



Ministry of Housing,  
Communities &  
Local Government

Mr Owen Jones  
LRM Planning  
22 Cathedral Road  
Cardiff  
CF11 9LJ

Our ref: APP/A1720/W/24/3347627  
Your ref: P/20/0646/OA

08 July 2025

Dear Owen Jones,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY HALLAM LAND MANAGEMENT LTD  
LAND TO THE SOUTH OF LONGFIELD AVENUE, FAREHAM  
APPLICATION REF: P/20/0646/OA**

*This decision was made by Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Lesley Coffey BA (Hons) BTP MRTPI, who held a public local inquiry which opened on 29 October 2024 into your client's appeal against Fareham Borough Council's failure to determine your client's application for outline planning permission for up to 1,200 new homes (C3); 80 bed care homes (C2); a new 2 form entry primary school (D1); a local centre to comprise flexible commercial floorspace (A1, A2, A3 and A5 up to 800sq.m) and Community Centre and Health Care Facility (D1 use up to 700sq.m); the formation of new means of access onto Longfield Avenue and Peak Lane; new open space including the laying out of a new country park and sports facilities; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works, in accordance with application Ref. P/20/0646/OA, dated 1 July 2020.
2. On 24 October 2024, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. She has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

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Emma Hopkins, Decision Officer  
Planning Casework Unit  
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## **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) and addendums which were submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR1.7, the Secretary of State is satisfied that the ES and other additional information provided complies with the above Regulations and that sufficient information has been provided for her to assess the environmental impact of the proposal.

## **Policy and statutory considerations**

6. In reaching her decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of Fareham Borough Local Plan 2037 (FLP) which was adopted in April 2023, the Local Plan Part 3: Welborne Plan adopted June 2015 and the Hampshire Minerals and Waste Plan adopted October 2013. The Secretary of State considers that relevant development plan policies include those set out at IR4.2 - 4.28.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) published on 12 December 2024 and updated on 7 February 2025, and associated planning guidance (the Guidance), as well as the matters set out in IR4.29-4.32, IR4.38 and IR4.40-4.41.

## **Main issues**

9. For the reasons given at IR11.1, the Secretary of State agrees with the Inspector at IR11.2 that the main consideration is whether the planning obligations sought would comply with the tests at CIL Regulation 122(2) and paragraph 58 of the Framework (the CIL tests). There is a general 'blue pencil' provision in clause 3.3 of the Unilateral Undertaking (UU). This enables the Secretary of State to decide that specific obligations and / or covenants included in the UU are not compliant with the CIL tests and therefore do not need to be complied with (IR6.4).

### *Affordable Housing Obligations*

10. For the reasons given at IR11.5 the Secretary of State agrees that all the obligations in Schedule One of the UU would comply with the CIL tests and would secure a policy compliant scheme of affordable housing and the extra care facility.

### *Open Space, Sports Hub and Bird Reserve Obligations*

11. For the reasons given at IR11.6 the Secretary of State agrees that the Schedule Two obligations in respect of Open Space (including play areas and SUDS), Bird Reserve and On-Site Routes would comply with the CIL tests.
12. For the reasons given at IR11.7-11.21 the Secretary of State agrees with the Inspector's conclusion at IR11.21 that the Schedule Two - Sports Hub Land Transfer obligation and the Sports Hub Maintenance Contribution towards the maintenance of pitches would comply with the CIL tests. For the reasons given at IR11.7-11.21, she also agrees that

the Schedule Two - Sports Hub Provision Contribution toward the provision of pitches, car park and changing facilities would not comply with the CIL tests (IR11.21). Therefore, Schedule Two - the Sports Hub Provision Contribution would be subject to the 'blue pencil' clause in the submitted UU.

#### *Healthcare Obligations*

13. For the reasons given at IR11.22-11.34 and given that the appellant was prepared to provide a facility within the appeal site as required by FLP policy HA55j, but the Integrated Care Board's preference is for the expansion and/or relocation of existing premises (IR11.23) the Secretary of State agrees with the Inspector's conclusion at IR11.34 that the Schedule Three – Healthcare Contribution sought by the Integrated Care Board would comply with the CIL tests.

#### *Local Centre Community Facility and Nursery Obligations*

14. For the reasons given at IR11.35 the Secretary of State agrees that the Schedule Four obligations that provide for marketing of the Local Centre, the delivery of the Community Use Facility and Nursery Use Building are necessary to make the development acceptable and would comply with the CIL tests.

#### *Ecology Contributions*

15. For the reasons given at IR11.36-11.45 the Secretary of State agrees with the Inspector's conclusion at IR11.45 that the extent and the quality of the Green Infrastructure significantly exceeds what a development of this size would be expected to provide, it would accommodate recreational activity for residents, with specific measures for dog walkers implemented and the size of the scheme allows for any effects on designated sites and supporting habitats to be mitigated for within the red line boundary. For the reasons given at IR11.36-11.47 she further agrees that due to the size and quality of the Green Infrastructure proposed, the planning obligation in relation to the Solent SPA sites is not necessary to make the development acceptable and she agrees it would not comply with the CIL tests (IR11.47 and IR11.53). Therefore, the Schedule Five – Solent Recreational Mitigation Strategy Contribution would be subject to the 'blue pencil' clause.

16. For the reasons given at IR11.36-11.45 and IR11.48-11.51 the Secretary of State agrees with the Inspector's conclusion at IR11.51 that the appeal scheme would fully mitigate the potential effects of increased recreational pressure both 'alone' and 'in-combination' with other plans or projects on the New Forest SPA/Ramsar/SAC. She therefore agrees at IR11.52 and IR11.53 that the planning obligation in relation to the New Forest sites is not necessary to make the development acceptable and for this reason would not comply with the CIL tests. Therefore, the Schedule Five – New Forest Recreational Mitigation Contribution would be subject to the 'blue pencil' clause.

#### *Education*

17. For the reasons given at IR11.54-11.57 the Secretary of State agrees with the Inspector's conclusion at IR11.57 that the provision of the primary school and the primary school land is necessary to make the development acceptable. She further agrees that requiring the appellant to fund the entirety of a 1.5 Form Entry (FE) primary school (Primary Education Contribution B), given that there would be about 47 surplus places should the

extra care scheme come forward, cannot be considered to be fairly and reasonably related in scale and kind to the development (IR11.57).

18. The appellant's preferred planning obligations in respect of the primary school are set out at IR11.56 and IR11.60. The obligations would provide sufficient land for 1.5FE school (Schedule Six – Initial Primary School Land and Primary School and Delivery of Serviced Site Obligations), fund the construction of a 1FE school and make an additional contribution based on the number of eligible dwellings (Schedule Six – Primary Education Contribution), along with an option to acquire additional land for a 2FE school (Schedule Six – Additional Primary School Land). For the reasons given at IR11.54-11.63 the Secretary of State agrees with the Inspector's conclusion at IR11.66 that these obligations and contributions would comply with the CIL tests. For the reasons given at IR11.54-11.63 she further agrees that requiring the appellant to fund the entirety of a 1.5FE school (Schedule Six - Primary Education Contribution B) would not comply with the CIL tests (IR11.63 and IR11.66). Therefore, Schedule Six - Primary Education Contribution B would be subject to the 'blue pencil' clause.
19. For the reasons given at IR11.64-11.66 the Secretary of State agrees with the Inspector's conclusion at IR11.66 that the financial contribution towards Special Education Needs and Disabilities (SEND) provision (Schedule Six – Education- Special Educational Needs Contribution) would comply with the CIL tests.

#### *Public Rights of Way (PROW) Contributions*

20. For the reasons given at IR11.68-11.72 the Secretary of State agrees with the Inspector's conclusions at IR11.72 that the upgrades to footpaths 48 and 51 are not necessary to make the development acceptable and through encouraging visits to the Titchfield Nature Reserve they would have the potential to give rise to recreational harm to the Solent SPA, contrary to Policy NE3. She agrees that this obligation would not comply with the CIL tests (IR11.72 and IR11.95). Therefore, Schedule Seven – Footpaths 48 and 51 Contribution would be subject to the 'blue pencil' clause.
21. For the reasons given at IR11.73-11.74 the Secretary of State agrees that upgrading that part of footpath 67 that does not fall within the appeal site to a bridleway is not necessary to make the development acceptable (IR11.74). For the reasons given at IR11.75-11.86 the Secretary of State agrees with the Inspector's conclusions at IR11.86 that having regard to the alternative routes available with signalised crossings, she does not consider it to be necessary for Footpaths 68 and 70 to be upgraded to a bridleway to accommodate children cycling to Crofton School. She therefore agrees at IR11.86, IR11.95 and IR11.118 that the PROW obligations in respect of footpaths 68 and 70 and the Schedule Eight – Highways Works D6 contribution would not comply with the CIL tests.
22. For the reasons given at IR11.88-11.92 the Secretary of State agrees that the on-site route proposed would be preferable to upgrading footpath 75 and although it would not be a designated PROW, it would be available to the public (IR11.92). She further agrees that the requested contribution for footpath 75 would not comply with the CIL tests since the scheme would not give rise to any additional use of the existing footpath, and therefore is not necessary to make the scheme acceptable (IR11.92 and IR11.95).
23. For the reasons given at paragraphs 21-22 above the Secretary of State considers that the Schedule Seven– Footpaths 67, 68 and 75 Contribution, which includes the contributions listed at IR11.93, and the Schedule Eight – Highways Works D6

contribution, would not comply with the CIL tests and would be subject to the 'blue pencil' clause.

24. The Secretary of State notes at IR11.87 that at Schedule Seven – Rights of Way (ROW) Upgrade Contribution the UU provides that if the planning obligation to upgrade Footpaths 67, 68 and 75 were found not to comply with the CIL tests, it would make a financial contribution of £35,000 towards the legal cost of changing the status of footpaths 68 and 70 to permit cycling. As the Secretary of State has found that the upgrade of paths 68 and 70 to a bridleway to accommodate children cycling to Crofton School does not comply with the CIL tests, she further considers that the Schedule 7 – ROW Upgrade Contribution is also not necessary. Therefore, it would not comply with the CIL tests and would be subject to the 'blue pencil' clause.
25. For the reasons given above the Secretary of State agrees with the conclusion at IR11.141 that the Schedule Seven – contributions towards footpaths 48, 51, 67, 68, 70 and 75 would not comply with the CIL tests. For the reasons given at IR11.94 she considers that the provision of a cycleway and footpath link (Borough Council Footpath/Cycleway Contribution and Bishopfield Road/Longfield Avenue Link Works) from works D2 to the southern edge of Longfield Avenue are necessary and therefore she considers that Schedule Seven - Borough Council Footpath/Cycleway Contribution and Schedule Seven - Bishopfield Road / Longfield Avenue Link Works would comply with the CIL tests.

#### *Highway Contributions and Highway Works*

26. For the reasons given at IR11.96 the Secretary of State agrees that the Schedule Eight obligations and contributions in respect of highway works A1, C1, D1, D2, D3, D4, D5, D10 and D11 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, and they would comply with the CIL tests.
27. For the reasons given at IR11.101-11.104 the Secretary of State agrees with the Inspector's conclusion at IR11.104 that the impact of the appeal scheme at Titchfield Gyratory (B2) would be insignificant in the AM peak and minimal during the PM peak when compared to the baseline and for this reason the Schedule Eight - Highway Works B2 contribution is not necessary to make the development acceptable and is therefore subject to the 'blue pencil' clause. She also agrees with the Inspector's further reasoning and conclusions at IR11.105-11.112 that the contribution requested would not be fairly and reasonably related in scale and kind to the development.
28. For the reasons given at IR11.113 -11.115 the Secretary of State agrees that given the absence of any material change in the volume to capacity flows the impact on St Margaret's Roundabout (B3) would not be significant (IR11.115). She further agrees that the Schedule Eight – Highway Works B3 contribution for this roundabout is not necessary to make the development acceptable and therefore would not comply with the CIL tests and would be subject to the 'blue pencil' clause.
29. For the reasons given at IR11.116-11.117 the Secretary of State agrees that given that the Segensworth Roundabout (B4) would still operate within capacity with the scheme in place the Schedule Eight – Highway Works B4 contribution for this roundabout is not

necessary to make the development acceptable (IR11.117) and therefore would not comply with the CIL tests and would be subject to the 'blue pencil' clause.

30. For the reasons given at IR11.119-11.124 the Secretary of State agrees that the Schedule Eight – Highway Works D7 contribution for works to pedestrian and cycle improvements at the Rowan Way/Longfield Avenue/Peak Lane Junction (D7) are not necessary in addition to the new parallel crossing at Longfield Avenue and the shared footway/cycleway (D1) to link with the provision within the site (IR11.124) and therefore would not comply with the CIL tests and would be subject to the 'blue pencil' clause. She also agrees with the Inspector's further reasoning and conclusions at IR11.124 that the contribution requested would not be fairly and reasonably related in scale and kind to the development.
31. For the reasons given at IR11.125-11.128 the Secretary of State agrees that work to improve Newgate Lane/Longfield Avenue junction for walkers and cyclists to improve accessibility between the site and retail and employment opportunities at Newgate Lane (D8) is necessary to make the development acceptable in planning terms (IR11.128). However, as the mitigation has not yet been developed, and the Schedule Eight – Highway Works D8 Contribution requested by HCC relates to a much larger scheme, the Secretary of State, like the Inspector at IR11.128, is not satisfied that the contribution is fairly and reasonably related in scale and kind to the development and agrees with the Inspector that the contribution would not comply with the CIL tests. Therefore this contribution is subject to the 'blue pencil' clause.
32. For the reasons given at IR11.129-11.135 the Secretary of State agrees that whilst the appeal scheme may add to the congestion at the Gudge Heath Lane/A27 junction it would not significantly add to the congestion or exacerbate the existing conditions for pedestrians and cyclists (IR11.135). She agrees with the Inspector at IR11.135 that requiring the appellant to fund the full costs of the works to Gudge Heath Lane/A27 (D9) would not comply with the CIL tests. She further agrees with the Inspector's reasoning and conclusion at IR11.136 that there is insufficient information to conclude that the alternative lower figure proposed by the appellant would be reasonably related in scale and kind to the development and that the lower contribution would not comply with the CIL tests. Therefore, the Schedule Eight – Highway Works D9 contribution would be subject to the 'blue pencil' clause.
33. For the reasons given at IR11.97-11.137 the Secretary of State considers the residual cumulative impacts on the road networks would not be severe. However, she acknowledges that the residual transport impacts such as increased congestion are an adverse impact of the scheme and she gives them limited negative weight.

#### *Biodiversity Units on Site and Nitrates*

34. For the reasons given at IR11.138-11.140 the Secretary of State agrees with the Inspector's conclusion at IR11.140 that the obligations in relation to Biodiversity Net Gain (BNG) and Nitrates are not necessary to make the development acceptable. She further agrees they cannot be a reason for granting planning permission, noting that they are excluded from the 'blue pencil' clause. The Secretary of State has not taken the

obligations in Schedule Nine – Biodiversity Units on Site and Ten- Nitrates into account when reaching a decision on this case.

### *CIL*

35. For the reasons given at IR11.143-11.148 the Secretary of State agrees with the Inspector that it is a matter for the Council as to how this levy is used and to decide whether the items of infrastructure not secured in the UU are a priority (IR11.148).

### *Benefits of the Proposal*

36. The Secretary of State agrees with the Inspector at IR11.164 that the proposal would provide considerable economic environmental and social benefits including the delivery of affordable housing, extra care accommodation and market housing.
37. In addition to housing (market housing, affordable housing, self and custom build housing and specialist housing), the Secretary of State considers that BNG (43% habitat and 19% hedgerow); active and sustainable travel improvements (routes through the site and connections and improvements to the existing road network); provision of physical and community infrastructure (local centre, land for a sports hub, land and contribution for a primary school, and open space including a country park, bird reserve and play areas) are benefits of the scheme. She considers that the benefits of the scheme collectively carry substantial weight.

### *Other matters*

38. The Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 and for the reasons set out at IR11.149-11.154 she agrees with the Inspector that she is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. Those sites within an influential proximity are Solent & Southampton Water Ramsar/SPA, Portsmouth Harbour Ramsar/SPA, Solent & Dorset Coast SPA, Solent Maritime SAC and the New Forest SPA/SAC/Ramsar. The Secretary of State agrees with the assessment and findings in Appendix E of the IR. She therefore adopts Appendix E as the necessary Appropriate Assessment in her role as the Competent Authority on this matter, and agrees that there would be no adverse effect on the integrity of the designated sites.
39. The Secretary of State agrees with the Inspector at IR11.155 that the principle of development is acceptable. She agrees that the land use parameter plan depicts the arrangement of uses across the site and is consistent with the Indicative Framework Plan and the masterplanning principles at appendix D of the FLP associated with policy HA55 (IR11.163) including in regard to the delineation of the Strategic Gap (IR11.156). Given it is an allocated site, the Secretary of State gives limited negative weight to the reduction of the strategic gap, associated loss of best and most versatile (BMV) land and change to the landscape character of the area.
40. The Secretary of State agrees with the Inspector at IR11.157 that height and layout including lighting and fencing will be addressed as part of the reserved matters. She notes that lighting and fencing for the Sports Hub are specific requirements of proposed Condition 30. She further notes that proposed Condition 4 requires development to be in accordance with the Land Use and Green Infrastructure Plan (IR3.2) and that proposed Condition 7 requires a Design Code to be submitted and for that Design Code to be in

accordance with the Policy HA55 Illustrative Masterplan and Supporting Principles in Appendix D of the FLP.

41. The Secretary of State notes that the Local Plan Strategic Transport Assessment and the appellant's Transport Assessment found the proposal to be acceptable in terms of its impact on the highway network and that no substantive evidence to the contrary has been submitted. For the reasons given at IR11.158, she agrees with the Inspector's conclusion that the appeal scheme would not add significantly to congestion on the Stubbington bypass.
42. For the reasons given at IR11.159-11.161 and paragraphs 13 and 17-19 above the Secretary of State agrees with the Inspector's conclusions that the development provides sufficient education and health infrastructure.
43. The Secretary of State notes that Southern Water has confirmed that it can facilitate foul sewerage disposal from the proposed development and agrees with the Inspector's conclusion at IR11.162 that detailed design issues relating to the foul water infrastructure would be considered at the reserved matters stage.

### **Planning conditions**

44. The Secretary of State had regard to the Inspector's analysis at IR6.1, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 57 of the Framework and the relevant Guidance. She is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 57 of the Framework and that the conditions set out at Annex A should form part of her decision.

### **Planning obligations**

45. The Secretary of State has had regard to the Inspector's analysis at IR6.3-6.41 and IR11.1-11.142, the planning obligation dated 21 November 2024, paragraph 58 of the Framework, the Guidance and the CIL Regulations 2010, as amended. For the reasons given above she agrees with the Inspector's conclusion at IR11.141 that the following obligations do not comply with the CIL tests:

- Schedule Two - the Sports Hub Provision Contribution
- Schedule Five - contributions towards the Solent Recreation Mitigation Strategy and the New Forest SPA, New Forest SAC and the New Forest RAMSAR.
- Schedule Six - Primary Education Contribution B
- Schedule Seven - contributions toward footpaths 48, 51, 67, 68, 70<sup>1</sup> and 75
- Schedule Eight - contributions towards highway mitigation B2, B3, B4, D6, D7, D8 and D9
- Schedules Nine and Ten BNG and Nitrates.

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<sup>1</sup> Listed as 90 in the IR in error.

Therefore, with the exception of Schedules Nine and Ten for the reasons given at paragraph 34, these obligations are subject to the 'blue pencil' clause. She further agrees that the remainder of the contributions comply with the CIL tests.

### **Planning balance and overall conclusion**

46. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with HA55 of the development plan, and is in accordance with the development plan overall. She has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
47. As the Local Planning Authority (LPA) cannot demonstrate a 5 year housing land supply (IR5.25), paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
48. Weighing in favour of the proposal are housing (market housing, affordable housing, self and custom build housing and specialist housing); BNG (43% habitat and 19% hedgerow); active and sustainable travel improvements (routes through the site and connections and improvements to the existing road network); provision of physical and community infrastructure (local centre, land for a sports hub; land and contribution for a primary school; and open space (including habitat and recreation and play areas), which the Secretary of State considers collectively carry substantial weight.
49. Weighing against the proposal are changes to landscape character, loss of BMV land and increased congestion. The Secretary of State gives each of these limited weight.
50. The Secretary of State considers that in light of her conclusions that there would be no adverse effect on the integrity of the designated sites there are no protective policies which provide a strong reason for refusing the development proposed. She further considers that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The presumption in favour of sustainable development therefore applies.
51. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the accordance with the development plan and the material considerations in this case indicate that permission should be granted.
52. The Secretary of State therefore concludes that the appeal should be allowed and permission granted, subject to conditions.

