall take place until an Ecological Design Strategy (EDS) addressing the Public Open Space and boundary hedgerows has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following:
a) A description and evaluation of ecological features to be retained, created and managed such as hedgerows, attenuation ponds and trees.
b) A planting scheme for the ecology mitigation and enhancement areas.
c) Purpose and conservation objectives for the proposed works.
d) Review of site potential and constraints.
e) Detailed design(s) and/or working method(s) to achieve stated objectives.
f) Extent and location/area of proposed works on appropriate scale maps and plans.
g) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
h) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
i) Persons responsible for implementing the works.
j) Details of initial after-care and long-term maintenance.
k) Details for monitoring and remedial measures.
l) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details including the timetable for implementation and all features shall be retained in that manner thereafter.

13) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall follow the principles of the Framework Landscape & Ecological Specification and

Management Plan prepared by FPCR (July 2021) to include, but not be limited to:

a) A planting scheme for ecology mitigation and enhancement areas.
b) A work schedule (including an annual work plan).
c) The aims and objectives of landscape and ecological management and appropriate management options for achieving the stated aims and objectives.
d) Details of the persons, body or organisation responsible for implementation of the plan.
e) Details of a scheme for ongoing monitoring and remedial measures where appropriate.

The plan 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 fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

14) No reserved matters pursuant to condition 1 shall be submitted until a scheme of works to include the means for the formation, laying out and provision of the Bird Conservation Area (the "Bird Conservation Area Scheme"), has been submitted to the local planning authority. The submitted scheme must include, but shall not be limited to: -

- the design and layout of the Bird Conservation Area;
- the areas of wetland creation to provide shallow water conditions within the Bird Conservation Area;
- the boundary fencing, hedgerow planting and ditches to be provided within the Bird Conservation Area;
- the signage and educational interpretation boards to be provided within the Bird Conservation Area;
- the pond to be created in the Bird Conservation Area to provide suitable breeding and foraging opportunities for amphibians and reptile species; and
- a costed plan detailing how the Bird Conservation Area will be managed and maintained for the lifetime of the Development in accordance with the Bird Conservation Area Monitoring Scheme.

No development shall take place until the submitted Bird Conservation Area Scheme has been approved in writing by the local planning authority.

15) No reserved matters pursuant to condition 1 shall be submitted until a scheme detailing how the Bird Conservation Area will be monitored (the "Bird Conservation Area Monitoring Scheme") including a system of reporting to the Borough Council to record the details of such monitoring has been submitted to the local planning authority. Unless otherwise agreed with the Council the scheme shall follow the principles of the Brent Goose Mitigation Area and Bird Reserve Proposal (Lindsay Carrington Ecological Services) (Aug 2020) and the principles of the Framework Landscape & Ecological Specification and Management Plan prepared by FPCR (July 2021) to include, but not limited to, the following:

- Monthly monitoring visits of the Bird Conservation Area by a suitably qualified professional from October – March (inclusive) with such visits being undertaken within 2 hours of high tide.
- At least monthly inspection of the boundary fences at the Bird Conservation Area.
- Annual review meetings with the Borough Council to review the effectiveness of the Bird Conservation Area Monitoring Scheme and to allow any necessary revisions to ensure effectiveness; and
- Provision for the monitoring of newly created habitats to ensure long-term effectiveness for biodiversity mitigation and enhancement as stipulated in section 6 of the Framework Landscape & Ecological Specification and Management Plan(July 2021).

No development shall take place until the submitted Bird Conservation Area Monitoring Scheme has been approved in writing by the local planning authority.

16) No development hereby permitted shall proceed beyond damp proof course level until an Electric Vehicle Charging Strategy has been submitted to and approved by the local planning authority in writing. The strategy shall identify the nature, form and location of electric vehicle charging points that will be provided, including the level of provision for each of the dwellings hereby approved and the specification of the charging points to be provided. The development shall be carried out in accordance with the approved details.

17) No dwelling hereby permitted shall be occupied until details of water efficiency measures have been submitted to and approved in writing by the local planning authority. These water efficiency measures should be designed to ensure potable water consumption does not exceed a maximum of 110L per person per day. The development shall be implemented in accordance with the approved details.

18) No work relating to the construction of any development hereby permitted (including works of demolition or preparation prior to operations) shall take place before the hours of 08:00 or after 18:00 hours Monday to Friday, before the hours of 08:00 or after 13:00 on Saturdays or at all on Sundays or recognised public holidays, unless otherwise first agreed in writing with the local planning authority.

19) No dwelling hereby permitted shall be occupied until a lighting design strategy for biodiversity has been submitted to and approved in writing by the local planning authority. The strategy shall:

a) identify those areas/features on site to which bats, brent geese and waders are particularly sensitive and that are likely to cause disturbance in or around their breeding sites and resting places, or along important routes used to reach key areas of their territory, for example, for foraging, and;

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or

prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved strategy, and these shall be maintained thereafter at all times in accordance with the approved strategy.

Unless expressly authorised under the approved strategy, no external lighting shall be installed on the development site unless otherwise first agreed in writing by the local planning authority.

20) The development hereby permitted shall not be commenced for a period of at least 21 days from the date of this decision.