## **Formal decision**

53. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby allows your client's appeal and grants outline planning permission for up to 1,200 new homes (C3); 80 bed care homes (C2); a new 2 form entry primary school (D1); a local centre to comprise flexible commercial floorspace (A1, A2, A3 and A5 up to 800sq.m) and Community Centre and Health Care Facility (D1 use up to 700sq.m); the formation of new means of access onto Longfield Avenue and Peak Lane; new open space including the laying out of a new country park and sports facilities; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works subject to the conditions set out in Annex A of this decision letter, in accordance with application Ref. P/20/0646/OA, dated 1 July 2020.
54. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

## **Right to challenge the decision**

55. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
56. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the LPA fails to give notice of their decision within the prescribed period.
57. A copy of this letter has been sent to Fareham Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Emma Hopkins  
Decision officer

*This decision was made by Minister of State for Housing and Planning, Matthew Pennycook MP, on behalf of the Secretary of State, and signed on his behalf*

**Annex A List of conditions**

1	<p><b><u>Reserved matters approval</u></b></p> <p>Details of the appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) for each phase of development shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase takes place. The development shall be carried out in accordance with the approved details.</p>
2	<p><b><u>Time period for the submission of reserved matters</u></b></p> <p>Application for approval of the reserved matters for at least one of the phases shown on the phasing plan approved by condition 6 shall be made to the Local Planning Authority no later than the expiration of 3 years from the date of this permission. All subsequent reserved matters shall be submitted no later than 10 years from the date of this permission.</p>
3	<p><b><u>Time period for commencement of development</u></b></p> <p>The development of each phase permitted by condition 6 shall commence no later than 2 years from the date of approval of the last of the reserved matters to be approved for that phase.</p>
4	<p><b><u>Approved Plans (land use)</u></b></p> <p>The development hereby permitted relates to the land shown on the site location plan (drawing number 148-AAP-001 Rev D) and shall be carried out in general accordance with the details shown on the Land Use Parameter Plan (drawing number 148-AAP-02 Rev V).</p>
5	<p><b><u>Approved Plans (access)</u></b></p> <p>The means of access hereby permitted shall be constructed in general accordance with the following drawings:</p> <p>Peak Lane Site Access 22115-MA-XX-DR-C-0108 P02</p> <p>Longfield Avenue Site Access 22115-MA-XX-DR-C-0109 P02</p>
6	<p><b><u>Phasing Plan</u></b></p> <p>Prior to the submission of the first application for reserved matters a plan shall be submitted to the local planning authority identifying the phasing for the development and shall include the following:</p>

	<ul style="list-style-type: none"> <li>i. Residential phase(s) and their associated character areas as defined by Appendix D of the Local Plan and the indicative number of market and affordable homes and self and/or custom build plots in each phase</li> <li>ii. The primary school</li> <li>iii. A safe route for access to the Primary School during the construction process</li> <li>iv. The local centre (including the residential and mixed-use areas)</li> <li>v. The location(s) of the extra care land (within or adjacent to the local centre) comprising at least 50 units.</li> <li>vi. Oxleys Meadow, Newlands Meadow and the Linear Park as defined on plan HLM089-005</li> <li>vii. Neighbourhood and Local Equipped Areas of Play</li> <li>viii. The Sports Hub</li> <li>ix. Surface water drainage</li> <li>x. On and off-site highways works including pedestrian and cycle improvements</li> </ul> <p>No development shall commence until the local planning authority has approved in writing the phasing plan and the development shall thereafter be constructed broadly in accordance with the agreed phasing plan.</p>
7	<p><b><u>Design Code</u></b></p> <p>Prior to the approval of the first reserved matters in any of the phases containing residential development identified in Condition 6, a Design Code for that phase shall be submitted to and approved by the Local Planning Authority. Each Design Code shall reflect the relevant character area(s) defined in Appendix D of the Fareham Local Plan.</p> <p>The Design Code shall accord with the Policy HA55 Illustrative Masterplan and Supporting Principles in Appendix D of the Fareham Local Plan and shall include the following details for each of the character areas:</p> <ul style="list-style-type: none"> <li>a) the built form of the character area, namely the structure of blocks, key groupings or individual buildings, density, building form and depth, massing, scale, building heights, orientation of buildings roofscape, including ridge lines and pitches, building elements such as eaves, openings (windows and doors) and porches, external materials, boundary treatments;</li> <li>b) principles relating to the self and custom build plots within that phase;</li> </ul>

	<ul style="list-style-type: none"> <li>c) the street network hierarchy, cycle routes, footpaths and public spaces, providing typical street cross sections;</li> <li>d) landscaping, areas of public realm, green links, sustainable urban drainage, and open space within the areas of built development (excluding the areas of Newlands, the Linear Park and Oxleys Meadows shown on plan HLM089-005), including enclosure, shading, natural surveillance, public art, materials, street furniture, signage and lighting;</li> <li>e) the approach to vehicular and cycle parking for residential and non-residential uses, including but not restricted to parking for people with disability, visitor parking, and electric vehicle charging;</li> <li>f) principles for ancillary infrastructure/buildings such as waste and recycling provision.</li> </ul> <p>Each reserved matter application shall accord with the details of the relevant approved Design Code document and be accompanied by a statement which demonstrates compliance with the approved Design Code document.</p>
8	<p>Each reserved matters application for a phase that includes housing shall include a Housing Delivery Statement to provide the following details:</p> <ul style="list-style-type: none"> <li>(i) The number and proportion of market homes proposed</li> <li>(ii) The number and proportion of affordable homes proposed</li> <li>(iii) The tenure of the affordable homes proposed</li> <li>(iv) The number and proportion of Category M4(2) and M4(3) dwellings pursuant to condition 37</li> <li>(v) The location of the self and custom build plots reserved for such use subject to the marketing requirements specified in condition 45</li> <li>(vi) Energy efficiency measures pursuant to the condition 27</li> </ul> <p>With the exception of the first Housing Delivery Statement, each successive Housing Delivery Statement shall provide cumulative figures comprising all prior phases.</p>
9	<p><b><u>Earthworks</u></b></p> <p>Prior to the commencement of the development hereby approved a site wide earthworks strategy shall be submitted to and approved by the LPA. The Earthworks Strategy shall provide the following details:</p> <ul style="list-style-type: none"> <li>a. Existing ground levels</li> </ul>

	<ul style="list-style-type: none"> <li>b. Proposed ground levels for the built development areas, as shown on the land use parameter plan (148-AAP-002 Rev V)</li> <li>c. Proposed ground levels for the green infrastructure, as shown on the green infrastructure parameter plan</li> <li>d. The volumes of cut and fill and arisings associated with the formation of the proposed levels set by criteria b. and c</li> <li>e. A method statement describing the means by which the proposed ground levels shall be formed including as relevant: the phasing of earthworks and enabling works, temporary excavation and storage, the movement of arisings and topsoil across the site, and topsoil handling and re-use procedures</li> </ul> <p>All earthworks during the construction period shall be implemented in broad accordance with the approved strategy.</p>
10	<p><b><u>Oxleys Meadow Open Space Scheme of Works and Management Plan</u></b></p> <p>Prior to the commencement of development hereby approved, a scheme for Oxleys Meadow (as shown on drawing HLM089-005) shall be submitted to and approved in writing by the LPA. The scheme shall accord with the principles set out in the 'Open Space and Habitat Creation' Document (December 2023) and shall include the following details:</p> <ul style="list-style-type: none"> <li>i. hard and soft landscaping details</li> <li>ii. biodiversity enhancement in accordance with condition 15</li> <li>iii. the bird reserve area including a wildlife hazard risk assessment</li> <li>iv. tree and hedgerow protection</li> <li>v. areas of retained planting</li> <li>vi. areas for new planting</li> <li>vii. earthworks</li> <li>viii. boundary treatments</li> <li>ix. pedestrian and cycle routes and connections to Peak Lane and Ranvilles Avenue and PROW 67</li> <li>x. hardstanding</li> <li>xi. surface water drainage</li> </ul> <p>The scheme shall also include a timetable for implementation of the above environmental mitigation and a management and maintenance plan for 80 years which shall include the arrangements for adoption by any public authority or any other arrangements to secure the operation of the scheme throughout its lifetime.</p>

	<p>The Scheme shall be laid out in accordance with the approved details.</p>
<p>11</p>	<p><b><u>Linear Park Open Space Scheme of Works and Management Plan</u></b></p> <p>The first reserved matters submission relating to landscaping for the phase or phases of the development containing the Linear Park (as shown on drawing HLM089-005) shall include the following details:</p> <ul style="list-style-type: none"> <li>i. hard and soft landscaping details</li> <li>ii. ecological enhancement in accordance with condition 15</li> <li>iii. routes for pedestrians and cyclists and connections to the adjoining areas of built development and Newlands Meadow</li> <li>iv. play equipment</li> <li>v. street furniture</li> <li>vi. earthworks</li> <li>vii. surface water drainage</li> </ul> <p>The scheme shall also include a timetable for implementation and a management and maintenance plan for 80 years which shall include the arrangements for adoption by any public authority or any other arrangements to secure the operation of the scheme throughout its lifetime.</p> <p>The Scheme shall be laid out in accordance with the approved details.</p>
<p>12</p>	<p><b><u>Newlands Meadow Open Space Scheme of Works and Management Plan</u></b></p> <p>The first reserved matters submission relating to landscaping for the phase or phases of the development containing Newlands Meadow (as shown on drawing HLM089-005) shall include the following details:</p> <ul style="list-style-type: none"> <li>i. hard and soft landscaping details</li> <li>ii. biodiversity enhancement in accordance with condition 15</li> <li>iii. tree and hedgerow protection details</li> <li>iv. areas of retained planting</li> <li>v. play equipment</li> <li>vi. earthworks</li> <li>vii. boundary treatments</li> <li>viii. pedestrian and cycle routes including connections to Tanners Lane</li> <li>ix. surface water drainage</li> </ul>

	<p>The scheme shall also include a timetable for implementation and a management and maintenance plan for 80 years which shall include the arrangements for adoption by any public authority or any other arrangements to secure the operation of the scheme throughout its lifetime.</p> <p>The Scheme shall be laid out as in accordance with the approved details approved.</p>
13	<p><b><u>Play Equipment</u></b></p> <p>Each reserved matters application for a phase of the development that includes housing (other than an application just for the extra care home) shall include where relevant details of play equipment as specified by condition 6. Such details shall include:</p> <ul style="list-style-type: none"> <li>i. the number of pieces of play equipment and their specification</li> <li>ii. means of enclosure</li> <li>iii. hard and soft landscaping</li> <li>iv. street furniture</li> <li>v. surface water drainage measures</li> </ul> <p>The play equipment shall be installed in accordance with the approved reserved matters scheme.</p>
14	<p><b><u>Ecological mitigation and enhancement</u></b></p> <p>Save for Oxleys Meadow, Newlands Meadow and the Linear Park shown on drawing HLM089-005 each reserved matter application for a phase shall include details of ecological mitigation and enhancement measures specified by the Biodiversity Net Gain Plan approved pursuant to condition 15 as part of the landscape works required for the related phase.</p>
15	<p><b><u>Biodiversity net gain</u></b></p> <p>No development shall take place until a site wide Biodiversity Gain Plan setting out the measures that will provide net gains for biodiversity of at least 10% has first been submitted to and approved by the local planning authority in writing. The submitted plan shall:</p> <ul style="list-style-type: none"> <li>i. Quantify the pre and post development biodiversity value of the site using the DEFRA statutory metric (February 2024), unless the local planning authority first agrees in writing that another metric may be used, with an explanation of the condition scores set out in the DEFRA guidance. Plans of the site must be provided together with</li> </ul>

	<p>Excel spreadsheet copies of the completed relevant metrics to demonstrate how the metric conclusions were reached;</p> <ul style="list-style-type: none"> <li>ii. Identify how a cumulative Biodiversity Net Gain of at least 10% will be achieved across the whole development having regard to individual phases;</li> <li>iii. Demonstrate that the proposed habitat is on a 'like for like' basis and avoids the 'trading down' of habitat type i.e., replacing rare habitat with much more common habitat;</li> <li>iv. Demonstrate that proposals have followed the 'mitigation hierarchy': avoiding habitat loss where possible; minimising the extent of negative impacts that cannot be avoided; restoring degraded ecosystems where negative impacts cannot be avoided or minimised; and as a last resort compensating for any residual negative impacts;</li> <li>v. Demonstrate that proposals maximise the connectivity of the proposed habitat with habitat in the wider area to avoid fragmented or isolated habitat;</li> <li>vi. Confirm how the proposed measures to secure 10% Biodiversity Net Gain will be managed, maintained, monitored and funded for a minimum of 30-years.</li> </ul> <p>Thereafter the approved Biodiversity Net Gain measures shall be managed, maintained, monitored and funded in accordance with the approved details.</p>
16	<p><b><u>Construction Environment Management Plan</u></b></p> <p>No development shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the LPA. The CEMP shall include the following:</p> <ul style="list-style-type: none"> <li>a) Soil movement, methods of tracking soil movement and details for demonstrating soil will be suitable for use;</li> <li>b) Construction Traffic Management (to include the co-ordination of deliveries and plant and materials and the disposing of waste resulting from demolition and/or construction so as to avoid undue interference with the operation of the public highway, particularly during the Monday-Friday AM Peak (0800-0900) and PM Peak (1630-1800) periods);</li> <li>c) Site Office location;</li> <li>d) Working hours;</li> <li>e) Contractor parking areas for use during construction;</li> <li>f) Areas for loading and unloading;</li> </ul>

	<ul style="list-style-type: none"> <li>g) Construction lighting details;</li> <li>h) Construction access details;</li> <li>i) The storage of materials and construction waste, including waste recycling where possible;</li> <li>j) The storage and dispensing of fuels, chemicals, oils and any hazardous materials (including any hazardous soils);</li> <li>k) The proposed method of working (this shall include details to monitor and prevent adverse impacts to surface water, groundwater and adverse impacts caused by noise, vibration, odours);</li> <li>l) The proposed maintenance and aftercare of the site;</li> <li>m) The provision of road and wheel cleaning facilities, including any required drainage;</li> <li>n) Traffic management measures to address the potential conflict between users of the footpath network and the construction vehicles; Dust and dirt control measures;</li> <li>o) Measures to avoid impacts on the non-statutory designated sites, retained habitats and trees; and</li> <li>p) Measures to minimise impacts on any existing occupied residential properties.</li> <li>q) Details of any piling where necessary</li> </ul> <p>The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.</p>
17	<p><b><u>No burning of materials</u></b></p> <p>No materials obtained from site clearance or from construction will be burnt on the site.</p>
18	<p><b><u>Existing and proposed ground levels</u></b></p> <p>Pursuant to condition 1, each reserved matter application shall be accompanied by details of existing and proposed ground levels, and, where relevant, finished floor levels of the dwellings and other buildings for which approval is sought.</p>
19	<p><b><u>Archaeological scheme of investigation</u></b></p> <p>No development shall commence in any of the phases identified by Condition 6 until an Archaeological Written Scheme of Investigation for that phase has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a programme of archaeological</p>

	<p>assessment for the works proposed within that phase and the written results of the Scheme of Investigation shall be provided to the LPA.</p>
20	<p><b><u>Contamination</u></b></p> <p>No development shall take place within any phase identified by Condition 6 until:</p> <ol style="list-style-type: none"> <li>i. A desk-top Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority for that phase. Should the Contamination Assessment reveal a potential for contamination, a programme and methodology for an intrusive site investigation and an assessment of the risks posed to human health, the building fabric and the wider environment including water resources shall be submitted to and approved in writing by the Local Planning Authority.</li> <li>ii. Where the site investigation and risk assessments under criterion (i) identify remedial works are required, details of these works shall be submitted to and approved in writing by the local planning authority prior their installation/construction, including a programme for their implementation.</li> <li>iii. For any phase where criterion (ii) has required the approval of remedial works, none of the dwellings or buildings shall be occupied or brought in to beneficial use, and none of the open space shall be available to the public until there has been submitted to and approved in writing by the Local Planning Authority verification that those required remediation measures have been fully implemented in accordance with the approved details. Unless otherwise agreed in writing with the Local Planning Authority such verification will include: as built drawings, photographs of the remediation works in progress, certificates demonstrating that imported and/or material left in situ is free from contamination.</li> </ol>
21	<p><b><u>Contamination</u></b></p> <p>If any previously unidentified land contamination is found during the carrying out of the development, it shall be reported immediately in writing to the Local Planning Authority. Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be undertaken in accordance with details that shall have been approved in writing by the Local Planning Authority. Thereafter, any remediation measures shall be carried out in accordance with the approved details and verification details provided to the LPA in accordance with Condition 20.</p>

22	<p><b><u>Site wide surface water drainage scheme</u></b></p> <p>No development shall take place until a site wide surface water drainage scheme, based on sustainable drainage principles as set out within the Brookbanks Flood Risk Assessment (ref 10007 FRA02 Rv5) has been submitted to and approved in writing by the Local Planning Authority.</p> <p>The development shall be carried out in accordance with the approved details.</p>
23	<p><b><u>Phase specific surface water drainage scheme</u></b></p> <p>Prior to the commencement of development in each of the phases identified in Condition 6, a phase specific surface water drainage scheme, based on the Site Wide Surface Water Drainage Scheme approved pursuant to condition 22, shall be submitted to and approved in writing by the Local Planning Authority for that phase.</p> <p>Each phase specific surface water drainage strategy shall include:</p> <ol style="list-style-type: none"> <li>i. The critical design storm period for each attenuation feature</li> <li>ii. Drainage areas and assumptions on impermeability</li> <li>iii. The methods employed to control the surface water discharge and volume</li> <li>iv. Infiltration testing in pits (not boreholes) to support the assumed infiltration rates</li> <li>v. The factor of safety assumed for each infiltration feature</li> <li>vi. The run-off rate calculations for discharge to surface waters</li> <li>vii. Measures proposed to achieve the relevant water quality treatment</li> <li>viii. Future management and maintenance responsibilities</li> <li>ix. Details of any impacts on source protection zones or solution features</li> </ol> <p>The drainage scheme submitted shall be implemented prior to the occupation or use of the building or development to which it relates. Where the drainage scheme for any area relies on drainage features outside of the area of development concerned these must be completed sufficiently to perform the necessary attenuation and treatment function and demonstrated as part of the details submitted. No area of built development shall be allowed to discharge run-off unattenuated and untreated into existing receiving watercourses. The development shall be carried out in accordance with the approved details.</p>

24	<p><b><u>Arboricultural impact assessment and method statement</u></b></p> <p>An arboricultural impact assessment and method statement shall be submitted to and approved in writing prior to the following works within the Site being commenced:</p> <ol style="list-style-type: none"> <li>i. The access works at Peak Lane and Longfield Avenue permitted pursuant to condition 5;</li> <li>ii. Pedestrian or cycle links onto Longfield Avenue, Peak Lane and Tanners Lane shown indicatively on drawing 148-AAP-02 Rev V;</li> <li>iii. Development within a phase identified by Condition 6.</li> </ol> <p>Any tree and hedgerow protective measures required by the approved method statement shall be installed prior to the development to which those measure relate taking place. Protective fencing shall be maintained and retained for the full duration of the works or until such time as may be agreed in writing by the Local Planning Authority. No activities, material storage, or placement of site huts or other equipment shall take place within the fencing without the prior written approval of the Local Planning Authority.</p> <p>All service routes, drain runs, soakaways or excavations in connection with the development of a phase identified by Condition 6 shall remain wholly outside the tree and hedgerow protection areas unless otherwise agreed in writing with the Local Planning Authority.</p>
25	<p><b><u>Water efficiency details</u></b></p> <p>No residential or commercial development shall take place within a phase as defined in the phasing plan pursuant to Condition 6 until details of water efficiency measures for that phase (or part thereof) 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 an average of 110ltrs per person per day. The development shall be carried out in accordance with the approved details.</p>
26	<p><b><u>Details of roads, footpaths and cycleways</u></b></p> <p>Pursuant to Condition 1, each reserved matter application containing layout shall include details of the following:</p> <ol style="list-style-type: none"> <li>i. The positions and widths of roads, footpaths and cycleways including gradients and surface materials;</li> <li>ii. Details of parking provision (on and off plot) and any associated manoeuvring areas;</li> </ol>

	<ul style="list-style-type: none"> <li>iii. Sweep path analysis to demonstrate manoeuvring of a refuse collection vehicle safely through the development proposed;</li> <li>iv. Street lighting including lighting calculations, contour illumination plans and means to reduce light pollution);</li> <li>v. The method for managing highway surface water drainage including local sustainable disposal; and</li> <li>vi. A timetable for the delivery of the above.</li> </ul> <p>The development shall be undertaken in accordance with the approved details.</p>
27	<p><b><u>Energy efficiency details</u></b></p> <p>Each reserved matter application for a phase of the development that includes housing shall provide details of energy efficiency measures in accordance with the Brookbanks Sustainability and Energy Strategy (10007 EN01 Rv1). The development shall be undertaken in accordance with the approved details.</p>
28	<p><b><u>Solar reflection reduction</u></b></p> <p>Where the energy efficiency measures required pursuant to Condition 27 include a photovoltaic panel or panels to be mounted on a dwelling house or building that is subject to a reserved matters application, such an application shall include details of solar reflection reduction measures to limit incidence of glint and glare. Such photovoltaic panels shall only be erected in accordance with the approved details.</p>
29	<p><b><u>Obstacle Limitation Surface</u></b></p> <p>No residential or commercial development within a phase as defined in the phasing plan pursuant to Condition 6 shall take place until a statement demonstrating that the buildings proposed (including their construction) has no impact upon the Obstacle Limitation Surface area for Solent Airport at Daedalus. Where buildings penetrate the Obstacle Limitation Surface details of the obstruction to the surface, period of the obstruction and any resultant lighting because of the penetration shall first be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.</p>
30	<p><b><u>Sports Hub details pursuant to a reserved matters application</u></b></p> <p>Any application for reserved matters approval on the land identified as the sports hub on plan 148-AAP-02 Rev V shall include the following details:</p>

	<ul style="list-style-type: none"> <li>i. site levels</li> <li>ii. the scale and appearance including elevations and floorplans of any buildings</li> <li>iii. hard and soft landscaping</li> <li>iv. surface water drainage</li> <li>v. access</li> <li>vi. car and cycle parking</li> <li>vii. lighting, and where relevant. flood lighting for playing pitches including lux levels and cowlings to reduce light spill</li> <li>viii. circulation</li> <li>ix. means of enclosure</li> <li>x. the specification of any playing pitches</li> </ul> <p>The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.</p>
31	<p><b><u>Primary School details</u></b></p> <p>Any application for reserved matters approval on the land identified as the primary school on plan 148-AAP-02 Rev V shall include details of any buildings, hard and soft landscaping, drainage, site levels, access, lighting, parking proposed as part of the Primary School and a timetable for delivery. The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.</p>
32	<p><b><u>Local centre mixed use area</u></b></p> <p>No residential development above a non-residential ground floor use within the phase containing the local centre (as defined in the phasing plan pursuant to condition 6) shall be occupied until the non-residential development (use classes E and F2) have been completed in accordance with the approved details.</p>
33	<p><b><u>External lighting</u></b></p> <p>No residential or commercial development shall take place within a phase as defined in the phasing plan pursuant to Condition 6 until a scheme of permanent external lighting (excluding street lighting determined pursuant to condition 26) has been submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and extent of light scatter and a schedule of the equipment</p>

	design (luminaire type, mounting height, aiming angles and luminaire profiles). Development shall be carried out in accordance with the approved details.
34	<p><b><u>Local centre details pursuant to a reserved matters application</u></b></p> <p>Any reserved matter application within the local centre phase as defined by the phasing plan approved pursuant to Condition 6 shall include the following details:</p> <ul style="list-style-type: none"> <li>i. site levels</li> <li>ii. the scale and appearance including elevations and floorplans of any buildings</li> <li>iii. hard and soft landscaping</li> <li>iv. surface water drainage</li> <li>v. access and parking</li> <li>vi. lighting</li> <li>vii. circulation</li> <li>viii. means of enclosure</li> </ul> <p>Such details shall accord with the Design Code prepared for that phase of the development approved pursuant to Condition 7.</p>
35	<p><b><u>Working hours</u></b></p> <p>No work relating to the construction of any of the 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 Monday to Friday, before the hours of 08:00 or after 13:00 Saturdays or at all on Sundays or recognised public and bank holidays, unless otherwise first agreed in writing with the local planning authority.</p>
36	<p><b><u>Affordable housing scheme</u></b></p> <p>No development shall take place within any housing phase defined on the phasing plan approved by Condition 6 until a scheme for the provision of affordable housing within that phase has been submitted to and approved in writing by the Local Planning Authority.</p> <p>The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework (2023) or any future guidance that replaces it.</p>

	<p>The scheme shall include:</p> <ul style="list-style-type: none"> <li>i. the proportion of affordable housing to be provided within that phase, which for the avoidance of doubt may be more or less than 40% provided that the accumulation of each scheme delivers 40% of the dwellings approved as affordable housing;</li> <li>ii. the tenure mix for the affordable housing within that phase which shall accord with the following unless otherwise agreed by the LPA: at least 10% as social rent, at least 55% as affordable rent, and at least 10% to be provided as affordable home ownership;</li> <li>iii. the timing of the construction of the affordable housing in relation to the occupancy of the market housing;</li> <li>iv. the arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) if no RSL is involved;</li> <li>v. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and</li> <li>vi. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.</li> </ul>
37	<p><b><u>Adaptable and accessible homes</u></b></p> <p>Of the dwellings that are approved pursuant to Condition 1, 15% shall achieve Building Regulation Category M4(2) and 2% of the market dwellings and 5% of the affordable homes shall achieve Building Regulation Category M4(3).</p>
38	<p><b><u>Employment and Skills Strategy</u></b></p> <p>Prior to the commencement of the development hereby approved an Employment and Skills Strategy shall be submitted to the LPA for approval and shall be implemented as approved by the applicant or their successor in title thereafter.</p>
39	<p><b><u>Self and/or custom build plots</u></b></p> <p>The development hereby approved shall provide serviced plots for self and/or custom builders for at least 10% of the total number of dwellings (excluding apartments), unless otherwise agreed in writing by the LPA.</p> <p>The dwellings hereby permitted for development as self and/or custom build shall be built or completed by:</p>

	<ul style="list-style-type: none"> <li>(a) individuals,</li> <li>(b) associations of individuals, or</li> <li>(c) persons working with or for individuals or associations of individuals, who have built or completed the dwelling to occupy as their home.</li> <li>(d) A developer commissioned by individuals.</li> </ul> <p>Each dwelling shall thereafter only be occupied in the first instance by the individual or association of individuals who built, completed or commissioned the dwelling</p>
40	<p><b><u>Identification of self and/or custom build plots by phase</u></b></p> <p>The first reserved matters application for layout in any residential phase shall contain a plan setting out the location of the proposed self and/or custom build plots to be submitted to and approved in writing by the Local Planning Authority.</p>
41	<p><b><u>Access and services to self and/or custom build plots</u></b></p> <p>Within a phase which contains self and/or custom build plots not more than 75% of the non-self/custom build dwellings shall be commenced until there is a direct connection to all of the self and/or custom build plots, less the final carriageway and footway surfacing, from the existing highway, and connection to services and utilities has been made to the permitted self and custom build plot boundaries. The final carriageway and footway surfacing serving the self and custom build plots shall be commenced within three months and completed within six months from the commencement of the penultimate self and/or custom-built dwelling for which permission is to be granted.</p>
42	<p><b><u>Self and/or custom build marketing strategy</u></b></p> <p>(a) Prior to the commencement of the first phase of residential development identified in the phasing plan approved pursuant to condition 6 a Self and/or Custom Build Marketing Strategy shall be submitted to the LPA for approval. The Marketing Strategy shall specify how self and/or custom build plots within each residential phase shall be marketed and shall include information specified in Appendix 2 of the Self and Custom Build Supplementary Planning Document (Fareham Borough Council SPD 2023) or any subsequent replacement.</p> <p>(b) Following not less than 12 months of marketing, the applicant or their successor in title shall prepare and submit to the LPA a Marketing Exercise Report which shall document the marketing of the self and/or custom build</p>

	<p>plots that has been undertaken and the number of such plots that have been disposed of to persons or organisations listed in condition 39.</p> <p>(c) Where the applicant or their successor in title has not disposed of the self and/or custom build plots in the terms specified in self or custom build marketing strategy details not otherwise sought (scale, appearance, landscaping) for the identified self and/or custom build plots may be submitted for the LPAs approval and they may no longer be required to be occupied by persons or organisations listed in condition 39.</p> <p>(d) Where the Marketing Exercise Report demonstrates that the identified self and/or custom build plots have not been taken up by persons or organisations listed in condition A, with the written agreement of the LPA subsequent phases of the proposed development may propose less than 10% of the dwellings as self and/or custom build plots.</p>
43	<p><b><u>Local Centre marketing plan</u></b></p> <p>A Local Centre Marketing Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the 400<sup>th</sup> dwelling.</p> <p>The marketing scheme will contain details of the commercial uses within the mixed-use area and the nursery and how both will be marketed to potential purchasers of the Local Centre Area. The local centre and nursery will be marketed in accordance with the approved details.</p>
44	<p><b><u>Local Centre details</u></b></p> <p>The submission of the first reserved matters application for mixed use development within the local centre (as defined in the phasing plan approved pursuant to condition 6) shall include details of at least: 800 square metres of class E floorspace and a community facility (class F2) of at least 300 square metres and where appropriate the nursery of at least 400 square metres.</p>
45	<p><b><u>Extra Care marketing plan</u></b></p> <p>An Extra Care Marketing Plan shall be submitted to the Local Planning Authority for approval prior to the occupation of the 400th dwelling. The Extra Care Marketing period shall be not less than 12 months in duration and the Marketing Plan shall specify:</p> <ul style="list-style-type: none"> <li>i. the details of and arrangements for marketing of the Extra Care land in the location(s) identified in the approved phasing plan pursuant to Condition 6, including, but not limited to, the agents used to promote the sale (including contact details), advertising methods</li> </ul>

	<p>used, information regarding any interest received during that time and why any interest (if any) was not pursued</p> <ul style="list-style-type: none"> <li>ii. the arrangements including timescales for the disposal of the Extra Care land to a prospective purchaser</li> <li>iii. the conditions where the Extra Care land is no longer needed to be marketed for the specified purpose</li> <li>iv. the procedures for reporting the results of the marketing activity to the LPA</li> </ul> <p>In the event of written agreement from the LPA that the results of the marketing activity reported pursuant to criterion (iv) does not require the Extra Care land as specified in criterion (iii) to be retained for that purpose, reserved matters approvals pursuant to Condition 1 may be sought for C3 housing other than the Extra Care.</p>
46	<p><b>Extra Care Scheme</b></p> <p>As part of any reserved matters application for the extra care units, an extra care scheme will be submitted to the LPA. The extra care scheme shall include:</p> <ul style="list-style-type: none"> <li>(i) details of the number of extra care units to be provided;</li> <li>(ii) the design standards;</li> <li>(iii) the persons who will be eligible to live in the extra care units; and</li> <li>(iv) details of the nominations agreement.</li> </ul> <p>The extra care units shall not be constructed or occupied otherwise than in accordance with the approved extra care scheme.</p> <p>The extra care unit will be retained as an extra care facility and for no other purpose within use class C3 of the Town and Country Planning (Use Classes) Order 1997 (as amended).</p>
47	<p><b><u>Temporary pedestrian and cycle route within the site</u></b></p> <p>Prior to approval of the first reserved matters application which includes dwellings, a scheme for a temporary pedestrian and cycle route within the site (in general accordance with drawings 22115-MA-XX-DR-C-104A P09 and 22115-MA-XX-DR-C-104B P08) shall be submitted to the LPA for approval. The scheme shall provide details of the alignment and surface material for the temporary pedestrian and cycle route as well as an implementation strategy which shall include provisions for alternative routing during the construction phases of the adjacent development parcels where necessary. The temporary pedestrian and cycle route shall be laid out in accordance with the approved scheme and shall be available to the public. The temporary pedestrian and cycle route shall be maintained until</p>

	<p>its various sections are replaced by the permanent pedestrian and cycle route approved pursuant to condition 1.</p>
48	<p><b><u>Travel Plan</u></b></p> <p>No development shall be occupied in of any residential phases or the local centre phase identified on phasing plan approved by condition 6 until a phase specific travel plan for that phase has been submitted and approved by the Local Planning Authority. Each phase specific Travel Plan shall include detailed measures in accordance with Sections 9 and 10 as relevant of the Framework Travel Plan (Brookbanks 2020) and once approved such detailed measures shall be adhered to and implemented throughout the construction and use of the development. Each phase specific Travel Plan shall calculate the travel plan cash deposit required in respect of each phase, which will be the sum of the cost of implementation and compliance with the targets and measures of the Travel Plan plus 10%.</p>



# Report to the Secretary of State

by Lesley Coffey BA (Hons) BTP MRTPI

Inspector appointed by the Secretary of State

Date 8 April 2025

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## TOWN AND COUNTRY PLANNING ACT 1990

### APPEAL BY

### HALLAM LAND MANAGEMENT LTD

### LAND TO THE SOUTH OF LONGFIELD AVENUE, FAREHAM

Inquiry Opened on 29 October 2024

Site Visit 1 November 2024

Land to the South of Longfield Avenue

File Ref: APP/A1720/W/24/3347627

## Abbreviations

AADT	Average Annual Daily Traffic
BNG	Biodiversity Net Gain
CIL	Community Infrastructure Levy
EHCP	Education Health and Care Plans
EIA	Environmental Impact Assessment
ES	Environmental Statement
FBC	Fareham Borough Council
FE	Form Entry
FLP	Fareham Local Plan
HCC	Hampshire County Council
HRA	Habitats Regulation Assessment
ICB	Integrated Care Board
IDP	Infrastructure Delivery Plan
LCWIP	Local Cycling and Walking Infrastructure Plans
LEA	Local Education Authority
LHA	Local Highway Authority
LPA	Local Planning Authority
PCU	Passenger Car Unit
POE	Proof of Evidence
PROW	Public Rights of Way
SANG	Suitable Alternative Natural Greenspace
SEND	Special Education Needs and Disabilities
SoCG	Statement of Common Ground
SoS	Secretary of State
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SRTM	Sub-Regional Transport Model
SuDS	Sustainable Drainage System
UU	Unilateral Undertaking

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**File Ref: /A1720/W/24/3347627**

**Land South of Longfield Avenue, Fareham**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Hallam Land Management Ltd against Fareham Borough Council.
- The application Ref P/20/0646/OA is dated 1 July 2020.
- The development proposed is up to 1,200 new homes (C3); 80 bed care homes (C2); a new 2 form entry primary school (D1); a local centre to comprise flexible commercial floorspace (A1, A2, A3 and A5 up to 800sq.m) and Community Centre and Health Care Facility (D1 use up to 700sq.m); the formation of new means of access onto Longfield Avenue and Peak Lane; new open space including the laying out of a new country park and sports facilities; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works.

**Summary of Recommendation: The appeal be allowed and planning permission granted**

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## **1 Procedural Matters**

- 1.1 The Inquiry opened on the 29 October 2024 and sat for six days.
- 1.2 The application was recovered by the Secretary of State (SoS) on 24 October 2024 on the basis that it was a proposal for a residential development of over 150 units or on a site of over five hectares), which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
- 1.3 This is an appeal against the Council's failure to determine the application within the prescribed period. The application was considered by the Council on 8 August 2024. It resolved that had it been in a position to determine the application it would have refused planning permission. The putative reason for refusal was that the development would be contrary to Policies HP5, HP7, HP8, R4, NE1, NE3, NE5, TIN1, TIN2, TIN4 and D1 of the Fareham Local Plan 2037 (FLP), and was unacceptable due to its failure to secure the delivery of affordable housing and an extra care facility, accessible or adaptable housing, custom and self-build plots, sustainable mode improvements, highway mitigation, publicly accessible open space, a bird reserve, a community facility, a local centre, sports pitches, early years provision, and a primary school. The reason also included the failure to provide a financial contribution towards off-site health care, a school travel plan, school places for pupils with special educational needs, an increase in secondary school capacity, an employment and skills training plan, upgrades to Public Rights of Way (PROW) and a monitoring fee. A number of these matters were resolved prior to the commencement of the Inquiry. The matters agreed are set out at Section 5 of this Report.
- 1.4 The proposal is for outline permission with access only to be determined at this stage. The application includes a Land Use and Green Infrastructure Parameter Plan (drawing number 148-AAP-02 Rev V).

- 1.5 The appellant submitted a Unilateral Undertaking (UU) dated 21 November 2024 in favour of Fareham Borough Council (FBC) and Hampshire County Council (HCC). The planning obligations are explained at Section 11 of this Report.
- 1.6 The appeal Scheme qualifies as an Environmental Impact Assessment (EIA) development.
- 1.7 An Environmental Statement (ES) and various associated addendum under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 was submitted with the planning application to assess the likely significant effects on a number of topic areas scoped into the report. The Planning Inspectorate undertook a review of the ES, including addendums, in accordance with Schedule 4, Part 2 of the EIA Regulations on 10 September 2024 and concluded that the ES is adequate. No legal points have been raised over the adequacy of the ES. I have taken the ES, the wider application submissions and the consultation responses into account in producing this report and in making my recommendation.

## **2 The Site and Surroundings**

- 2.1 The appeal site is located immediately south of the existing built-up edge of Fareham. It occupies the majority of the land allocated under Policy HA55 of the Fareham Local Plan 2037 (FLP) to provide residential and mixed use including a primary school, local centre, natural spaces and sports hub.
- 2.2 The majority of the appeal site is arable land in agricultural use and extends to about 78 hectares in size. Part of the appeal site includes highway land at Longfield Avenue and Peak Lane. The site is bisected by Peak Lane, which runs in a north-south direction between Fareham to the north, and the village of Stubbington to the south.
- 2.3 The site is bounded to the north by Longfield Avenue and Rowan Way which form the southern extent of Fareham's built-up area in this location. The urban area to the north is primarily residential with associated community facilities including retail and education. To the east is situated HMS Collingwood, the headquarters of the Royal Navy's training establishment. To the west is Ranvilles Lane, beyond which the site is bounded by agricultural fields leading to Titchfield Road and the Meon Valley. To the south are open arable fields leading up to the urban edge of Stubbington.
- 2.4 The recently constructed Stubbington Bypass is situated to the south and connects Gosport Road, Peak Lane and Titchfield Road.
- 2.5 The appeal site comprises two large irregular shaped fields. The boundaries are typically formed by gappy hedgerows with some mature hedgerow trees. Tree cover is most notable along Longfield Avenue to the north of the site and within smaller clusters along Tanners Lane to the south and Peak Lane. None of the trees within or adjacent to the appeal site are subject to Tree Preservation Orders. To the north-west a small woodland known as Oxleys Coppice adjoins the appeal site. Oxleys Coppice is classed as Ancient Woodland and a Site of Interest for Nature Conservation.



*Site Location (Design and Access Statement p25)*

- 2.6 Footpath 67, a Public Right of Way (PROW) runs across the site, whilst footpath 75 separates the site from HMS Collingwood. Footpath 67 runs along Tanners Lane adjacent to the site’s southern boundary. Several drainage ditches are present across this landscape, typically along the hedged field boundaries to the south of Oxleys Coppice and to the north of Tanners Lane. Some of these features are dry but the majority contain aquatic and marginal vegetation.
- 2.7 The appeal site is located close to Fareham Town Centre, the Solent Enterprise Zone at Daedalus, the railway station and existing local services and amenities with good access to walking, cycling and public transport links. Local shops and other facilities are situated at Bishopsfield Avenue to the north of the site.
- 2.8 The Seale / Williams land forms part of allocation HA55, but is in separate ownership from the appeal site and is identified for development. The area to the south of Tanner Lane (the Baird Land) remains part of the strategic gap.
- 2.9 The appeal site is within the 5.6km zone associated with the Solent Special Protection Area (SPA) and within the 13.8km zone associated with the New

Forest SPA. Part of the appeal site is categorised as low-use classification for Wading Birds and Brent Geese.

### **3 The Appeal Scheme**

- 3.1 The application is for up to 1,200 homes, including an 80 bed care home within the local centre, as well as self-build and custom build dwellings. A new local centre (up to 800 square metres of flexible commercial floorspace, a community centre,) green infrastructure including a country park and sports hub, ecological mitigation, and a two-form entry primary school. The proposed vehicular access would be from Longfield Avenue, with an additional access from Peak Lane. The Scheme would also include one Neighbourhood Area of Play located to the south of the proposed primary school and two Local Equipped Areas of Play.
- 3.2 The Land Use and Green infrastructure Parameter Plan (148-AAP-02 Rev V) depicts the arrangements of uses across the appeal site. The application seeks to provide 1,200 homes across a range of types, tenure and densities. The higher density part of the site will be focussed around the Local Centre where a minimum of 135 flats are to be provided. Higher density areas (including further flatted accommodation) are also proposed along the northern edge of the site fronting onto Longfield Avenue. The scale and density reduce to the south and west of the site.
- 3.3 The built form is focused into a series of blocks stemming from the northern edge of the site, broken up by a series of green corridors running both east to west and north to south. Opposite the junction of Bishopsfield Road with Longfield Avenue is the main green corridor through the site. This is the biggest and widest of the green corridors with views extending beyond the site southwards across the strategic gap towards Stubbington.
- 3.4 Towards the south of the built form, at the end of the main green corridor, is a two-hectare site to provide a new primary school. To the south-east corner of the application site, and east of the school, a 4.3 hectare area of land is identified for a sports hub, which would allow for a mixture of sports fields, courts and other associated facilities.
- 3.5 South and west of the school site, between the edge of the built form and the Stubbington Bypass is an area proposed as green infrastructure. This area includes new habitat creation, walking routes, sustainable drainage features and key structural planting. This area of open space will also connect into the existing rights of way network adjacent to the appeal site.
- 3.6 To the west of Peak Lane there is no development proposed other than the works necessary to create a new bird reserve and ecological enhancement area.
- 3.7 The land west of Peak Lane extends to 22.84 hectares and would be laid out to provide a central area of 10 hectares as a publicly restricted bird reserve. Access to the bird reserve by people and dogs is to be limited by fencing, defensive ditches, open water and native hedgerow planting to create natural barriers to this enclosure. Either side of the bird reserve two areas of semi natural greenspace are proposed for informal recreation. These would be linked by paths to the north and south of the main bird reserve to create a circular walk and to connect into

the wider rights of way network. The northernmost of these routes would be designed to enable the landscape to also function as a buffer to the edge of Oxleys Coppice in the interest of protecting and limiting access into the woodland.

*ID9 Open spaces and other facilities*



- 3.8 Towards the south of the built form, at the end of the main green corridor, is a two-hectare site to provide a new primary school. To the south-east corner of the application site, and east of the school, a 4.3 hectare area of land is identified for a sports hub, which would allow for a mixture of sports fields, courts and other associated facilities.
- 3.9 South and west of the school site, between the edge of the built form and the Stubbington Bypass is an area proposed as green infrastructure. This area includes new habitat creation, walking routes, sustainable drainage features and key structural planting. This area of open space will also connect into the existing rights of way network adjacent to the appeal site.
- 3.10 To the west of Peak Lane there is no development proposed other than the works necessary to create a new bird reserve and ecological enhancement area.
- 3.11 The land west of Peak Lane extends to 22.84 hectares and would be laid out to provide a central area of 10 hectares as a publicly restricted bird reserve. Access to the bird reserve by people and dogs is to be limited by fencing, defensive

ditches, open water and native hedgerow planting to create natural barriers to this enclosure. Either side of the bird reserve two areas of semi natural greenspace are proposed for informal recreation. These would be linked by paths to the north and south of the main bird reserve to create a circular walk and to connect into the wider rights of way network. The northernmost of these routes would be designed to enable the landscape to also function as a buffer to the edge of Oxleys Coppice in the interest of protecting and limiting access into the woodland.

- 3.12 A number of pedestrian and cycle improvements are proposed, including a raised table arrangement at the junction of Bishopsfield Road and Longfield Avenue with pedestrian and cycle priority crossing measures to the east and west and over Bishopsfield Road. Improvements to the pedestrian and cycle infrastructure and connectivity between the existing southern edge of Fareham and the development site are also proposed, as well as off-site highway improvement works to enhance infrastructure for cyclists and connectivity to the train station.

#### **4 Planning Policy and Law**

- 4.1 The development plan for the area includes the Fareham Borough Local Plan 2037 (FLP) which was adopted in April 2023.
- 4.2 Policy HA55 allocates land south of Longfield Avenue, including the appeal site, for residential and mixed use including a primary school, local centre, natural spaces and sports hub. The Scheme is required to be in accordance with the masterplan and supporting principles at Appendix D of the FLP. It sets out a number of site specific requirements. Those most relevant to this appeal include:
- b) Amongst other matters the built form must maximise the open nature of the existing landscape between the settlements of Fareham and Stubbington, limiting the effect on the integrity of the Strategic Gap.
  - d) The development shall provide compact, walkable, landscaped, low speed and low trafficked neighbourhoods where pedestrian movement is prioritised.
  - e) Primary highway access will be from Longfield Avenue and Peak Lane
  - f) Pedestrian and cycle links will be provided through to the Rapid Transit bus services and a network of linked footpaths within the site and to existing PROW shall be provided to connect to Fareham Town Centre and rail station, other settlement centres, facilities and services and employment hubs;
  - g) Publicly accessible and managed green infrastructure should retain and link to existing PROW and to act as a reasonable alternative to recreation on the New Forest and Solent SPAs.;
  - h) Land to the west of Peak Lane shall be retained, enhanced and managed to provide sufficient Solent Wader & Brent Goose habitat to mitigate the development in accordance with Policy NE5;

- j) Infrastructure provision and contributions including health education and transport for example shall be provided in line with Policy TIN4 and NE3. In addition, the following site-specific infrastructure will be required:
  - A 2-form entry Primary School and early-years childcare infrastructure (as identified by the Local Education Authority (LEA)); and
  - A mixed-use local centre of about 1,500 sq.m. to comprise flexible commercial floorspace, with residential above, that meets the day to day needs of the neighbourhood, together with community and health space; and
  - A 4ha sports pitch hub to include changing rooms, community space and essential parking; and
  - An Extra Care Scheme of between 50 – 100 units.

4.3 Appendix D sets out supporting masterplanning principles and an illustrative masterplan for the allocation. It also identifies the location of the local centre, school and sports hub, pedestrian and cycle connectivity. It sets out approximate densities across the allocation, together with character areas and building typologies.

#### *Affordable housing*

4.4 Policy HP5 seeks 40% of new homes on greenfield sites to be provided as affordable homes. The appellant intends that this proportion is secured as a planning obligation. The care home element of the appeal Scheme would not be required to provide affordable housing.

#### *Adaptable and accessible dwellings*

4.5 Policy HP7 prescribes proportions of adaptable and accessible dwellings to be provided. This would be secured by way of a planning condition.

#### *Older person and specialist accommodation*

4.6 Policy HP8 supports the provision of older person and specialist housing subject to consideration of parking, location, and design matters.

#### *Self and custom build homes*

4.7 Policy HP9 requires 10% of the overall dwellings to be provided through the provision of plots for sale to address local self or custom build need. The UU includes a mechanism for the provision.

#### *Climate change*

4.8 Policy CC1 promotes climate change mitigation and adaptation. The appeal site, by virtue of its location adjacent to the existing built-up area promotes active and sustainable travel and minimises the need to travel.

4.9 The Policy encourages the integration of blue and green infrastructure, including through Biodiversity Net Gain (BNG) and Sustainable Drainage Systems. (SuDS) It encourages higher water efficiency standards and energy efficiency measures. The Sustainability and Energy Statement (CD 2.9) identifies an energy strategy to

achieve a 75% reduction in carbon emissions it includes solar master planning to take advantage of the south facing orientation of the site, and the installation of air source heat pumps and photovoltaic cells. The parties agree that this approach contributes to criterion (e) of this Policy which supports the integration of energy efficiency, renewable and low carbon technologies into new development.

### *Managing Flood Risk*

- 4.10 Policy CC2 aimed to manage flood risk and sets out criteria for SuDS. The Local Lead Flood Authority is satisfied that the drainage strategy at Appendix Q of the ES Addendum provides appropriate SuDS measures and caters for future climate change allowance drainage strategy.

### *Protection of nature conservation, biodiversity and local ecological network*

- 4.11 Policy NE1 is a strategic policy supplemented by other topic specific policies. It aims to safeguard designated international, national or local sites of nature conservation value and avoid harm to protected and priority habitats and species.

### *Biodiversity Net Gain*

- 4.12 Policy NE2 requires new development to provide at least 10% net gain for biodiversity. Whilst the appeal Scheme is not subject to the provisions of the Environment Act 2021 and schedule 7A of the Town and Country Planning Act 1990, a BNG assessment was submitted.<sup>1</sup> Applying the metric current at that time, indicated a net gain of 41.60% for habitat units, 34.81% for hedgerow units and 56.34% for river units, and would accord with this Policy requirement. Employing the more recent statutory metric returns the same extent of net-gain. BNG can be secured by a planning condition.

### *Recreational disturbance on the Solent SPA*

- 4.13 Policy NE3 requires proposals resulting in a net increase in residential units to provide a financial contribution towards the Solent Recreation Mitigation Strategy. Alternatively, and in the absence of such a financial contribution, proposals will need to avoid or mitigate any in-combination negative effects from recreation through a developer-provided package of measures for the lifetime of the development.

### *Water quality effects on the Special Protection Areas, Special Areas of Conservation and Ramsar Sites of the Solent*

- 4.14 Policy NE4 states that planning permission will be granted where the nutrient effects arising from increased wastewater production maintains the integrity of these designated sites. This is a Policy equivalent to Section 63 of the Conservation of Habitats and Species Regulations 2017. The Technical Note submitted with the October 2022 amendments demonstrates that the proposed development would, in comparison to the predominant agricultural land use i.e.,

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<sup>1</sup> Environmental Assessment Addendum (Appendix P).

cereal and general cropping, generate a negative budget. Employing the 2024 Natural England calculator returns the same conclusion.

- 4.15 Natural England's March 2023 consultation response notes that the proposed development will result in a negative nutrient budget and that no mitigation is required, due to the change of land use within the site from agricultural use curtailing the use of fertilizer and therefore reducing the nitrate leaching associated Solent Wader and Brent Goose Sites.<sup>2</sup>
- 4.16 Policy NE5 protects areas of habitat associated with overwintering birds. The appeal site is classified as low-use on the FLP policies map. In such instances development is permissible where either (a) on site mitigation is provided which is agreed by the Council; or (b) off-site enhancement and/or a financial contribution is provided towards a suitable identified site for such species. An area of land west of Peak Lane is designated for this purpose in Policy HA55 (h). The area of land to be laid out as a bird reserve with suitable features, as illustrated in the Habitat Creation and Open Space document (October 2023), is to the satisfaction of the Local Planning Authority(LPA) and Natural England.<sup>3</sup> Suitable habitats will comprise open water, scrapes, ditches, and meadow grassland. No public access will be permitted to this area of land.

#### *Trees, Woodlands, Hedgerows and Green Infrastructure*

- 4.17 Policy NE6 protects these landscape and habitat features and requires compensatory provision in the event development proposals result in their loss.
- 4.18 Policy NE9 requires new development to provide or contribute to Green Infrastructure. The appeal Scheme reflects the green infrastructure requirements of Policy HA55 and the Indicative Framework Plan and provides a multi-functional approach to recreational provision across the Site.

#### *Sustainable transport*

- 4.19 Policy TIN1 aims to reduce the need to travel by motorised vehicle and promotes sustainable and active travel.

#### *Highway safety and road network*

- 4.20 Policy TIN2 states that there should be no unacceptable impact on highway safety and that the residual cumulative impact is not severe. The impacts on the strategic and local highway network, including the cumulative effects are to be mitigated through a sequential approach that would avoid/reduce the need to travel, active travel, public transport, and provision of improvements and enhancements to the local network or contributions towards necessary or relevant off-site transport improvement schemes.
- 4.21 The supporting text states that the Strategic Transport Assessment has identified locations on the road network where mitigation measures are needed to address

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<sup>2</sup> CD3 13.2

<sup>3</sup> CD3 13.3

the cumulative impact on the highway network from the scale and location of development proposed in the Local Plan up to 2037. Where applications are shown to impact on one or more of these junctions identified in the Strategic Transport Assessment, contributions will be sought to deliver mitigation schemes in line with Policy TIN2. However, the Council is mindful that the Strategic Transport Assessment document represents a strategic level assessment and that it is only when development schemes come forward as a planning application that the detailed transport assessment work can be prepared to determine the specific impact of development.

- 4.22 Policy TIN4 states that developments will be required to provide and contribute towards the delivery of new or improved infrastructure, or other mitigation, to mitigate the impacts of the development.
- 4.23 The supporting text states that Community Infrastructure Levy (CIL) receipts will be the primary mechanism for contributing towards the provision of Borough-wide off-site strategic infrastructure to support the wider infrastructure needs of the Borough. Section 106 legal agreements will be drawn up where financial contributions towards specific off-site or on-site infrastructure works are required to mitigate the impact of the development.

#### *High Quality Design and Place Making*

- 4.24 Policy D1 intends that new development proposals and spaces are of a high quality.

#### *Enabling good environmental conditions*

- 4.25 Policy D2 requires good environmental conditions for all new and existing users of buildings and external spaces.
- 4.26 Policy D3 expects, where relevant, that development proposals demonstrate that the proposal will not prejudice the appropriate development of adjoining sites and that the proposal maximises place-making opportunities.

#### *Water Quality and Resources*

- 4.27 Policy D4 seeks to improve water quality and manage the use of water resources by ensuring development proposals provide for the satisfactory supply and disposal of surface and wastewater. It also seeks to protect river, coastal and groundwater resources. To minimise impact on the water environment and adapt to climate change, all new dwellings shall achieve as a minimum the Optional Technical Housing Standard for Water efficiency of no more than 110 litres per person per day.

#### *Internal Space Standards*

- 4.28 Policy D5 requires dwellings to comply with the nationally described (internal) space standards.

### ***Infrastructure Delivery Plan (2023) (CD8.7)***

- 4.29 The Infrastructure Delivery Plan (IDP) was prepared to inform and support the local plan and has been consulted on and updated as part of the local plan preparation process. It sets out the type of infrastructure needed to ensure that the development strategy within the Local Plan can be delivered to support the new and expanding communities.
- 4.30 It supports Local Plan Policies TIN1 to TIN4 in providing the framework and the evidence for securing infrastructure provision and how development proposals will be required to provide and contribute to new or improved infrastructure. The site allocation policies identify key items of infrastructure that will be required to make applications acceptable in planning terms these have been tested through the viability assessment of the Local Plan.
- 4.31 The Fareham Borough Council Community Infrastructure Levy Regulation 123 sets out infrastructure types and projects that the Council currently intends will be, or may be, wholly or partly funded by the CIL. These include:
- Community centres, including the provision of new facilities and improvements to existing facilities.
  - Playing fields and sports pitches.
  - Transport infrastructure excluding specific improvements needed to make development acceptable in planning terms.
- 4.32 The IDP also sets out the infrastructure requirements of specific sites. In the case of allocation HA55, which includes the appeal site, it seeks:
- 100 places early years provision
  - A 2 form entry primary school, based on a pro rata contribution, but with sufficient land to provide a 2 form entry school.
  - An extra care facility of between 50 and 100 units;
  - Land for a strategic leisure hub including a full size 3g pitch; two full size rugby pitches, a clubroom community room, 4 hanging rooms; dual tennis and netball court and car parking.
  - Maintenance and operation requirements for ecological reserve; parkland and open space; sports hub.
  - A health centre within the local centre.

### ***The National Planning Policy Framework (CD 6.1)***

- 4.33 Paragraph 35 states that Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Paragraphs 56 and 58 provide guidance in the use of conditions and planning obligations.
- 4.34 Paragraph 61 states that in order to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed.

- 4.35 Paragraph 103 states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.
- 4.36 Paragraph 105 requires planning policies and decisions to protect and enhance public rights of way and access, as well to take opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.
- 4.37 Paragraph 116 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

### ***Community Infrastructure Levy***

- 4.38 The FLP was adopted in April 2023. In September 2023, the CIL Examination was conducted. The Examiner's Report (CD7.2) recommended that the revised CIL Charging Schedule be adopted subject to an amendment to zero rate HA55 (the appeal site). FBC did not accept this recommendation and instead undertook further work to justify a different and lower CIL rate for HA55. The revised CIL charging schedule was adopted in April 2024. (CD8.1)
- 4.39 In justifying its CIL levy, FBC cited a funding gap of £42.5 million. It suggested that CIL might fund: strategic transport highway capacity schemes, town centre car park, flood defences, leisure facilities (specifically Ferneham Hall and Longfield Sports Hub), and green infrastructure. These infrastructure items correspond to the FBC's 2023 IDP.

### ***The Conservation of Species and Habitats Regulations 2017 (Habitat Regulations)***

- 4.40 The Habitat Regulations aim to protect a network of sites in the UK that have rare or important habitats or species. They 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.
- 4.41 Regulation 63 is a two-stage process, the first stage is to determine whether a plan or project is likely to have a significant effect on a European site ( the Habitat Regulations Assessment); the second test (if required) is to determine whether the project will affect the integrity of the European site, an Appropriate Assessment. It is the responsibility for the competent authority to undertake the assessment.

## **5 Matters Agreed**

- 5.1 Prior and during the Inquiry the parties worked together to narrow their differences. The appellant and the LPA agreed that the appeal should be allowed subject to conditions and appropriate planning obligations. Statements of

Common Ground (SoCG) were submitted in respect of Planning, Highways, Education, Public Rights of Way and self-build and custom build housing.

*Planning (CD D)*

- 5.2 The development for which planning permission is sought is consistent with the intent of the Fareham Local Plan Policy HA55. The Land Use Parameter Plan (148-AAP-02 Rev V) depicts the arrangements of uses across the appeal site and is consistent with the Indicative Framework Plan associated with Policy HA55.
- 5.3 The number of new homes proposed is consistent with the yield anticipated by Policy HA55. The extra care housing referenced in criterion (j) of Policy HA55 is within the ambit of the housing proposed. The size and location of the primary school site is consistent with criterion (j) and the Indicative Framework Plan. Two satisfactory locations for nursery provision have been identified on the land use parameter plan.
- 5.4 The areas of green infrastructure east and west of Peak Lane provide an amount of recreational space that is considered a reasonable alternative to recreation at the Solent and New Forest Special Protection Areas (SPAs) in accordance with Policy HA55 criterion (g). Notwithstanding this, Natural England's position is that the appellant should provide both the onsite space and a financial contribution towards mitigation. That is not consistent with Policy NE3.
- 5.5 The form and capacity of the proposed highway access from Longfield Avenue and Peak Lane, are appropriate and incorporate measures for walking and cycling consistent with LTN1/20. The proposed junction at Longfield Avenue is preferential to a roundabout in this location.<sup>4</sup>
- 5.6 Subject to appropriate mitigation, the appeal Scheme will not harm designated international, national or local sites of nature conservation value nor will it harm protected and priority habitats and species. Scheme specific mitigation, in accordance with Policy HA55 criteria (g) and (h), provides a reasonable alternative to recreation using the New Forest and Solent SPAs. Enhanced habitat for Solent Wader and Brent Goose is also proposed to compensate for the loss of low-classification land. The green infrastructure to be provided as part of the appeal Scheme will not prejudice the ecological network.
- 5.7 The Scheme would provide a BNG of 41.60% for habitat units, 34.81% for hedgerow units and 56.34% for river units.
- 5.8 Policy HA55(g) intends that the publicly accessible and managed green infrastructure provided as part of the proposed development acts as a reasonable alternative to recreation at the Solent and New Forest SPA. The appeal Scheme achieves this to the satisfaction of the LPA.
- 5.9 The proposed development would, in comparison to the predominant agricultural land use generate a negative nutrient budget and Natural England agree that no mitigation is required.

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<sup>4</sup> 22115-MA-XX-DR-C-0108 P02 & 22115-MA-XX-DR-C-0109 P02 (CD 2.37 & CD.2.38)

- 5.10 The area of land to be laid out as a bird reserve with suitable features, as illustrated in the Habitat Creation and Open Space document (October 2023), is to the satisfaction of the LPA and Natural England. Suitable habitats will comprise open water, scrapes, ditches, and meadow grassland. No public access will be permitted to this area of land.
- 5.11 The means of access from Longfield Avenue and Peak Lane will require the removal of trees and hedgerows at those points. Overall the Scheme would result in a net gain in tree, shrub and hedgerow cover within the associated green infrastructure. The LPA's tree officer does not object to the proposed development.
- 5.12 The appeal site is suitably located and the appeal Scheme will provide a range of services and facilities that are accessible by walking and cycling both to future and existing residents (i.e., the primary school, the sports hub, local retail, community facilities, and recreational spaces). New footpaths and cycle routes are to be provided within the appeal Scheme to facilitate such movement.
- 5.13 Beyond the appeal site, pedestrian and cycle improvements have been identified at various locations. These include routes along Longfield Avenue, Peak Lane, St Michael's Road and The Gillies. These provide improvements between the appeal site and the route of the rapid transit bus service and the railway station and town centre. Improved bus infrastructure on Longfield Avenue can be provided as a scheme to be approved as a planning condition.
- 5.14 A parallel walking and cycling route to Longfield Avenue within the appeal site would provide connectivity between the appeal site and the adjacent urban area. The provision of a parallel route to footpath 084/75/1 along the eastern edge of the site is appropriate given security issues associated with HMS Collingwood.
- 5.15 HCC's Countryside Service is responsible for PROW and has requested contributions towards several PROW both within and beyond the site. The LPA and the Appellant agree that the request for improvements to footpaths 48 and 51 are not justified. The part of the footpath 67 within the Appeal Site will form part of the Scheme for the West of Peak Lane environmental mitigation.

#### *Protection and Provision of Open Space*

- 5.16 The appeal Scheme reflects the open space requirements of Policy HA55 and the Indicative Framework Plan and provides a multi-functional approach to recreational provision across the Site. The amount of open space exceeds local standards, meets the needs of new residents and will also provide a publicly accessible resource to the benefit of existing residents.
- 5.17 The arrangement of land uses shown on the land use parameter plan does not give rise to unacceptable environmental (living) conditions. Outlook, ventilation, daylight, sunlight and privacy are all matters that can be satisfactorily addressed at the reserved matters stage. The arrangement of land uses in relation to the adjoining HMS Collingwood is to the satisfaction of the Defence Infrastructure Organisation. The proximity of new residential premises to Solent Airfield will not prejudice the future operation of the airfield.

### *Local Centre*

- 5.18 Policy HA55 requires the provision of a mixed-use local centre with community and health space. The Integrated Care Board (the statutory NHS body that arranges the provision of health services) has sought a financial contribution towards off-site healthcare improvements. As a matter of principle this would be consistent with Policy TIN4, were it to accord with CIL Regulation 122.

### *Sports Hub*

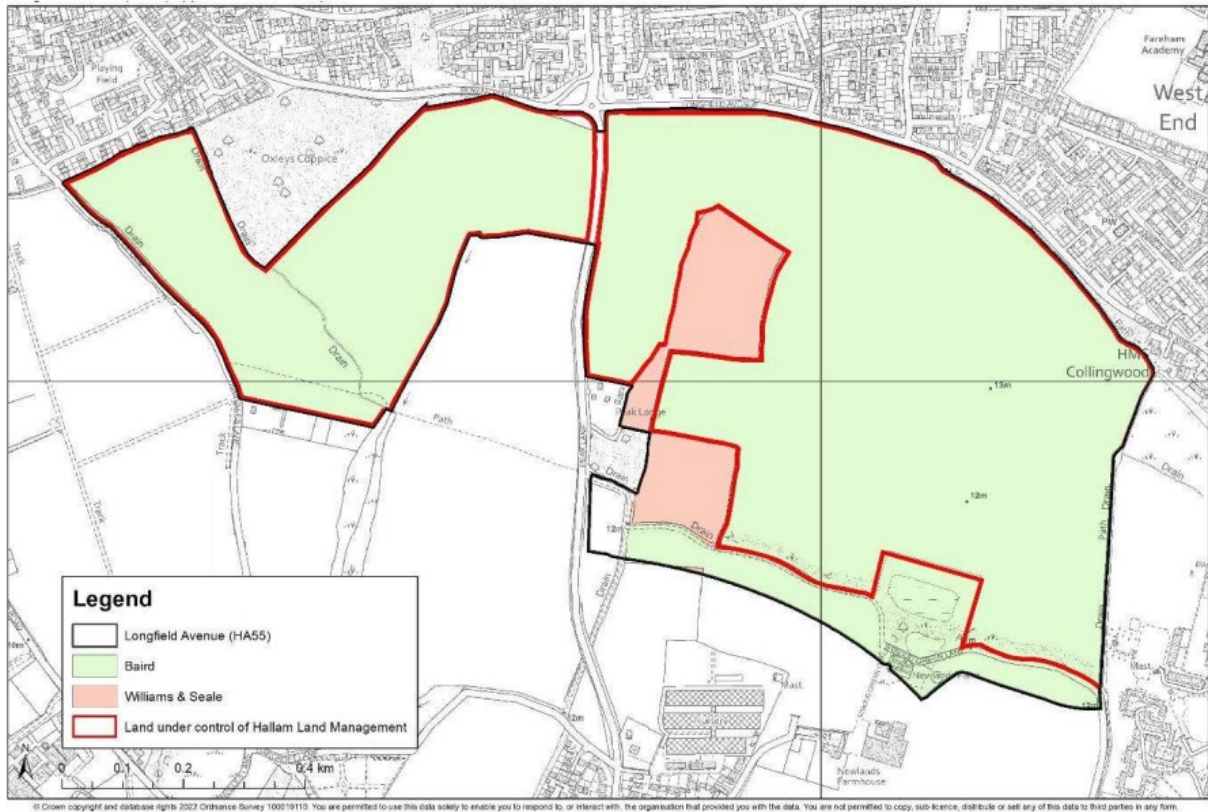
- 5.19 Policy HA55 requires the provision of a 4-hectare sports hub to include changing rooms, community space and essential parking. The Indicative Framework Plan that accompanies Policy HA55 allocates land for the sports hub within the southeast of the site. The land use parameter plan submitted with the application positions the sports hub within the southeast corner in accordance with the Indicative Framework Plan. The area of land shown measures 4.3 hectares consistent with Appendix D. The mechanism by which the sports hub is provided is not agreed.

### *Design/Environmental Conditions*

- 5.20 The appeal Scheme provides a wholly appropriate framework for design principles specified by Policy HA55. The arrangement of land uses across the appeal site does not give rise to conflict with any of the criteria relevant to this stage in the planning process. Consistent with Policy HA55 (criterion a), a Design Code will be required pursuant to a planning condition.
- 5.21 The central spine (Linear Park) would provide openness and visual connectivity between Bishopsfield Road and Longfield Avenue.
- 5.22 Noise and Air Quality assessments undertaken by the appellant are to the satisfaction of the LPA. Noise from the Stubbington bypass does not create unacceptable living conditions within the development. Increased traffic levels from the proposed development would have a negligible effect on noise sensitive receptors. Traffic from the proposed development would have a negligible effect on air quality.
- 5.23 The Seale / Williams land is not part of the appeal site. It is not subject to any other planning application. The land use and green infrastructure plan identifies where vehicular, pedestrian and cycle access may be obtained to the Seale / Williams land to enable its development should the landowner seek to bring forward that land at a later date.
- 5.24 Policy D4 seeks to protect river, coastal and groundwater resources. Neither the Environment Agency nor Natural England raise concern in this regard. Water efficiency measures can be secured as a planning condition.

Extract from SoCG submitted to FLP Examination (CD 7.4)

Figure 1: South of Longfield Avenue Land Ownership



### Housing Delivery

5.25 The 2023 Housing Delivery Test records the Borough Council’s performance as 55%. This engages the Framework presumption in favour of sustainable development and there is a demonstrable need to significantly boost the supply of homes in the Borough.

### Education (ID 7)

5.26 The Education SoCG between the appellant and HCC was updated during the course of the Inquiry.

5.27 The development of up to 1,200 dwellings would generate a need for up to 160 early years places, depending on the number of eligible dwellings the development delivers. The location of the early years either in the local centre or in the sports hub is agreed in principle. Delivery of these Early Years places will be via an operator based on commercial terms agreed with the developer.

5.28 The current school forecasts indicate that there would be sufficient capacity for secondary age children at the catchment school Crofton School and at other secondary schools within the vicinity of the appeal site. Therefore HCC does not seek a contribution for secondary education provision.

- 5.29 A contribution of £720,637.58 towards Special Educational Needs and Disabilities (SEND) will be required in line with the HCC Developers Guidance (CD 9.24).
- 5.30 The location of the on-site primary school is fixed by Policy HA55 Appendix D of the FLP and will be 2ha in size. If the development is fewer than 1,200 dwellings, the primary school may change to a 1.5Form Entry (FE) requirement, with the remaining 0.4ha of land set aside for any future expansion required and purchased at education value.
- 5.31 On the basis of the Guidance on Planning Obligations and Developer Infrastructure Contributions published by HCC dated December 2023 the proposed development of up to 1,200 dwellings will generate up to 360 primary pupils.<sup>5</sup> This is based on a figure of 0.3 primary age children per new dwelling for every contributing dwelling of 2 beds or more. Where appropriate, HCC will make an allowance for one-bed units or properties for older persons in our calculation of pupil yield.
- 5.32 HCC require the developer to provide a clean, unencumbered and fully serviced site free of charge up to the size of school site that mitigates the impact of the development.
- 5.33 In terms of primary school provision, the pupil yield would suggest a 1.5FE primary school would be sufficient to accommodate those children on site. In those circumstances the local authority would require a 1.6ha site and requires the developer to set aside the remaining primary school site (0.4ha) for education use and reserve it for up to ten years in the planning obligation. The LEA would pay for the additional land at education value. The final make-up of primary school provision will be determined in discussion with the developer and Local Authority on submission of a reserved matters planning application.

#### *PROW (ID8)*

- 5.34 The PROW SoCG between the appellant and FBC was updated during the course of the Inquiry. The Indicative Framework Plan and Illustrative Masterplan identify the general arrangement of pedestrian and cycle routes within the site and links to existing public rights of way. The parties agree that the Appeal Scheme Land Use Parameter Plan (148-AAP-002 rev V) provides an appropriate reflection of those routes. Reserved matters applications or schemes required by planning condition, in general accordance with the land use parameter plan, will ensure the implementation of those walking and cycling routes within the Site and the connections to public rights of way. The proposed phasing plan is also intended to include on-site routes.
- 5.35 HCC are seeking financial contributions from the appellant in relation to the following public rights of way:
- (a) Footpath 084/75/1
  - (b) Footpath 084/68/2
  - (c) Footpath084/67/1
  - (d) Footpath 084/70/1
  - (e) Footpaths 084/48 and 084/51

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<sup>5</sup> CD 9.23

The justification for these contributions is set out in Mr Millard's evidence.

5.36 The Appellant and the LPA agree with one another that the following are not justified:

- (1) the upgrading of FP67 outside the Appeal Site
- (2) upgrading the existing bridge along FP67
- (3) the upgrading of FP75 adjacent to HMS Collingwood
- (4) the provision of signage and furniture
- (5) improvements to FP68 Tanners Lane (either in terms of surface treatment, drainage measures or re-alignment).
- (6) the Towpath Canal Scheme relating to FP48 and FP51.

5.37 The Appellant and the LPA also agree the following:

- (1) FP67 within the Appeal Site will be incorporated into the West of Peak Lane scheme
- (2) an alternative route to FP75 on the western side of the existing hedge is shown on the Land Use parameter plan and this is appropriate.

#### *Self Build/Custom Build (ID25)*

5.38 The appellant and FBC agree that on sites of 40 dwellings or more (gross), Policy HP9 requires 10% of the overall dwellings to be provided through the provision of plots for sale to address local self or custom build need. Criterion (j) of Policy HA55 intends that a 50-100 extra care scheme is provided as part of the development. The Local Plan's Supporting Masterplan Principles (Appendix D) intends that of 255 apartments are provided as part of the development, reflecting the character area parameters set out therein.

5.39 The parties agree that the above type and mix of housing do not correspond to or represent the needs identified by the Self and Custom Build Register. As such, the 10% requirement in Policy HP9 should be applied to the residual figure.

#### *Transport (ID22)*

5.40 The Transport SoCG between the appellant and HCC as Highway Authority was updated during the course of the Inquiry. The table appended to the SoCG set out the position of both parties in respect of the mitigation sought.

#### Sustainable Travel

5.41 The parties agree the location and frequency of bus and rail services that have the potential to serve the appeal site. Fareham Rail Station is located 1.8km from the Longfield Avenue site access making it a viable option for commuters to travel by rail to employment areas such as Southampton and Portsmouth.

5.42 The main trip attractors in the area are located to the north of the site which is where the majority of the pedestrian and cycle trips from the Site will be focused.

5.43 It is agreed that the Site is in a location that is accessible by sustainable modes of transport. Connectivity improvements will be required to meet the requirements of Local Plan Policy TIN1 by way of various S278 measures to be implemented and S106 contributions that are to be made towards pedestrian and cycle facilities.

5.44 In addition to the general provision of pedestrian and cycle infrastructure and facilities within the site to be delivered as part of future Reserved Matters applications, the parties agree that the following mitigation measures should be provided:

- C1 – Three pairs of high-quality new bus stops (two on Longfield Avenue and one on Peak Lane), to be delivered via S278 agreement in conjunction with D1 and D4 Part 2.
- D2 – a segregated pedestrian and cycle path along Longfield Avenue across the site frontage to be provided within the site boundary and open to the public in perpetuity. A temporary path for the entire route of D2 will be in place prior to the occupation of the 301st residential unit.
- D1 – The pedestrian / cycle path on Peak Lane to be widened, the provision of a parallel crossing over Longfield Avenue, the provision of a pedestrian / cycle crossing over Peak Lane north of Longfield Avenue, a short section of footway / cycleway to the north-west corner of roundabout to connect to existing.<sup>6</sup>
- D4 Part 1 – a shared pedestrian/cycle path on the north side of Longfield Avenue between Malvern Avenue and Crossfell Walk, a raised table at Bishopsfield Road, and parallel crossings on all arms.<sup>7</sup> To be delivered via S278 agreement prior to the occupation of the 301st residential unit.
- D4 Part 2 – a shared pedestrian / cycle path of the north side of Longfield Avenue between Bardon Way and Malvern Avenue and a raised table priority site access junction with parallel crossings on all arms.<sup>8</sup> To be delivered via S278 agreement prior to the occupation of the 701st residential unit.
- D10 – Local Cycling and Walking Infrastructure Plan (LCWIP) improvements to The Gillies, route past Aldi, Aldi junction and West Street towards the Station. To be delivered via a S106 Contribution of £642,337 provided prior to the occupation of the 394th residential unit.
- D11 – LCWIP Scheme at the Station Roundabout. To be delivered via a S106 Contribution of £731,745 provided prior to the occupation of the 801st residential unit.

5.45 HCC is also seeking:

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<sup>6</sup> Drawing 22115-MA-XX-DR-C-0103 P07 and top panel of Drawing 22115-MA-XX-DR-C-0104A P09

<sup>7</sup> Drawing 22115-MA-XX-DR-C-0104A P09, middle and bottom panels

<sup>8</sup> Drawing 22115-MA-XX-DR-C-0104A P09, middle and bottom panels

- D3 - Pedestrian/ cycle path from the eastern edge of the site to Newgate Lane.<sup>9</sup>
- D5 - Shared pedestrian/cycle path along St Michael's Grove.<sup>10</sup>

Whilst HCC would prefer a s278 agreement, it accepts that the appellant may nominate whether it carries out the work or pays a contribution towards the work.

- D8 - The Appellant accepts that this scheme is required to improve accessibility between the site and the retail and employment opportunities on offer on Newgate Lane and further to the east. However, there is a difference between the parties as to how this should be funded.

### Highway Capacity

- 5.46 The proposed vehicular access arrangements, shown on Drawings 22115-MA-XX-DR-C-0109-P02 and 22115-MA-XX-DR-C-0108-P02 are agreed in principle, subject to detailed design as part of any S278 agreements.
- 5.47 The development would be served by two vehicle access points. These comprise a signal-controlled junction on Peak Lane and a priority junction with a raised table on Longfield Avenue. Highway capacity testing has indicated that both site access junctions are expected to operate within capacity in 2036 and through sensitivity testing that the Peak Lane signals could accommodate the entire trip generation of the development proposals, if required.
- 5.48 The following junctions were found to operate within capacity with the development in place in 2036 and it is agreed that no capacity improvements are required to mitigate the impact of the development on these junctions:
- J3 A27 The Avenue / Catisfield Road / Peak Lane (signalised staggered crossroads)
  - J4 A27 The Avenue / Veryan / Bishopsfield Road (signalised crossroads)
  - J7 Longfield Avenue / Bishopsfield Road (priority T-junction)
  - J8 Longfield Avenue / Rowan Way / Peak Lane roundabout (priority roundabout) (D1 and D7)
- 5.49 The following junctions were found to operate over-capacity without the proposed development in place and the performance of the junctions would be worse with the proposed development in place:
- J1 Titchfield Gyrotory (part-signalised) (B2)
  - J2 A27 The Avenue / Ranvilles Lane (priority T-junction) (A1)
  - J5 A27 The Avenue / Redlands / Gudge Heath Lane (signalised crossroads) (D9)
  - J6 A27 The Avenue / Station Roundabout (priority roundabout) (D11)
- 5.50 The works at A1 are agreed by the appellant and would be delivered by way of a s278 agreement. The works at D11 are also agreed and the unilateral Undertaking (UU) provides for a financial contribution towards these works.
- 5.51 Whilst the Appellant accepts that the site should make fair and proportionate contributions to the Strategic Infrastructure schemes identified in the Fareham

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<sup>9</sup> Drawing 22115-MA-XX-DR-C-0104B P08 and 22115-MA-XX-DR-C-0104C P05

<sup>10</sup> Drawing 22115-MA-XX-DR-C-0105A P03 and MA-XX-DR-C-0105B P03

Local Plan Strategic Transport Assessment (CD 9.15) as required by FLP Policy TIN4, including Junctions B2, B3 and B4, there is disagreement in the type of contribution. HCC requests these contributions to be made by way of a planning obligation, whilst the appellant suggests that they should be funded by CIL.

## 6 Planning Conditions and Planning Obligations

- 6.1 The planning conditions were amended in the light of discussions at the Inquiry. Following the close of the Inquiry the final agreed version of the conditions was submitted by the parties.<sup>11</sup> I am satisfied that the suggested conditions are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The suggested pre-commencement conditions have been agreed by the appellant.
- 6.2 The suggested conditions and the reasons for imposing them are at Appendix C.
- 6.3 The appellant also submitted a UU dated 21 November 2024. FBC submitted a CIL compliance statement (ID20) setting out how the planning obligation sought would comply with the Framework paragraph 58 and CIL regulation 122 and the appellant submitted an explanatory note in relation to the UU (ID16).
- 6.4 There is a general "blue pencil" provision in clause 3.3. This enables the SoS to decide that specific obligations and / or covenants included in the UU are not compliant with the tests in Regulation 122 of the CIL Regulations 2010 and therefore do not need to be complied with.
- 6.5 It is the appellant's position that certain pieces of infrastructure should be funded by CIL Receipts (including CIL Receipts from the Development, which are estimated to be £10m), and that the obligations relating to payments of financial contributions for the same pieces of infrastructure are not necessary. I return to this matter in my conclusions below.
- 6.6 *Schedule One* makes provision for a policy compliant 40% of the dwellings to be provided as affordable housing. *Schedule One* also requires the owner to market and dispose of land to an extra care provider for the provision of 50-100 extra care units. In the event that the land is disposed of to an extra care provider, the use of that land is restricted to use for the extra care scheme and the extra care units are to be occupied only by those persons who meet the extra care eligibility criteria. The extra care scheme and extra care marketing scheme are secured by planning conditions.<sup>12</sup>
- 6.7 I agree with the LPA that the UU secures a policy-compliant scheme of affordable housing and that the tests in regulation 122 of the CIL Regulations are met.
- 6.8 *Schedule Two* makes provision for open space, the sports hub and the bird reserve in accordance with Policy HA55 g). The UU provides for the completion, laying out and equipping of the open space, the local equipped play areas and the neighbourhood equipped play area. It also undertakes to manage and maintain the open space in accordance with the approved Open Space Scheme

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<sup>11</sup> ID17

<sup>12</sup> Recommended conditions 45& 46

- of Works and Management Plan, or if they are transferred to the Council, with the appropriate maintenance contribution.
- 6.9 The obligation also requires any SuDS features that form part of the Scheme to be managed and maintained.
- 6.10 Schedule Two limits the number of dwellings that can be occupied until the owner has offered to transfer the sports hub land (4.3 hectares) to the Council for £1.
- 6.11 The sports hub would include a sports building, an artificial pitch, car parking, a netball/tennis court and two rugby pitches. It also requires the Owner to pay the Sports Hub Contribution to the Council. The Sports Hub Land is a larger area than is required to mitigate the impacts of the Development, and to reflect this, a Sports Hub Land Deduction is included. This comprises the Sports Hub Provision Contribution (£1,569,526) and the Sports Hub Maintenance Contribution (£1,587,747).
- 6.12 FBC considers that the obligations are compliant with Regulation 122. The appellant disagrees and contends that the Sports Hub Provision Contribution should instead be funded by CIL Receipts. In the event that the SoS agrees with the appellant, the blue pencil provision should apply.
- 6.13 The Bird Reserve (land west of Peak Lane) would be secured by planning condition requiring the submission of a Bird Reserve Scheme of Works and Management Plan.<sup>13</sup> The UU requires that the bird reserve be delivered, managed and maintained in accordance with that plan.
- 6.14 The UU would make the on-site routes available for use by the public but would not prevent the owner from closing them temporarily in accordance with times previously agreed with FBC.
- 6.15 *Schedule Three* concerns Health care obligations. This is requested by the Integrated Care Board (ICB). The UU provides for the phased payment of the healthcare contribution based on the number of dwellings occupied in each phase. The contribution would be either £601 per dwelling or alternatively £360 per dwelling. It would be used towards the expansion of the Fareham Health Centre and/or the relocation of the Stubbington practice. The appellant contends that the contribution sought is not compliant with CIL Regulation 122.
- 6.16 *Schedule Four* Local Centre Community Facility and Nursery. The UU restricts occupation of more than 400 dwellings unless a local centre (mixed use) marketing scheme has been submitted to and approved by the FBC pursuant to the conditions of the planning permission.<sup>14</sup> The owner must then market the local centre in accordance with that approved marketing scheme for a set marketing period which has been agreed with FBC and is defined in the agreement.
- 6.17 The UU requires a community facility of at least 300 square metres in area to be located in the local centre area and comprising community meeting space and ancillary facilities to be marketed to community groups with a view to being

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<sup>13</sup> Recommended condition 10

<sup>14</sup> Recommended Condition 43

- transferred to a community group free-of-charge or, as a second choice, to the Council for £1.
- 6.18 At least one unit of the local centre which is appropriate to deliver a nursery use (a building of at least 400 square metres in area, capable of accommodating a childcare nursery) must be marketed for at least 12 months solely to nursery providers.
- 6.19 *Schedule Five Ecology Contributions.* The planning obligations provide a financial contribution towards the Solent Recreation Mitigation Strategy and the New Forest Recreation Mitigation Strategy. The New Forest mitigation contribution is £297.24 per dwelling. The Solent mitigation contribution ranges from £465 for a one-bedroom dwelling to £1,207 for a five-bedroom dwelling. Neither the appellant, nor the LPA consider that these contributions are necessary since the on-site open space is far in excess of policy requirements and is considered to represent a suitable alternative to recreational activities along the coast. For this reason, they consider that the obligations in the UU do not comply with regulation 122 of the CIL Regulations. I return to this matter in my conclusions.
- 6.20 *Schedule 6 Education* The Owner undertakes to transfer to HCC 1.6ha of land on the development site for the delivery of a 1.5 FE primary school. The transfer is to be carried out prior to the occupation of 500 'eligible dwellings'. The planning obligation also includes the safeguarding of a further 0.4ha of land for an 'option period' (a period starting with the acceptance of the initial site by HCC and finishing six months after the occupation of 1000 dwellings) during which time the HCC may purchase the land at market value.
- 6.21 The UU also provides for the Primary Education Contribution. As discussed later in this Report, the parties differ as to the amount of the Primary Education Contribution. The UU provides for the appellant's preferred option, the Initial Primary Education Contribution and the Additional Primary School Contribution). In the event that the SoS agrees with the HCC's request the UU provides the Primary Education Contribution B as an alternative.
- 6.22 The Initial Primary Education Contribution of £5,548,454.10 would be payable in instalments related to the progress and occupation of the development. This would be a contribution towards the provision of a 1 FE school. The UU provides for an additional amount (calculated by reference to a formula) where the number of approved eligible dwellings exceeds 700.<sup>15</sup>
- 6.23 The alternative preferred by HCC, Primary Education Contribution B, is a payment of £8,322,682.71 payable in instalments, being the full cost of providing a 1.5 FE school.
- 6.24 The UU also covenants to pay £720,637.58 towards specialist provision for SEND.

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<sup>15</sup> Based on the agreed pupil yield 700 dwellings would generate a need for 210 primary school places

- 6.25 *Schedule Seven PROW* The UU provides the option for the payment of £555,666 towards the improvement and upgrade of PROW footpaths 48 and 51, which have been requested by HCC (as rights of way authority).
- 6.26 It is a matter of common ground between FBC and the appellant that contributions towards footpaths 48 and 51 do not meet the regulation 122 tests. I return to this matter in my conclusions below.
- 6.27 The UU also provides the option for the payment of £359,800 towards the upgrade and improvement of PROW footpaths 67, 68 and 75 provided it is found to comply with Regulation 122. In the event that the SoS finds that this contribution is not payable, the UU provides for the payment of the Rights of Way Upgrade Contribution to fund the change in status of footpaths 68 and 70 to allow cycling.
- 6.28 Two PROW contributions are payable to FBC. The Borough Council Footpath/Cycle way Contribution of £35,000 towards a footpath/cycleway link running north from the eastern edge of highway works D2. This land is owned by FBC, is outside of the Owner's control and not within public highway land.
- 6.29 The Footpath Link Contribution is for the link between the on-site route on the northern edge of the Site and the south side of Longfield Avenue on the junction between Longfield Avenue and Bishopsfield Road. The UU allows the Owner to carry out the works under licence, or alternatively pay the Bishopsfield Road/Longfield Avenue Link Work contribution of £33,607.
- 6.30 *Schedule Eight Highway Contributions and Highway Works*. The following mitigation measures are sought by HCC:
- A1 – Junction between Ranvilles Lane and the A27
  - B2 – Titchfield Gyratory highway capacity improvements
  - B3 – St Margarets Roundabout highway capacity improvements
  - B4 – Segensworth Roundabout highway capacity improvements
  - C1 – 3 pairs of bus stops (2 on Longfield Avenue, 1 on Peak Lane)
  - D1 – Pedestrian/cycle path on Peak Lane, provision of parallel crossing over Longfield Avenue, provision of pedestrian/cycle crossing over Peak Lane north of Longfield Avenue, short section of footway/cycleway north-west corner of roundabout to connect to existing, and bus stops on Peak Lane.
  - D2 – Segregated pedestrian/cycle path along site frontage with Longfield Avenue within the site
  - D3 – Pedestrian/cycle path from eastern edge of site to Newgate Lane
  - D4 – Raised table at Bishopsfield Road/Longfield Avenue site access, parallel crossings on all arms. Shared pedestrian / cycle part north side of Longfield Avenue between Malvern Avenue and Crossfell Walk ("D4 Bishopsfield Rd) and Longfield Avenue site access, with raised table and crossings. Shared pedestrian/cycle path on the north side of Longfield

Avenue between Bardon Way and Malvern Avenue (“D4 “Longfield Avenue”) and bus stops on Longfield Avenue.

- D5 – Shared pedestrian/cycle path along St Michael’s Grove
  - D6 – Pedestrian/cycle routes to secondary school
  - D7 – Rowan Way/Longfield Avenue/Peak Lane LCWIP scheme
  - D8 – Longfield Avenue/Newgate Lane IDP non-highway capacity scheme
  - D9 – Gudge Heath Lane/A27 IDP non-highway capacity scheme
  - D10 – LCWIP improvement to The Gillies
  - D11 – LCWIP improvement to Station Road Roundabout
- 6.31 Mitigation measures as well as the manner in which they would be delivered are agreed in respect of A1, C1<sup>16</sup>, D1, D2, D3, D4, D5, D10 and D11.
- 6.32 Mitigation measures B2, B3, B4, D6, D7, D8 and D9, are not agreed, however the UU provides for the contributions sought by HCC should the SoS consider that they comply with Regulation 122.
- 6.33 B2 – Titchfield Gyratory - the UU provides for three alternative sums towards the Titchfield Gyratory improvements.<sup>17</sup> The appellant disputes that these contributions would comply with Regulation 122, and in the event that the SoS determines that it does, the appellant further disputes the level of contribution sought by HCC.
- 6.34 B3 – St Margarets Roundabout and B4 – Segensworth Roundabout. As with B2, the UU provides for three alternative sums towards these improvements.<sup>18</sup> The appellant disputes that the contributions would comply with Regulation 122, and in the event that the SoS determines that it does, the appellant further disputes the level of contribution sought by HCC.
- 6.35 D6 – Pedestrian/cycle routes to secondary school. The UU provides for the Owner to either carry out the works pursuant to a s278 agreement, or alternatively make a financial contribution of £517,720 towards D6. This approach is acceptable to both parties and the trigger for the implementation of works D6 is agreed. Notwithstanding this, the appellant does not agree that these works are necessary or would comply with Regulation 122. This matter is discussed later in this Report.
- 6.36 D7 – Rowan Way/Longfield Avenue/Peak Lane LCWIP scheme. The Appellant considers there is a very significant likelihood that these works will not be delivered, and therefore this contribution is only required to be paid in the event that HCC provides a covenant to repay any part of the contribution that is unused within five years of the contribution being paid to HCC. Subject to this the Owner covenants to pay a contribution of £299,000 towards the improvements.

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<sup>16</sup> Included within D1 and D4 within the UU

<sup>17</sup> £201,000, £320,000 or £400,000

<sup>18</sup> B3 £50,250, £85,000 or £100,000; B4 £20,100, £34,000, or £40,000

Notwithstanding this, the appellant does not agree that Works D7 are necessary to mitigate the safety impact of development traffic and accommodate cycle movements from the Scheme, and therefore would not comply with Regulation 122. This matter is discussed later in this Report.

- 6.37 D8 – Longfield Avenue/Newgate Lane IDP non-highway capacity scheme. The UU covenants to make a financial contribution of £140,000 towards these works. The appellant accepts the need for these works but contends that they should be funded by CIL. This matter is discussed later in the Report.
- 6.38 D9 – Gudge Heath Lane/A27 IDP non-highway capacity scheme. The UU covenants to provide a financial contribution towards these works, of £206,025, or £360,800, or £410,000. The appellant disputes that the contribution is necessary or would comply with Regulation 122. In the event that the SoS determines that it does, the appellant further disputes the level of contribution sought by HCC.
- 6.39 The UU also secures the payment of a travel plan approval fee, a travel plan monitoring fee and a travel plan cash deposit. The submission and approval of the travel plan itself is to be secured by planning condition.
- 6.40 *Schedule 9 Biodiversity Units on Site* The UU provides for 10% BNG on site and the management and maintenance of BNG work in accordance with the Biodiversity Gain Plan. It also allows any excess BNG units to be registered on the BNG Register. FBC and the appellant agree that this obligation is not necessary to make the development acceptable in planning terms.
- 6.41 *Schedule 10 Nitrates*. It is agreed that the Scheme would reduce the nitrates going into the Solent. As with Schedule Nine, FBC and the appellant agree that this obligation is not necessary to make the development acceptable in planning terms, but would allow the re-allocation of excess nitrate credits.

## **7 The Case for Hallam Homes**

*[This summary of the case for the Appellant is based on the closing submissions, the proofs of evidence and other submissions to the Inquiry.]*

- 7.1 The Council adopted its CIL Charging Schedule in April 2024. It made its case for its CIL rate by reference to a variety of schemes and projects for community infrastructure as set out in its Infrastructure Delivery Plan, published in March 2023. This expressly included a Sports Hub at Longfield Avenue and Strategic Highways Capacity Schemes with borough-wide significance.
- 7.2 The CIL Examiner, whilst accepting the Council's case for its levy, was very clear that HA55 (the appeal site allocation) should not be subject to CIL, but rather should be subject to a fully considered bespoke set of planning obligations tested by reference to CIL Regulation 122. The Council decided that HA55 should be liable for CIL (resulting in an expected £10million CIL receipt from the appeal development). Yet it still seeks full section 106 contributions for certain items of infrastructure which are, as a matter of fact, expected to have a borough-wide significance, in particular the Longfield Avenue Sports Hub and IDP strategic highways schemes B2, B3 & B4, D8 & D9.

- 7.3 FBC considers itself to be completely unfettered in relation to its expenditure of CIL monies and also that there can be no expectation that it will act in accordance with the basis upon which it secured the imposition of CIL monies in the first place.
- 7.4 The CIL process was undertaken in large part in parallel with the adoption of the FLP Plan and with the bringing forward of the appeal development.
- 7.5 PPG provides :  
*“Infrastructure funding statements should set out the infrastructure projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations.....  
This should be in the form of a written narrative that demonstrates how developer contributions will be used to deliver relevant strategic policies in the plan, including any infrastructure projects or types of infrastructure that will be delivered, when, and where.”<sup>19</sup>*
- 7.6 The Council’s latest Infrastructure Funding Statement is only concerned with funding for the “Fareham Live” entertainment venue and is not forward-looking in respect of other projects, contrary to the PPG.<sup>20</sup> The appellant requests that the SoS to assume that the Council will act consistently and in accordance with the expectations which all participants in the CIL process are entitled to hold.
- 7.7 The appellant has provided a UU because the LPA has no authority to enter into a bi-lateral obligation. Therefore the appellant is unable to impose any reciprocal obligations upon the LPA to insist that monies are spent for the purposes for which they have been sought. The appellant is thus obliged to rely upon the LPA acting in accordance with its statements of intent in relation to the contents of the FLP and the FBC’s CIL Compliance Statement for this appeal.
- 7.8 In relation to the availability of CIL funds to finance the projects in question, it is important to note that no alternative projects (to those identified in its evidence by the Appellant) have been suggested by the Council as the recipients of the substantial £10million CIL which will be paid to FBC.
- 7.9 There is substantial headroom available for the Council to pay off the Fareham Live debit balance and also finance the sports hub and strategic highway capacity works.<sup>21</sup> The appellant’s evidence on this matter was not challenged.
- 7.10 Regulation 122 applies with full force in this case. The necessity test needs to be brought to bear where £10 million is already being paid by the development towards community infrastructure.

#### SPORTS HUB/PLAYING PITCHES

- 7.11 The Council is seeking a planning obligation which:
- i. transfers 3.58ha of land at nil value;
  - ii. lays out pitches and supporting facilities for c. £1.5m; and

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<sup>19</sup> Paragraph: 034 Reference ID: 23b-034-20190901

<sup>20</sup> CD 8.5

<sup>21</sup> See Mr Jones POE page 7

iii. makes a commuted maintenance payment of another c. £1.5m.

This goes further than is necessary to provide reasonable pitch provision for residents of the appeal development, which does not require that the playing pitch land is transferred to the Council for nil consideration. It also fails to have regard to the £10 million CIL receipt which the Council will receive from the development.

- 7.12 The sports hub was conceived as a borough wide facility to meet the identified need for additional sports facilities which the playing pitch strategy identified. During the application period the Case Officer confirmed that the s106 could provide for either the transfer of 4.3 ha of land to be transferred to FBC to provide the sports hub, or for 3 ha of land to be equipped for sports provision in accordance with the Planning Obligations SPD (February 2024).<sup>22</sup>
- 7.13 The Appellant accepts that, in the absence of the Sports Hub being allocated at HA55, it would need to provide playing pitches. The appellant accepts FBC's calculation that for 1200 new homes the calculation amounts to 3.45ha of grass pitches.<sup>23</sup>
- 7.14 The Council effectively reserves its position as to how and when it will expend the S106 monies and for what purpose, pending a decision by the Council's Executive as to what they want to achieve on this Site through CIL and/or any other available forms of funding.
- 7.15 This appears to be an entirely inequitable position. The suggestion that other CIL monies can be used for the Sports Hub means that the Appellant is simply paying twice. Moreover, it surrenders policy compliance to the LPA without any commitment that sports facilities will in fact be laid out as intended by the IDP or indeed the more modest proposal pursuant to the SPD.
- 7.16 Accordingly, the Appellant seeks the omission of the £1.5m "provision" element sought by the Council in the planning obligation in order to reflect:
- i. what is both anticipated and financially achievable via the £10 million CIL receipt;
  - ii. what is accordingly reasonable by reference to CIL Regulation 122;
  - iii. the expectations of the parties as expressed in discussions of many years and in the recent correspondence referenced above.
- 7.17 The appellant asks that the blue pencil is wielded to achieve this outcome.

## HIGHWAYS

- 7.18 The Appellant fully recognises and accepts its obligations to ensure the satisfactory integration of the appeal development with the existing highway network in Fareham and to provide and promote sustainable modes of travel to the maximum extent possible.

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<sup>22</sup> CD 9.2

<sup>23</sup> Mr Jupp POE paragraph 7.62

- 7.19 The Appellant has readily agreed to obligations which mitigate impacts which clearly arise from the development. These are set out on the Schedule accompanying the Revised Highways SoCG.<sup>24</sup>

*B2, B3 & B4 IDP Strategic Highway Improvements*

- 7.20 The Solent Transport Sub-Regional Transport Model (SRTM) shows minimal impacts on these junctions by 2036 – an adding of the order of 3 vehicles to queue lengths.<sup>25</sup> The SRTM assumes no modal shift, which is also an excessively conservative basis against which to justify contributions. These impacts are not severe. The position only starts to worsen if the so-called “*First Principles*” sensitivity is used. It was explained that this is unrealistic, in that it requires an assumption that there is no re-assignment of flows to utilise available highway capacity.<sup>26</sup> The Council has not explained why this development should be liable to meet the entire costs of these works. If FBC wishes to implement these works as part of a programme of strategic highways improvements, then they have access to a large pot of CIL funds as a means to achieve this.

*D6*

- 7.21 D6 is an upgrade to 100m Footpath 70 and the 300mm widening of the recently completed existing crossing of the Stubbington bypass. This is not justified, given the presence of a complete and dedicated pedestrian/cycleway alongside the bypass, accessed from the north via a toucan crossing with a dedicated pedestrian/cycle phase. There are also substantial doubts about the pupil numbers which will gravitate to Crofton School in preference to the nearby Fareham alternatives, once the development gets underway.

*D7*

- 7.22 The appellant disputes the necessity to pay c £300,000 towards this scheme, especially given the very substantial works and improvements which will be carried out at this location via item D1. Moreover, D7 is not a fully worked up or costed scheme, just a vaguely expressed concept. It is submitted that D7 does not pass the CIL 122 test.

*D8*

- 7.23 This is an IDP scheme to which part of the £10 million CIL receipt could and should be directed. The cost of the scheme is not in dispute

*D9*

- 7.24 The SRTM does not predict a severe impact from the development at this location. If the Council wishes to implement a strategic improvement here, then it is able to divert some funds from the £10 million CIL receipt from the appeal development to that end.

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<sup>24</sup> ID22

<sup>25</sup> Mrs Baker POE paragraph 2.30

<sup>26</sup> Mrs Baker POE paragraph 3.15

*Quantum of contributions*

- 7.25 In some cases, the Council says that it has “missed the boat” in gathering contributions from others and so the appeal development will have to foot the entire bill. This position is rejected by the appellant and is not CIL 122 compliant.
- 7.26 The Council’s alternative position is that the proportion of as yet unconsented, but allocated developments of more than 50 units, can be defined and the appellant should meet the remaining proportion based on the number of dwellings proposed. Notwithstanding this, the appellant does not accept the Council’s position that developments with fewer than 50 dwellings and windfall developments should be exempted from paying their fair share towards these works, and so an alternative percentage has been included to give the appellant’s position if the principle of the contribution is accepted.

PUBLIC RIGHTS OF WAY

- 7.27 The countryside access division of HCC sought contributions towards the upgrading of a wide variety of public rights of way in Fareham. Many of these links are geographically remote from the appeal development and could not conceivably be said to be “*necessary*” in order to mitigate the impacts of the development in accordance with CIL Regulation 122. FBC agrees in most cases and has effectively disavowed these requests.

HEALTH

- 7.28 Healthcare is funded by central government and funding follows population. The Appellant is not creating people; it is just providing homes for them.
- 7.29 As explained, there must be real doubt about the extent to which a house builder can legitimately be asked to fund health care provision. This is compounded by the fact that GP surgeries are also in most cases privately held assets owned by the GPs themselves (such as the Stubbington and Gudge Heath Lane practices) and there must be a major question mark about whether a housebuilder should be asked to subsidise GP practices.
- 7.30 The appellant has referenced a number of Decision Letters that support this position. The ICB submitted a series of Decision Letters which it claimed supported its position. However, these Decision Letters do not appear to have proceeded on the basis of fully argued opposition to requests for major healthcare contributions. Whenever this issue has been the subject of proper evidence and that evidence has been properly tested, the “ask” for health contributions has not been accepted to be CIL compliant.
- 7.31 Where a developer is creating a new community and healthcare facilities are considered to play a necessary role at the heart of that community, then laying out a new local centre so as to provide for a new surgery or medical centre is entirely sensible and legitimate. Although the appellant adopted this approach in accordance with Policy HA55, the ICB has indicated that it is not interested in the new premises included within the HA55 allocation and the description of appeal development.

- 7.32 Instead, the suggestion has been made that the preferred approach is to seek a per capita contribution for expanding existing surgeries in the adjoining areas. It is apparent that no final choice has been made as to which is the preferred option. The preference appears to be re-locating the existing privately owned Stubbington medical practice onto a new site. There are no costings available for this project; no indication of the value of the existing site or whether it would be re-developed for housing (with consequential major uplift in site value) nor the cost of the new site (said to be Council owned) or build costs for the new premises. The “ask” is simply a head tax on the whole appeal development with no clear indication of whether, how, when or where these funds would be spent and no guarantee that they would be spent at all.
- 7.33 The Appellant is supportive of a facility at the new local centre, which is within its gift. The same cannot be said of the extremely unclear alternative concept, which now appears to be in contemplation. There is no evidence of unacceptable waiting times; nothing to test beyond anecdote – and even that is very limited.
- 7.34 It is submitted that the head tax cannot possibly meet the CIL 122 tests. The appellant advances tentatively a middle way which assumes acceptance of the principle that a health contribution should be made. It is wrong to assume that every single one of the residents of the new development will be wholly new to Fareham and will not already be on the books of one or other GP’s practice in the area. The main group at the top end of the cascade eligible for Affordable Housing will need to be resident locally. Only lower down the cascade do residents in adjoining areas become eligible.
- 7.35 Similarly, many of those coming to the market accommodation will be existing Fareham residents, with jobs in the area, children at local schools, looking to trade up or down in house size and/or format. These residents are highly likely to be on the lists of existing Fareham GPs and to exhibit a preference to remain with their existing GP.
- 7.36 However, the precise number cannot be known and will not be known until the development is built out and occupied. Moreover, it being a UU, there is no way of securing repayment of any sum overpaid. Accordingly, the middle ground figure uses the 40% Affordable Housing figure as a rough proxy for the number of residents moving to the appeal development who will likely have originated in the Fareham area, with an existing GP who they will wish to retain in the absence of an onsite practice and the need to go off-site for GP services.

## EDUCATION

- 7.37 The ground has narrowed to a considerable degree and there are two options in the UU.
- 7.38 The starting point is that CIL 122 requires any contribution to be directly related to the development. The second key element of context is falling birth rates and the existence of increasing capacity in existing local schools. For secondary education, this capacity is so great that the development can be accommodated without the need for new school infrastructure. There is also substantial unused primary capacity in the areas surrounding the school. However, the Appellant has always recognised that, whatever the position with unused capacity, it is an

important feature of place-making that the new community at HA55 has a primary school at its heart. HA55 anticipated a need for a 2FE primary school.

- 7.39 The primary pupil yield of the new development will not reach the 315 required for a 1.5 FE school. It will sit halfway between 1 FE and 1.5FE. A contribution to build 1.5FE would exceed what is required to serve the development.
- 7.40 The location of the school land has been established by Appendix D to the FLP. It is in the southeastern part of the site, which will only be opened up midway through the development programme. HCC only seek transfer of the school site at 500 units. It is therefore likely that some residents of the initial phases will establish their children in nearby primary schools with capacity. At the same time, there will be other developments coming forward post the approval of the appeal development with additional pupil yield - such as the Seale/Williams land within the HA55 allocation (with a potential for 50-75 units) and other nearby windfall development, all potentially making education contributions.
- 7.41 Against this backdrop, the Appellant considers it to be proportionate to commit now to fund a 1FE primary school and to pay to HCC proportionate contributions to take it phase by phase to the point where it can consider whether there is unmet primary need, alongside other development and their accrued contributions, such as to trigger the commissioning of another 0.5FE.
- 7.42 The HCC approach of forcing the Appellant to commit now to provide substantially more capacity than may be required to serve the appeal development is neither sensible nor CIL 122 compliant. The land transfer is not affected by this phased approach, as the land sufficient for 1.5 FE will be transferred in the first tranche.

## ECOLOGY

- 7.43 There is consensus between the appellant and LPA that the appeal proposals make more than adequate provision to mitigate their ecological impacts. Only Natural England seeks further financial contributions, although these are expressed to be on a precautionary basis, rather than because there is clear evidence of unmitigated residual effects.
- 7.44 Mr Goodman's evidence, on behalf of the appellant was unchallenged.

## CONCLUSION

- 7.45 There is no disagreement between the principal parties that this appeal should be allowed. The conditions are now agreed. The planning obligation has been drafted so as to provide for all the various options canvassed in the evidence. The blue pencil will need to be wielded with care.

## **8 The Case for Fareham Borough Council**

*[This summary of the case for FBC is based on the closing submissions, the proofs of evidence and other submissions to the Inquiry.]*

- 8.1 The appeal proposals represent the single biggest residential allocation in the Borough (aside Welborne). It therefore represents a very important component of the Borough's future housing supply. The only matters separating the LPA and the appellant are those issues relating to the question of what conditions and s106 obligations are required to make the development acceptable.
- 8.2 The appeal process has been hallmarked by a determined approach on both sides to seek to agree obligations and conditions. Where disagreement remains, the UU allows the decision maker to decide whether any such obligation meets the CIL tests by reference to the options presented under each head.
- 8.3 The impact of the measures sought on the viability of the development is not an issue before the Inquiry. The question for this Inquiry is whether what is being sought meets the legal and Framework tests for conditions and the CIL Regulation 122 test for obligations.
- 8.4 The site was reassessed following receipt of the CIL Examination Inspector's recommendations. CIL was adjusted downwards for this site to account for s.106 costs which were forecast at that time and as are set out in the IDP [CD 8.7]. This includes all those obligations and contributions now sought.
- 8.5 Whether or not CIL monies might be available to fund some of the transport or sports infrastructure in the future is not material to the judgments to be exercised for this purpose. In the absence of an annual funding statement that makes any such commitment, and there is no such commitment, it cannot be relevant. The CIL regime does not impose any requirement on a charging authority to direct funding to a particular item of infrastructure in any given case. Parliament has left it to charging authorities to make that decision in the reasonable exercise of their discretionary powers.
- 8.6 If there is no stated intention expressed through the annual funding statement actually to fund (in whole or part) the items of infrastructure which are required, or to which contributions are sought (which there is not), and the CIL tests are met in relation to each of them, this is all that matters for the purposes of the Minister's decision.
- 8.7 The fact that a specific item of infrastructure may perform a broader community function is not uncommon. Indeed, the provision of community infrastructure which is needed for a particular development should promote social cohesion and integration with the broader community. The essential issue is whether the required infrastructure is necessary, in both scale and kind, to support the needs of the future population of the proposed development and to make it sustainable. The fact that it would perform a broader function does not, of itself, take it outside the requirements of Regulation 122(2)(c).
- 8.8 A similar point can be made in relation to an item of infrastructure that is needed to prevent unacceptable harm occurring through the use or operation of the proposed development. In the case of highway impacts, for example, the fact that a proposed development is predicted to have by far the biggest impact on a

particular junction which, without mitigation, would cause unacceptable impacts on highway safety or other severe residual cumulative impacts, applying Framework paragraph 115 thresholds, could well justify a full contribution if there is no other way in which the intervention will be funded and delivered. That is a proper policy basis on which to seek certainty that such impacts would not occur, rather than risk that they either will, or probably would, occur in the absence of the contribution.

- 8.9 This does not take it outside the requirements of Regulation 122(2)(c) and lawfully could, in my submission, be a reason for granting permission. However, it is acknowledged that a requirement to make a contribution must be justified by reference to the evidence and the application of this test. To this end it may be considered that a proportionate contribution would be an appropriate basis of providing the means to avoid harm, or to mitigate it to an acceptable degree. It follows from the above that proportionality may not be the determining factor in every case, especially if it is found that the overriding requirement should be to avoid the harm that would otherwise be caused. This would logically flow from a determination in the present case that the level of harm caused in a particular case would be lower than the LPA contends.
- 8.10 Policy HA55 (d) requires high quality homes and public spaces that create attractive places where pedestrian movement is prioritised and residents can safely walk to local shops, cafes, community spaces, sports recreation and health facilities. This is not confined to destinations within the development site alone. Para (f) requires that pedestrian and cycle links will be provided through to the Rapid Transport bus services and a network of linked footpaths within the site and to the existing PROW network to connect to Fareham Town Centre and rail station, other settlement centres, facilities and services and employment hubs.
- 8.11 The Policy also requires the delivery of infrastructure and contributions towards infrastructure including health, education and transport in accordance with Policies TIN4 and NE3. The required site-specific infrastructure is expressly stated to include:
- a. A 2 FE primary school and early years child infrastructure (as identified by the LEA);
  - b. Community and health space;
  - c. A 4ha sports pitch hub to include changing rooms, community space and essential parking; and
  - d. An extra care scheme of between 50 and 100 units.

#### NATIONAL GUIDANCE ON PLANNING OBLIGATIONS

- 8.12 Planning Practice Guidance makes it plain that the CIL tests apply, whether or not there is a levy charging schedule for the area.<sup>27</sup> Moreover, it expressly recognises that, subject to meeting the CIL tests, charging authorities can use funds from both the levy and s106 obligations to pay for the same piece of

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<sup>27</sup> PPG [23b-002]

infrastructure regardless of how many contributions have been sought.<sup>28</sup> This is correct as a matter of law, not just policy. Indeed, and as stated above, there is no legal requirement on charging authorities to apply CIL funds to infrastructure improvements for which planning obligations are sought.

- 8.13 The Guidance asks the question whether there are specific circumstances where contributions should not be sought. Tellingly, it is silent on the issue of the levy other than in relation to affordable housing and small developments.<sup>29</sup> In relation to future funding through CIL, the Guidance states that infrastructure funding statements should set out the projects or types of infrastructure that the authority intends to fund, either wholly or partly, by the levy or planning obligations, but with the express caveat (again, this reflects the position in law) that “this will not dictate how funds must be spent...”.<sup>30</sup>

## THE OBLIGATIONS WHICH ARE SOUGHT AND THE MEASURE OF DISCRETION

### HIGHWAYS

- 8.14 B2 to B4 junctions are identified in the IDP as forming part of the strategic transport infrastructure type but are also identified as requiring mitigation through the use of contributions and s278 agreements. This is because they were assessed for the purposes of the information base for the local plan as being impacted by development. The Local Highway Authority’s (LHA) individual assessment of these junctions indicates that the proposed development will have far the biggest impact on these junctions and that the Framework thresholds for acceptability will be exceeded. There is a difference of view between the appellant and the Council in relation to the assessment.
- 8.15 In relation to B2, the Titchfield Gyratory, the Council accepts that the impact is cumulative, but that the principal contributor would be the appeal Scheme. The LHA’s assessment specifically only considers the non-committed development element of the relevant allocation policies to reflect the fact that, in a number of cases, development linked to these policies has already been granted consent or would be granted consent as a series of small-scale development sites. This had and will have the effect of severely limiting the LHA’s ability to seek fair and appropriate contributions towards the IDP schemes in line with the CIL tests during determination of each of the relevant planning applications. The same argument follows in respect of the other allocation policies excluded from the assessment.<sup>31</sup>
- 8.16 If the LHA’s assessment methodology and conclusions are accepted but it is considered that the contribution should be apportioned, the LPA/LHA will need to secure future funding of the balance in due course prior to the 801st occupation which is in year 12 of the plan period (2033/34). If the appellant’s assessment is accepted the appropriate figure would be £201,000.

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<sup>28</sup> PPG [23b-006

<sup>29</sup> PPG[23b-023

<sup>30</sup> PPG [23b-034

<sup>31</sup> See App. B of Ms Ballorin’s PoE

- 8.17 In relation to B3, St Margarets Roundabout and B4 the Segensworth Roundabout the same principles apply. The relevant figures for each side are identified in the final SoCG.
- 8.18 The “D” items are regarded by the LPA and the LHA as constituting vital sustainable transport measures which are necessitated by the development and fulfil the CIL tests. There are three that are not agreed. In the case of D6, there is disagreement whether the improved pedestrian and cycle links to the secondary school need upgrading to make them safe having regard to the sufficiency of the existing route to accommodate an extra 103 secondary pupils cycling to Crofton School from the development.
- 8.19 D7 is the Rowan Way/Longfield Avenue/Peak Lane LCWIP scheme. The essential requirement here arises out of highway safety and particularly the safety of cyclists using this junction. The Appellant has underestimated the wider impact of their development on safety by excluding consideration of the impact of additional vehicular traffic on the safety of cyclists already using the junction. The works agreed under D1 would satisfactorily address the issue of safety to cyclists from the development in the east-west direction. In the absence of the remaining improvement works identified under D7, the wider impact of this development on road safety would be unacceptable.
- 8.20 As set out in the SoCG, the contribution which is sought is apportioned and is consistent with the approach taken with the Crofton Cemetery development.
- 8.21 D9 is the Gudge Heath Lane/A27 IDP non-highway capacity scheme. The difference between the parties relates to the severity of impact of the development requiring either a full contribution or a proportionate one. The Council accepts that the impact is cumulative, but that the principal contributor would be the Appeal Scheme. The methodology used to derive contribution apportionment is a matter of dispute between the Appellant and the Council. If, it is concluded that the contribution should be apportioned, the LPA/LHA will need to secure future funding of the balance in due course prior to the 801st occupation which is in year 12 of the plan period (2033/34). If the appellant’s assessment is accepted, and putting the appellant’s CIL argument to one side, the appropriate figure would be £206,025.
- 8.22 The Council is content with the drafting of the UU. It allows the LHA requirements to be imposed if minded to do so in each case. Although the LHA required a s.278 agreement approach to items A1, C1, D1, D3, D4, D5 and D6, the LHA has accepted that the appellant may nominate whether it carries out the work or pays a contribution for D3, D5 and D6 (Clause 3, Schedule 8). There is a restriction on occupation related to the delivery of these works.

## EDUCATION

- 8.23 National Guidance on Securing Developer Contributions For Education (August 2023) identifies the importance that impacts of development should be adequately mitigated, requiring, inter alia, an understanding of the educational needs arising from the development based on up to date pupil yield factors and the extent to which developer contributions are required and the degree of certainty that they will be secured at the appropriate time. Paragraph 10 confirms

that enough time should be allowed for contributions to be used to provide a new school for large developments. Paragraph 11 acknowledges that the Basic Need Grant, the free schools programme and other capital funding do not negate housing developers' responsibility to mitigate the impact of their development on education.

- 8.24 Paragraph 62 provides that as far as possible (and often in relation to primary schools), new settlements large enough to require a new school should be expected to meet their full education requirement. Moreover, and very importantly, it provides that where an on-site school is required, it should be large enough to meet the need generated by the development, based on standard class sizes and forms of entry it follows that if this development requires more than a 1 FE school, which is more likely than not, it should be providing the nearest standard class size, even if it leads to a little spare capacity over the longer term as this is the only means by which it can be secured to meet the identified need. The LEA estimate is that based on the outline parameters, the development would have the potential to generate the need for the equivalent of a 1.2 FE, based on the LEA's standard assessment criteria
- 8.25 The Guidance (paragraph 63) provides that the capacity of existing primary schools beyond safe walking distance does not need to be considered when calculating developer contributions for permanent new settlements. In this case, there is interim capacity in schools that are within walking and cycling distance, but this requires that access to them on foot and by bicycle is achieved safely. This supports the required condition that safe routes are provided through the development to achieve a satisfactory interim solution. The prospect of some spare capacity in other primary schools in the area does not justify eschewing the policy requirement for a school which has recently been found sound. The reasons are manifold but include the need to create an inclusive and self-sustaining community in the longer term.
- 8.26 The LEA is content that adequate capacity is available in existing primary schools within 2 miles of the application site, for the time being. This is not a longer-term solution.
- 8.27 The LEA considers that the contribution sought satisfies the CIL criteria in all respects. Should the SoS not be satisfied that the full costs of a 1.5 FE are justified in this case, the apportioned calculation is based upon an agreed formula.

#### PRIMARY HEALTHCARE

- 8.28 The Council is concerned to make sure that there is sufficient primary healthcare capacity to service the development in the medium and long term. A contribution is sought to be used to expand Fareham Medical Centre or such other existing or proposed site as notified by the Council if the ICB so advise. The contribution sought on behalf of the ICB is £721,123 as a function of dwelling yield. The LPA has no rational basis or justification to depart from the reasoning advanced by the ICB in this case and is of the view that what is required is reasonable and meets the CIL tests.

- 8.29 It would be unreasonable for the required contribution to be discounted to take account of affordable housing in that it would be wholly incautious and speculative to do so. It is wrong to assume, in the absence of evidence, that all those occupying the affordable dwellings would already be on the lists of those surgeries in the vicinity of the development and the closest GP catchments and to do this by way of a proxy. Moreover, dwellings vacated by the residents will themselves be occupied by new occupants who will need access to primary healthcare services. We do not know whether these new occupiers would be on existing GP patient lists in or near the relevant catchment or not. The proposed reduced contribution of 40% based on the affordable element of the development alone is not justified by the evidence before the Inquiry.
- 8.30 The evidence clearly demonstrates that Local lists are already full or over-subscribed. The Appellant does not provide credible evidence to countermand the evidence of need from the ICB. The fact that practice lists remain open is neither here nor there given the prevailing circumstances in the area, and does not itself indicate that these practices are performing without undue stress. The evidence from the ICB clearly demonstrates that the additional capacity sought is necessary. The evidence of the Rt Hon S. Braverman KC MP without doubt, underlines the public disquiet and frustration over waiting times. Delays engendered by longer waiting lists has consequences for the wellbeing of patients who suffer more with worsening conditions and impacts on acute services, either because patients are compelled to resort to them when they cannot get a timely GP appointment or end up requiring these services because of the harm caused by delay.
- 8.31 The Appellant's proposition that no contribution should be sought is preposterous given the weight and integrity of the evidence produced by the ICB in its consultation responses and as eloquently expressed to this inquiry by Mr Dicken.

#### SPORT AND RECREATION

- 8.32 In terms of the Sports Hub the Council seeks 4.3 hectares of serviced land to be transferred to the Council, of which 3.45 hectares would be sports pitches based on SPD requirements for the site. The Council would create and maintain the pitches utilising a sum to be paid by the appellants. This sum would also be used to provide and maintain changing rooms for four teams and officials and a community area (0.03 hectares) and a 50 space car park covering an area 0.1 hectare. The development justifies a total of 3.58 hectares based upon the need for facilities generated by the development. Hence, we acknowledge that the additional land which is being sought of 0.72 hectares is required to fulfil the HA55 Appendix D masterplan. It follows that the value attributable to this additional land should be subtracted from the overall contribution sought. We have agreed an index linked figure of £250,000 per hectare, so proportionately the discount on the contribution would be £180,000, index linked. Thus, we are of the view that in all respects the CIL tests are met in relation to this requirement.

## 9 The case for other appearing at the Inquiry

### ***Hampshire County Council Countryside Services***

- 9.1 HCC's Countryside Service, acting as the Highway Authority in regards to the PROW network seek contributions totalling £915,466.00 for the protection and enhancement of the PROW network local to the development site. HCC contends that these contributions accord with the three CIL tests as, without them, the proposed development is likely to cause significant harm to the PROW network.
- 9.2 The development's future residents will be heavily dependent upon the local PROW network. FLP Policy: HA55 requires integration of the site's green infrastructure with the existing PROW network for public access. Therefore, this Scheme must include adequate measures to prevent harm, protect, and enhance the PROW network to address the needs of the development,
- 9.3 Footpaths 48 and 51 provide access to Titchfield Haven, a national nature reserve. A contribution of £555,666.00 is sought towards resurfacing and widening where feasible.
- 9.4 Footpaths 48, 49, 50 and 51 all run into or along the Meon Valley. They provide public access to the nature reserve. Although they can sustain the existing level of public use, they cannot accommodate the increase in use from this proposed development.
- 9.5 The population of the proposed development is to be guided to use Ranvilles Lane and Footpath 122 (for walkers) to Titchfield Road and Bridge Street to access FP48 from its north end. The contributions are necessary to mitigate for the on-going likely harm to the PROW and the internationally designated environment resulting from the intensification of the use of the network by the future residents of the proposed Scheme. The HCC costed project to resurface and improve Footpaths 48 and 51 is part funded by another local residential development (£183,500 from 57 dwellings).<sup>32</sup> Therefore, HCC seek a contribution of £555,666.00 to cover the remainder of the cost of this project. This contribution is from this proposed development for 1200 dwellings.
- 9.6 Footpath 67 runs approximately 50% within the green area of the site and 50% outside the site. It connects Peak Lane, at the western end of FP68, to Ranvilles Lane, a previous road now used as a bound surfaced public active travel route for equestrians, cyclists and pedestrians. It is proposed to utilise FP68 for cycling as well as pedestrians. It is intended to use the greenspace around this PROW for the countryside access and recreation for the proposal's future population and as the alternative to accessing the Solent SPA. In the context of the proposed development, Footpath 67 forms a key element of any circular route around the wider site and its green spaces.
- 9.7 The part of this PROW outside the site would provide a link to any circular route by the future residents and will see intensification due to this. HCC sees it as a necessary part of the proposed development's green infrastructure. The existing

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<sup>32</sup> CD11.2.2 Planning appeal APP/A1720/W/20/3254389 at Land east of Posbrook Lane

footbridge over FP67 is in need of replacement to accommodate the intensification of use by the proposed development's residents. HCC seek to upgrade the footpath to a Bridleway, with a suitable unbound surfacing, and a replacement bridge in order to address the need to enhance cycling access from the site and accommodate the intensification of use from the site's residents. The requested contributions to surface, upgrade, and replace the bridge to FP67 is notably sound and necessary to allow this Scheme to be considered in accordance with relevant policy.

- 9.8 Footpaths 68 and 70 provide access along the southern boundary of the site, east from Peak Lane and then south providing public access to Stubbington, Newgate Lane and the shared cycle/foot way running along Daedalus Way.
- 9.9 Approximately a 100m long section of FP68 runs to the north of Stroud Green Lane. The PROW here is unsurfaced and runs along the southern embankment of a fishing pond. This stretch of Stroud Green Lane is not public highway and therefore does not have a public right of access. Therefore, this Scheme needs to address this issue to resolve the ability to use FP68 for active travel and school access. Firstly, the upgrade of the route to bridleway. Secondly, resolving the stretch where the PROW and concrete surface deviate.
- 9.10 Enhancement is required for the short length of FP70 that connects FP68 to the Daedalus Way, and its associated crossing point of the bypass to the Daedalus Way shared cycle/foot way. This connects the development to the existing active travel school travel route. HCC supports this and consider the PROW aspects included within the contributions for the protection and enhancement of FP68.
- 9.11 Footpath 75 runs north-south along the eastern boundary of the site, connecting FP68 to Long Field Avenue. HCC seeks the surfacing of the route with a bound or unbound material to a 3 metre minimum width and the upgrade of the route to a bridleway.
- 9.12 It is proposed to provide a permissive shared pedestrian/cycling route within the site to the west of the existing hedgerow instead of contributing to the protection of FP75. This proposed route would not be put forward for dedication by the applicant. This is unacceptable to HCC since it would not protect the PROW, or be a PROW so the public would have no right to pass and repass.
- 9.13 The LPA states that relocating the route to the west of the hedgerow would improve security for users due to overlooking. However, the existing line of the Footpath is already overlooked by HMS Collingwood.
- 9.14 HCC maintains the position of requesting contributions to a total of £915,466.00 (index linked) for the protection and enhancement of the local PROW network made necessary by the potential, significant harm to that network by this proposed development. The development's future residents will be heavily dependent upon the local PROW network and it is considered that the current Scheme, as put forward by the applicant/appellant, is insufficient to demonstrate accordance with policy nor to prevent ongoing damage to the Public Rights of Way Green Infrastructure and its associated loss of quality, attractiveness, and facility for the existing local community.

### ***Hampshire and Isle of Wight Integrated Care Board***

- 9.15 There are 10 GP sites with a total infrastructure capacity for 95,388 patients, however the actual number of registered patients currently exceeds 124,000 patients. The reason that practices are still accepting patients is that for a practice to formally close its list, it requires formal engagement with patients and other key local stakeholders. The ICB has a responsibility to ensure that services are available to patients.
- 9.16 The proposed development is for 1,200 dwellings and this will create an estimated of population of 2,880 new residents within the development based an average household size of 2.40.
- 9.17 Neither the ICB or the GP practices themselves receive any funding from central Government (the Treasury) to support the increase in infrastructure capacity and additional pressures from new housing developments. The NHS is funded via taxation. The amount of funding allocated is based on what is affordable by Treasury and not by what is required to meet service and infrastructure demands.
- 9.18 There are no alternative funding options available to the ICB be able to increase the capacity of GP surgeries in line with the increases in new housing. Existing infrastructure capacity i.e. the number of GP consulting or nurse treatment rooms has a maximum number of patient appointments that can be undertaken. If the existing capacity is insufficient, then this creates harm in the following circumstances:
- Patients wait longer to receive an appointment during which for some it is possible that their condition will worsen creating extended periods of illness or leads to an exacerbation of their conditions requiring extended recovery periods.
  - Patients who are unable to receive an appointment within a reasonable timeframe make alternative arrangements such as visiting their local emergency departments which then creates additional healthcare pressures.
- 9.19 The only surgery whose catchment currently covers the proposed development is the Gudgeheath Lane Surgery which is already operating with 4,464 more patients than its capacity for 4,985 patients. To mitigate the impact from this development the ICB will need to create an additional 201.6m<sup>2</sup> of additional primary care capacity which equates to financial contribution request of £601 per dwelling.
- 9.20 To create the additional capacity required to make this application acceptable in planning terms the ICB has three potential options:
1. Gudgeheath Lane Surgery: Increase the capacity through an expansion of the current surgery.
  2. Centre Practice (Fareham Health Centre): Agree with the surgery to extend its current catchment area to include the new development and increase its capacity through expanding its primary care facilities to a floor above in its current location.
  3. Stubbington Medical Practice: Agree with the surgery to extend its current catchment area to include the new development and increase its capacity through relocating its primary care facilities to a new location.

- 9.21 The ICB have agreed to consider that the expansion of the Centre Practice (Fareham Health Centre) could be the preferred option, and the landlord, NHS Property Services, have confirmed that the reconfiguration of the upper floor would create approximately 372.14m<sup>2</sup> of primary care space (gross internal area) allowing for a further 5,316 patients, which would include the 2,880 residents from the proposed development.
- 9.22 NHS Property Services have estimated the costs for the reconfiguration to be between £1.3m and £1.7m and the £720k requested as a developer contribution would be used to contribute towards the total cost.
- 9.23 The proposed development will without doubt create an impact on primary care services and if this is not appropriately mitigated, will lead increased pressures on access to GP's resulting in direct harm to both new and existing residents within Fareham.

***Rt Honourable Suella Braverman***

- 9.24 The appeal site is not within my constituency, but it lies very close to the southern border and will undoubtedly have a major impact on residents in the Fareham and Waterlooville constituency. The Scheme represents the single largest development within the borough apart from Welborne. It appears as misguided, disproportionate and unreasonable but so many homes are to be built here now that the Welborne homes are coming on stream after many years of preparatory work.
- 9.25 My primary position is that this development should not go ahead. However, the Council and the appellant have now agreed the principle of development. I therefore wish to voice my significant concerns about the impact on local health care and educational services. There are three main reasons why I have objected to this development.
- 9.26 Firstly, increased urban sprawl will permanently decimate irreplaceable cherished countryside, destroying the strategic gap. The land is an important area of countryside and forms a critical Strategic Gap in the Solent region. The rejuvenation of plentiful brownfield sites should be prioritised rather than paving over the countryside. The developer's failure to secure the delivery management and maintenance of publicly accessible open space within the development (mentioned as part of the reasons for refusal) is a powerful factor.
- 9.27 Secondly, roads will be overcrowded at a critical area of travel between Fareham and Gosport. Despite the successful introduction of the Stubbington bypass the roads will become overcrowded. The Gosport peninsula is not connected by mainline rail services and this proposal seeks to add further complications to travel capacity due to its heavily car dependent location.
- 9.28 Lastly, local health care and educational services will be put under unsustainable pressure. Already overstretched local services will not be able to cope. These include dental surgeries, schools, hospitals, local healthcare and SEND provision. Insufficient consideration has been given to these issues. I agree with the Council's assessment, namely that the proposal fails to secure the provision of a financial contribution towards off-site healthcare provision, the delivery of early years provision, the delivery of a primary school on site, a financial contribution

towards places for pupils with special educational needs and disabilities, and provision of a financial contribution to increase off site secondary school capacity as well as the delivery of an extra care facility.

- 9.29 The development will create an estimated increase in population of 2,760 people, the majority of whom will register with the Stubbington Medical Practise or the Fareham Health Centre. Both of these centres are overwhelmed already with many patients reporting that they struggle to access GP services. GP's also tell me they are under resourced to cope with the existing demand and that their surgeries are at full capacity.
- 9.30 There is concern that the healthcare facility is not acceptable as it does not provide enough capacity the ICB has concerns about the size, location and lack of funding. I share these concerns. The combination of increased house building in the Fareham/Gosport area and the predominance of an older demographic in the area mean that our local primary care services are overwhelmed.
- 9.31 Hampshire, and more specifically Fareham, continues to experience significant pressure on school places. Numbers are expected to grow further due to new housing. The majority of secondary pupils will be able to attend Crofton School but there would be a real need for a new primary school to provide the necessary capacity. One of the biggest challenges locally is the exponential rise in children requiring SEND. HTC reports that there has been a 340% increase in the number of children with an Education Health and Care Plan (EHCP) since 2015. Approximately 40% of those pupils with an EHCP will require a specialist school place.
- 9.32 I accept that we need more homes but these cannot be without the essential new services that will ensure that everyone, newcomers and those already here are looked after for stop local residents will have to live with the overstretched services and the adverse impact on their lives.

### ***Cllr Needham***

- 9.33 The developer earlier in the year negotiated a discount on the CIL payments after trying to not pay any. The developer is not prepared to wait for the new government to decide how they are going to fix the housing crisis. The officers have worked very hard to agree all the outstanding points for S106 but, as yet, they are not finalised. The appeal should be kept on the desk until FBC is able to look at the wider picture of trying to meet its housing needs.
- 9.34 This Strategic Gap is important. If it is to be built on, then let us build social houses. As a local council, we need social housing, not 1200 houses to make the biggest profit for a landowner and developer. 6000 homes are being built in the north of Fareham at Welbourne. Locally there are 230 houses being built in Stubbington. These houses are not selling, because they are not affordable and not wanted.
- 9.35 The following matters also need to be addressed before we can start building on the scale proposed.
- 9.36 The sewage system is unable to cope at present. Welbourne (6000 homes) will also have its sewage treated at Peel Common Treatment plant. This should be

expanded before any planning permission is granted for any more large developments. The proposal would increase sewage into the Solent and flood people's homes.

- 9.37 The NHS is broken in Stubbington and the surrounding area. Stubbington needs a new medical centre and more GP's. There is just a health centre proposed for potentially 4000 people. Oakcroft is still in the process of being built and primary care is broken. The health service should be fixed before we develop, not the other way round.
- 9.38 As a Council if we are forced to develop it at all, then we should choose what is being built in our precious Strategic Gap. New council houses retained by the local council as announced in the budget would be more sensible.
- 9.39 The junction with more traffic lights is too near the By-pass junction. 2,000 more cars are going to cause more queues and traffic pollution, especially at the Newgate Lane end of Longfield Avenue, which has only just passed an acceptable level of pollution. Putting a cycle path along the edge of St Micheals grove is not an option. The roads will not be able to cope. Hampshire Highways are not fit for purpose. The By-pass is fully used, by the Gosport population that have to exit by all of Fareham Roads. This estate will cause another bottle neck for them, which defeats the whole object of the By-Pass. 2,000 extra cars under the viaduct to get to the M27 will bring the whole area to a standstill.
- 9.40 Is a new primary school needed and can our senior school cope?

### ***Cllr Hayres***

- 9.41 The proposed housing development on land south of Longfield Avenue in Stubbington should not go ahead due to its impact on the local environment, infrastructure, and community well-being. This area is one of the few remaining green spaces, providing a habitat for local wildlife and offering residents a place for recreation and tranquillity. Development would increase traffic in the area, counteracting the recent improvements in air quality and reduced congestion following the opening of the bypass.
- 9.42 Local infrastructure, including roads, schools, and healthcare services, will struggle to accommodate the additional population, potentially leading to overcrowding and a decline in service quality. Additionally, the loss of this open space could diminish Stubbington's charm, character and sense of community, which residents value. Preserving this area is crucial for maintaining both environmental health and the quality of life in Stubbington.
- 9.43 Since the bypass opened, Stubbington has experienced a decrease in traffic, allowing residents to enjoy a quieter, cleaner environment; with a reduction in traffic resulting in better mental health, less stress and anxiety. If allowed, this development would add significant traffic resulting in a waste of taxpayers £42 million spent on the Bypass.
- 9.44 Vehicles are often parked on both sides of Longfield Avenue east. With more traffic using the road, congestion will worsen creating a bottleneck at the proposed junction accessing the site which will be unsafe. Vehicles travelling east are likely to create bottlenecks on Newgate Lane, which was recently redesigned

- to ease traffic flow. This increase in congestion would also impact the Market Quay roundabout under the bridge, causing further delays.
- 9.45 Vehicles travelling west to join the A27 will likely use Rowan Way, which is already used as a 'rat run'. Near the junction with Ranvilles Lane, Rowan Way has a sharp, narrow bend that poses safety risks. Alternatively, drivers may opt for the top of Peak Lane, where the junction with The Avenue is controlled by traffic lights that are already congested during peak times. The stretch of Peak Lane from the bypass to the Longfield Avenue roundabout currently has a 50 mph speed limit. The addition of a new junction on this road would raise significant safety concerns for vehicles merging into fast-moving traffic.
- 9.46 This development fails to meet Policy TIN2 on Highway Safety and Road Network from the Local Plan, which states that development will only be permitted if it poses no unacceptable impact on highway safety and does not create a severe cumulative impact on the roads. HCC is already facing budget challenges and cannot afford the necessary highway improvements to support this development. Additionally, the Section 106 and CIL payments fall short of covering the upgrades needed to ensure road safety.
- 9.47 Crofton School is already nearing maximum capacity. Any agreed contributions may become insufficient by the time expansion projects begin due to inflationary pressures. Significant developer contributions are required to support SEND and EHCP provisions, which are not accounted for in the proposed primary school. The cost per pupil for special school placements is approximately four times the construction cost of mainstream education. The developer has not adequately addressed safe walking and cycling routes for schoolchildren, particularly given the distance to Crofton School. Many PROW cross farmland, which poses safety concerns for children walking or cycling alone, especially in low-light conditions. The £24,000 school cycle upgrades are insufficient given that many children cycle to Crofton School.
- 9.48 The NHS is already overwhelmed in Stubbington and surrounding areas, with an urgent need for a new medical centre and additional GPs. With new developments like Oakcroft Chase -200 and another 99 homes on the other side of Newgate Lane, there is no clear plan for how these new residents will access medical care. How will the needs of up to 4,000 new residents be met? This area does not need just a health centre, it needs a fully equipped medical centre with GPs. Primary care and QA hospital services are already at a breaking point. Only once healthcare is stabilised should further development be considered.
- 9.49 The developer plans to build an 80-bedroom care home, which is unnecessary given that a 68- bedroom facility is already planned for in Stubbington Lane. What is truly needed is affordable or social housing and rental units—homes that meet the community's actual housing needs, not a care home repurposed to fulfil quotas.
- 9.50 The existing infrastructure is already struggling to manage sewage effectively. The proposed development would overload the pipes without substantial capacity upgrades. Rainwater and surface water would further strain an already inadequate system. All sewage from these developments, including from Welborne where 6000 homes are planned, is to be directed to Peel Common

Waterworks. Our coastline is already impacted by sewage discharge—do we want more construction to increase the risk of sewage overflows into the Solent and residents' homes? Expanded capacity must be ensured before any further large developments are approved. We must carefully consider the cumulative impact of these projects. In conclusion, this development should not proceed due to insufficient infrastructure. Housing density should prioritise affordable units, ideally located in the town centre, which is where Fareham's true needs lie, not in a massive development that would heavily encroach upon a strategic gap.

***Ann Richards***

- 9.51 I am a retired community nurse and worked for the Portsmouth Healthcare Trust in the Fareham and Gosport areas.
- 9.52 Healthcare staffing levels for Fareham and Gosport have reduced over time. This proposed development will without doubt exert further pressures on multiple services that are already stretched to capacity. Schools, GP surgeries, pharmacies, hospitals, district nursing and social care services struggle daily to deal with the constant pressures.
- 9.53 The increasing number of housing developments is not without consequences. Roads and motorways have become even more congested and travelling in any direction is a nightmare. Noise and environmental pollution have an impact on the local community, adding unremitting stress.
- 9.54 People have chosen to live and invest in areas such as Stubbington because they are less exposed to the consequences of over-development and the impact it can have on their health. The size of this development means that there will be constant and long term road disruption caused by heavy plant coming and going from the site on roads that were not built to take such treatment. This will add to the stress of local residents living close to the site, and those passing through the area and will also cause traffic disruption to minor roads as people try to avoid the area.
- 9.55 Many developments, like the one opposite B&Q resemble military barracks and add nothing to the area, but house people like battery hens crammed into small boxes. Stress exerted by sociological factors impacts on the person's psychology, which in turn, impacts negatively on the person's biology, resulting in a decline in health as the immune system becomes exhausted, leading to illness and disease, which then places further demands on the health care system.

***Mr Robert Marshall on behalf of the Fareham Society***

- 9.56 The Fareham Society recognises that as the site is allocated for housing in the FLP no objection can be raised in principle to housing on the appeal site. However, it wishes its detailed concerns to be taken into account.

*Strategic Gap*

- 9.57 Given the important role the Strategic Gap in this area plays on the separation of settlements it is important that this is recognised in its future development. The Building Height Parameters Plan shows an area west of the proposed Sports Hub

and on the site's southern boundary with the Strategic Gap as having houses 2.5 stories high. Dwellings of this height would potentially be an unacceptable intrusion upon the Gap.

9.58 The open space for the school and the Sports Hub in the southern part of the site would reduce the development's impact on the Strategic Gap. However, it is important to ensure that these open areas should not have the tall and intrusive fencing and lighting can sometimes be the case. This would be a matter that would benefit from being subject to reference in the Masterplan.

9.59 The gap between the proposed houses and the southern boundary of the applications site, which remains part of the Strategic Gap, but may of necessity contain some hoggin paths and SuDS ponds etc. However, any such features in this area would have to be limited and designed in such a way as to retain an open undeveloped appearance.

#### *Vehicle accesses onto Peak Lane and Longfield Avenue*

9.60 We consider that the free flow of traffic along Peak Lane and Longfield Avenue is best served by roundabout junctions as set out in the Local Plan Masterplan rather than the junctions now proposed. The roundabout junctions as initially proposed would also ease egress from the site.

#### *Provision of services and financial contributions*

9.61 One of the major objections the Fareham Society sees being raised on residential housing developments is the inadequate highway infrastructure, education provision and health provision to service them. It is therefore of concern that on this major housing Scheme the necessity for contributions to these facilities/service, or means of contributing towards them, is being contested.

#### *Off-site highway infrastructure*

9.62 The proposed development will place a strain on many parts of the existing highway network. It is essential that financial contributions are made towards this and the Fareham Society supports the view that this should be by S106 Agreements rather than CIL. The same view is taken on walking and cycling infrastructure.

#### *Public Rights of Way and Sports Hub*

9.63 The Society supports the Officer's view on the need for funding by S106 Agreement. The need for these works/facilities arises from the proposed development.

#### *Education*

9.64 The LEA has made a thorough evidence-based assessment on the primary school, secondary school and special educational needs provision required as a result of the proposed development. It is better placed than a developer with a vested interest to reduce costs to make this assessment.

#### *Healthcare*

- 9.65 It is totally unacceptable for a development of this scale not to meet the additional health demands that arise from it. The Fareham Society has from the outset argued that on-site provision should be made to achieve this. The ICB says this cannot be achieved. This must be explored further especially as it appears that the only alternative, extending the two existing off-site practices, may be unachievable. Pressure must be applied on the NHS and ICB as otherwise the extraordinary position would arise where it would be unacceptable to grant permission on a site allocated for housing in the Local Plan.

*Other concerns*

- 9.66 A not insignificant parcel of land within the allocation does not come within the application site and yet there has been no commensurate fall in the number of houses now proposed. The Fareham Society is concerned that this may lead to an inappropriate increase density of development or scale of housing on the site southern boundary. The Society is concerned by the provision of 2.5 Storey houses as opposed to two Storey to the West of the sports hub and on the site sudden boundary with the strategic gap. Assurances have required that the proposed landscaping with Longfield Ave will incorporate the full width of the existing planting.

**Mr Morrill**

- 9.67 This development will destroy Stubbington as a village and the whole surrounding area turning it into one great characterless suburb. When many more thousands of people are living in the area due to this development it will destroy what real nature remains and add to Global Warming making everybody's lives intolerable.

## **10 Written Representations**

***Rt Honourable Dame Caroline Dinenge***

- 10.1 As Member of Parliament for Gosport, Lee-on-the-Solent, Stubbington and Hill Head, I remain opposed to the development of land south of Longfield Avenue. This proposal threatens the Strategic Gap between Fareham and Stubbington and I believe it is vital that we protect this land as a stretch of countryside that keeps communities distinct and prevents urban sprawl, whilst providing valuable green space to the local community. While acknowledging the need for new homes, they should first and foremost be built on the ample brownfield sites in our area.
- 10.2 The proposal would create excessive pressure on our already overburdened roads, because this location is a critical juncture between Fareham and Gosport. The difficulty of getting in and out of the Gosport peninsula is infamous and adding so many more cars to the local roads would cause unnecessary anxiety for residents, particularly my constituents in Stubbington.
- 10.3 Back in July 2017, this part of Fareham Borough was flagged as one of 23 nationally with dangerously high air pollution levels. Further development in this location could add to the excessive pollution in the area, adversely affecting the health and wellbeing of local residents. The sites are poorly served by public

transport and would be heavily car-dependent which, in turn, would adversely impact air quality in the nearby Air Quality Management Area.

- 10.4 Whilst this development does include care and education facilities, an established staffing crisis for both carers and educational workers already exists nationally. Without the prospect of more staff, the benefit that the construction of these facilities will bring is voided and leaves residential space without the required infrastructure to be viable for families. Furthermore, already-stressed services in Gosport, Lee-on-the-Solent, Stubbington and Hill Head would be placed under increased pressure.

### ***Natural England***

- 10.5 The application could have potential significant effects on the Solent and Southampton Water SPA, Portsmouth Harbour SPA, Solent Maritime Special Area of Conservation and New Forest SAC, SPA and Ramsar. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

#### *Recreational disturbance - Solent SPAs*

- 10.6 Due to the scale of the proposed development and its close proximity to the nearby Solent and Southampton Water SPA, we consider this development is likely to have an alone effect on the designated site without suitable mitigation.
- 10.7 The establishment of the Green Infrastructure provision is welcomed, and it is advised that where such greenspace can be appropriately secured, managed and funded in perpetuity, recreational disturbance effects of the development alone can be suitably addressed. The outline management aims are described within the Habitat and Open Space Creation document (Urban Wilderness & FPCR).
- 10.8 Financial arrangements need to be in place that will guarantee the provision of sufficient funds to ensure the full delivery of the agreed management plans for the 80 year period.
- 10.9 Although a bespoke Green Infrastructure Strategy may address alone impacts, Natural England's view that residents of the proposed development would still visit coastal SPA sites which should be considered as part of the in-combination assessment within the HRA. In order to account for in-combination effects with other developments, Natural England seeks full contributions towards the agreed Solent Recreation Mitigation Partnership, which Natural England considers to be ecologically sound. This is in line with the precautionary approach.

#### *Recreational impacts on the New Forest SAC, SPA and Ramsar*

- 10.10 This application is situated within 13.8km zone, and therefore Natural England advise your HRA includes this potential impact pathway for consideration, alone and in combination with other plans/projects, proceeding to appropriate assessment stage where likely significant effects cannot be ruled out.
- 10.11 The onsite Green Infrastructure provided as part of this development would likely divert some visits which would otherwise have been made to designated sites, including those of the New Forest. However, given the unique draw of the New

Forest some individual in combination visits would still occur. Therefore, we advise that contributions to the New Forest Park authority should be made in line with Fareham's interim strategy to address these impacts.

#### *SPA Supporting Habitat Solent Wader and Brent Goose Sites*

- 10.12 The development site will affect several areas that form part of the Solent Wader and Brent Goose Strategy (SWBGS) network of supporting habitat for the Solent SPA, including the low use sites F17G, F17M, and F76.
- 10.13 The mitigation for loss of supporting habitat has been updated to include a 10 ha bird reserve at land west of Peak Lane, which will be excluded from public access by barriers such as fencing, wet ditches, open water, and hedgerows.
- 10.14 The application site also lies adjacent to additional SWBGS sites including Low Use sites F17J (supporting snipe), F17B (golden plover) and F17N (golden plover and green sandpiper). It is advised that percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive).

#### *Air Quality*

- 10.15 Potential impacts from aerial pollutants, have been assessed. It has been confirmed the development will not exceed the 1,000 AADT threshold required for further assessment and therefore air quality impacts have been screened out. It should also be confirmed air quality impacts have been considered in combination with other schemes.

#### *Titchfield Haven SSSI and National Nature Reserve*

- 10.16 Titchfield Haven National Nature Reserve is currently a well-managed nature reserve where visitors must pay an entry fee. However, despite this it is considered there will be an increase in visitors to the site, with potential adverse impacts on the sensitive ecological features that are conserved there, over the lifetime of the development. Much of the reserve forms part of the Solent and Southampton Water SPA and therefore that this aspect will require due consideration within the Appropriate Assessment.

#### **Other Objections**

- 10.17 Four hundred and seventy nine objections were received at the time of the application and six at the time of the appeal, including one from the Fareham Society. These raised the following matters:

##### *Principle of development*

- The Strategic Gap should be maintained;
- There is no requirement for homes, industrial premises or a pub in this location
- Will there be implications if the developer does not provide the additional services?
- The development, will cause overcrowding of the area;

- Detrimental to Partnership for South Hampshire policies;
- If this development goes ahead, then there will be pressure to build on the south side of the bypass;
- The houses should be built on brownfield sites;
- Loss of agricultural land;
- Building should be focussed in Welborne;

#### *Layout/housing mix*

- Will any of the homes be affordable for first time buyers and pensioners?;
- More social and affordable housing required;
- Overdevelopment and inappropriate density;
- The proposed retail area will not attract any businesses that are not already available in Bishopsfield Road;
- Do houses still back onto the firing range at Collingwood?;
- There is no need for a sports hub in Stubbington;
- Four storey apartments should be dispersed around the site;
- The layout has not considered crime prevention;
- Four storeys adjacent to Longfield Avenue is unacceptable.

#### *Ecology/trees*

- Impact on wildlife habitats and nature;
- Loss of fields, hedgerows and trees;
- The area needs proper tree planting;
- Impact on nitrate levels;
- Far more rewilding is required to offset nitrate levels;
- Adverse impact on wildlife connectivity;
- The site would be perfect for nitrate mitigation;
- Why is FBC entering an agreement with Hampshire and Isle of Wight Wildlife Trust to 're-wild' land and yet they allow building on this land?;

#### *Highways*

- Increased traffic congestion and resulting impact on Gosport;
- Lack of effective public transport in the area;
- Impact on pedestrian and cyclist safety;
- Impact on Stubbington Bypass;
- The main access from Longfield Avenue is unacceptable;
- Existing footpaths across the site should be maintained;
- More connectivity is required to/from schools;
- The new roundabout on Longfield Avenue conflicts with the existing bus stop;
- There would be a substantial increase in traffic on Longfield Avenue and St Michael's Grove which is narrow and is currently unsuitable for the amount of traffic on those roads.
- The traffic data is questionable;
- Traffic calming will be required;
- Impact on highway safety;
- There should be a footbridge across the by-pass;

***Environmental***

- Increased noise and air pollution;
- Increased flooding due to surface water drainage;
- Noise from aircraft renders the site unsuitable;
- Water supplies are limited;
- Impact on the living conditions of local residents;
- Odour nuisance from the sewerage treatment works;

***General comments***

- Rethink Fareham High Street and the town centre; build flats and provide
- more housing;
- Pressure on doctors, hospitals, dentists, schools and the emergency
- services;
- Insufficient shops and supermarkets nearby;
- Where will secondary age pupils attend?
- Inadequate publicity of the application;
- Impact on social stability;
- Inappropriate location next to HMS Collingwood;
- Good to see a Health Centre, but surgeries are struggling to get GPs;
- Balconies should not be used for storage;
- Impact on property values;
- Impact on the refuse collection and utilities including potable water,
- electricity and gas supplies;
- Villages need protecting;
- The application lacks information and is disingenuous.
- The development lies underneath the flight path out of the local commercial airport (Solent) who have stated that there are potential safety concerns both from the possibility of a fatal crash but also from noise pollution.

## 11 Inspector Conclusions

*[References being given in square brackets [] to earlier paragraphs where appropriate.]*

- 11.1 Both parties agree that the appeal site is an allocated site and represents a very important component of Fareham's future housing supply. They further agree that the appeal should be allowed subject to the agreed conditions and appropriate planning obligations. They however disagree as to whether all of the planning obligations sought would meet the CIL Regulation 122(2) tests and whether any of the infrastructure sought should be funded by CIL.[8.1]

### ***Main Consideration***

- 11.2 I consider the main consideration is whether the planning obligations sought would comply with the tests at CIL Regulation 122(2) and the Framework paragraph 58 of the Framework.
- 11.3 The CIL Regulations and paragraph 58 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development. The submitted UU makes provision for alternative scenarios and the appellant requests that the 'blue pencil' be used where the obligations do not satisfy the CIL Regulation tests.
- 11.4 I start by assessing the individual planning obligations and in particular whether the infrastructure sought is necessary to make the development acceptable.

### ***Affordable Housing and Extra Care***

- 11.5 Schedule One of the UU provides for the delivery of affordable housing and the extra care scheme. This matter is agreed between the parties and I am satisfied that it would secure a policy-compliant scheme of affordable housing and the extra care facility. This obligation would therefore comply with the tests at paragraph 58 of the Framework.

### ***Open Space, Play Areas, The Sports Hub and the Bird Reserve***

- 11.6 Schedule Two makes provision for the above matters in accordance with Policy HA55 g). The obligations in respect of the Bird Reserve, open space, play areas and SuDS, including future maintenance are agreed by the parties. The Bird Reserve includes the provision of a dedicated 10ha Bird Reserve area of land west of Peak Lane and is necessary to mitigate the effect of the development on Solent Wader and Brent Goose supporting habitat in accordance with Policy HA55 g) and Policy NE5. The open space and play areas are necessary to make adequate provision for future residents in accordance with Policy HA55 g). Together with the maintenance of the SuDS, these matters are necessary to make the development acceptable and the proposals provide significant mitigation for the loss of the supporting habitat. Both parties agree that the contributions and obligations in relation to these matters would comply with Regulation 122(2) and on the basis of the submitted evidence I agree with this view. [5.16,5.17,7.43]

- 11.7 The Sports Hub contribution sought by FBC is disputed by the appellant. FBC seek 4.3 ha of serviced land to be transferred to the Council, of which 3.45 ha would be sports pitches based on SPD requirements for the site. In addition, it seeks £559,526 towards providing the pitches, £810,000 towards changing rooms and a community area, as well as £200,000 towards car parking. FBC also state that the sports pitches should not be laid out as the final design and nature of the sports hub needs to be left to the Council to make an executive decision as to what they want to achieve on this site through CIL and/or any other available forms of funding. [8.32,7.11]
- 11.8 FBC would maintain the pitches, changing rooms and car park using a financial contribution of £1,587,747. FBC acknowledges that 0.72 hectares of additional land is required to fulfil the HA55 Appendix D masterplan, rather than to meet the needs of the development. The value attributable to this additional land has been subtracted from the overall contribution sought, resulting in a discount of £180,000.
- 11.9 The Appellant seeks the omission of the £1.5m “provision” element sought by the Council in the planning obligation in order to reflect what is anticipated and achievable via CIL, to meet the reasonable requirement of CIL Regulation 122(2) and the expectations of the parties as expressed in discussions with FBC.[7.16]
- 11.10 Policy HA55 j) requires a 4 hectare sports pitch hub to include changing rooms, community space and essential parking. Appendix D sets out the supporting master planning principles. It includes a requirement for a sports hub area of 4.3 hectares.
- 11.11 Policy NE10 states that residential development will be required to provide open space and play space to meet the needs of new residents, having regard to any relevant standards, or provide an offsite contribution towards improving the quantity or quality of existing open spaces.
- 11.12 The Planning Obligations SPD (CD 9.1) seeks 1.2 hectares per 1000 population for outdoor sport provision. The SPD states that on sites of 600 or more dwellings the provision of on-site sports facilities including playing pitches will be required. Serviced land for appropriate ancillary facilities, including changing rooms should be safeguarded to serve these facilities along with a financial contribution paid to the Council for their provision or be provided directly by the developer.
- 11.13 On this basis the Scheme would be expected to provide 3.45 ha of sports pitches and make provision for their maintenance to meet the needs of the development. The appellant does not dispute the level of contribution towards the sports pitches and their maintenance, but questions whether it should be funded by a planning obligation rather than funded via CIL. [7.13]
- 11.14 Having regard to the Regulation 122(2) tests the provision of outdoor sports facilities is necessary to meet the needs of the development, comply with Policy NE10 and to make the development acceptable in planning terms and is directly related to the development.<sup>33</sup>

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<sup>33</sup> CD 7.5

- 11.15 The Sports Hub is an element of strategic or borough wide infrastructure. This was confirmed by a SoCG between the appellant and FBC at the time of the Local Plan Examination. It is evident that it was intended to meet the existing need for new sports facilities identified by the Borough Council (Playing Pitch Strategy) as well as the sports requirements of the proposed development. It was also agreed that it would be funded jointly and proportionately by the parties.<sup>34</sup> The Sports Hub and facilities are also included in the IDP. In respect of the appeal site the sports infrastructure required is to be jointly delivered by FBC and the developer. The contributions are identified as land contributions. Table 7 of the IDP identifies borough wide infrastructure. At the appeal site it identifies a need for a rugby pitch, cricket pitch, tennis court and netball court. It is indicated that these would be funded by a combination of S106 contributions and CIL.
- 11.16 In response to questions at the time of the CIL Examination, evidence submitted by FBC indicated that with the exception of Ferneham Hall and the Longfield Sports Hub all leisure facilities would be funded by s106 contributions. FBC identified a shortfall of £16,495,600 for the delivery of Ferneham Hall and the Longfield Sports Hub, both of which were identified for potential funding by CIL. This shortfall contributed to the overall funding gap of £42,557,600 that was used to justify the CIL charging schedule at the Examination.<sup>35</sup>
- 11.17 The CIL Examiner recommended that allocation HA55 should be excluded from the CIL Levy due to uncertainties regarding the s106 contributions, including the impact that this may have on the delivery of affordable housing on the allocated site. In response to this FBC commissioned Three Dragons to expressly consider CIL viability at HA55. Appendix A of the Review identified the S106 costs in relation to the appeal site. This identifies that the sports pitch requirement would be land only. [7.2]
- 11.18 Providing 3.45 ha of sports pitches would be consistent with Policy NE10 and the Planning Obligations SPD. The appellant suggests that they would be paying twice for the provision of the pitches through CIL contributions. It is clear from the IDP, The Three Dragons Report and correspondence from FBC as recently as June 2024<sup>36</sup>, that the expectation was for land and maintenance costs only. The land transfer and maintenance costs are not disputed by the appellant. [7.12,7.15]
- 11.19 The Council's request for additional land to accommodate changing rooms including a community facility/club house, as well as car parking, would exceed the requirement of Policy NE10 and the SPD which only requires the provision of 1.2 ha land per 1,000 people, rather than the additional land sought by FBC. Whilst there may be a need for such facilities as part of the Sports Hub, I consider that the car parking, changing rooms and club house facilities are more closely aligned with the overall vision of the Sports Hub rather than the development itself. It would be surprising if the use of these facilities were to primarily meet the needs for future residents, given the intention to provide a borough-wide sport

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<sup>34</sup> CD 7.5

<sup>35</sup> CD 8.3

<sup>36</sup> Mr Owen POE paragraph 5.41

facility at this location. I find that the contribution towards the changing rooms and car parking are not necessary to make the development acceptable.

- 11.20 I have given careful consideration as to whether the contribution towards the provision of the sports pitches would be CIL compliant. Whilst the provision of sports pitches at this location is necessary to meet the needs of future residents in accordance with Policy NE10 and the SPD, given the explicit position within the IDP and the Three Dragons Viability Report it would seem that the CIL levy for this site was assessed on the basis of a land only contribution. This position is reinforced by correspondence from the Council as recently as June 2024. Moreover, since FBC consider that the final design and nature of the sports hub is a matter for it to decide, this leaves uncertainty as to what would be delivered and the timing of the delivery. I am also conscious that since this is a UU, the obligations within it do not bind the Council. I therefore conclude that the payment of the pitch provision would not be fairly and reasonably related in scale and kind to the development. [7.12,7.15]
- 11.21 I conclude that the land transfer and the maintenance contribution towards the maintenance of pitches are directly related to the development, necessary to make the development acceptable and fairly and reasonably related in scale and kind to the development. However the contributions towards the provision of the pitches, car park and changing facilities would not comply with CIL Regulation 122(2).

#### *Health Care*

- 11.22 The ICB seeks a health care contribution of £601 per dwelling to be paid in instalments related to the phased occupation of the Scheme. This figure is based on the need to provide 201.6 m<sup>2</sup> of floorspace.<sup>37</sup>
- 11.23 The appellant was prepared to provide a facility within the appeal site as required by Policy HA55, but the ICB's preference is for the expansion and/or relocation of existing premises.[7.31,7.33]
- 11.24 The appellant's position is that healthcare is funded by central government and funding follows the population. The NHS has delegated the commissioning of primary care services to the ICB. The ICB stated that it receives no additional capital funding to support increasing the physical capacity of GP practices to accommodate the additional demands generated by new housing development and it has a duty to provide primary care services to all residents in their area. [7.28]
- 11.25 The appellant stated that many GP practices are partner owned with a mortgage with the rateable value funding stream paying off the debt. The appellant contends that this means that expanding a GP practice for any reason is fully funded by the NHS, and therefore any funds derived from a developer are double funding.[7.29]
- 11.26 Evidence from the ICB explains that this is not the case and that GP practices are required to provide premises suitable for the delivery of primary care services.

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<sup>37</sup> Mr Dicken's POE Appendix A

These costs are then re-imbursed through rents or notional rents for the property. The ICB is a public body, acting in the public interest and there is no evidence to suggest that it would double fund the expansion of GP practices.

- 11.27 The appeal site comes within the catchment area of the Gudgeheath Lane Surgery but is also close to Fareham Health Centre and Stubbington Medical Practice. Evidence from ICB indicates that these practices are operating over capacity.<sup>38</sup> Anecdotal evidence of unacceptable waiting times for GP appointments was presented to the Inquiry by interested parties, including the Rt Honourable Suella Braverman. Whilst this is not supported by any data, given that the health service, including GP services, are under pressure across the country, and in the light of the number of patients on GP lists, I have no reason to doubt this evidence. [9.27,9.28,9.29,9.36,9.41,9.51,9.64]
- 11.28 The appellant suggested that since GP rolls are not regularly updated are likely to over-estimate the number of patients registered at individual practices. Even if this is the case, given the extent to which patient numbers exceed the capacity I do not consider that it would make a material difference in this case.
- 11.29 Whilst all of these practices are still accepting new patients, the ICB advised that practice lists are only closed in extreme circumstances. For this reason, I do not consider the fact these practices are still accepting new patients to be an indication that they are unable to accommodate patients from the development without placing an unacceptable strain on existing services.
- 11.30 The ICB seek a contribution from 100% of the proposed dwellings. The appellant's position is that even if a contribution is found to be necessary this would over-estimate the impact of the Scheme on GP services. Since 40% of the dwellings would be affordable housing, the appellant contends that these residents would be drawn from the local area and would be likely to remain with their existing GP practice. Whilst this may be the case with some affordable housing residents, I note that the local connection definition within the Affordable Housing refers to the Fareham and Waterlooville Electoral division. This is a much wider area than suggested by the appellant. I therefore consider that a reduction in the number of eligible dwellings to take account of the proportion of affordable housing is not justified in this case. It was also suggested by the appellant that as a new housing area, it would be likely to be occupied by young families who would make less demand on GP services by comparison with other age groups. There is no evidence to support this assertion, and families with young babies and children may well use GP services, including for vaccinations and health checks. In addition, the Scheme includes extra care units, and these older residents may make more intensive use of GP services. [7.34,7.35]
- 11.31 S106 contributions should not be used to remedy existing deficiencies. In this instance the ICB has provided details as to how it calculated the contribution. The ICB request is for funding to deliver 201.6m<sup>2</sup> of additional floorspace. This figure is based on the projected number of residents within the development. I therefore

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<sup>38</sup> Gudgeheath lane capacity 4,985 with 9,449 patients; Fareham Health Centre capacity 10,706 with 14,882; Stubbington Medical Practice capacity 7,576 with 12,640 patients

find that the purpose of the contribution is to mitigate the impact of the Scheme on GP practices and not to remedy the existing shortfall. [7.32]

- 11.32 The contributions would be used to increase capacity to a surgery whose catchment area includes the development. The ICB's preferred option is the expansion of the Fareham Medical Centre, potentially through the reconfiguration of the upper floor. The total cost of such work would be between £1.3 million and £1.7 million. The £720,000 sought from the appellant would contribute to this cost and accommodate the 2,880 residents from the Scheme.
- 11.33 Both parties submitted appeal decisions in support of their respective positions. In some decisions the inspector rejected the use of a formula since it had not been demonstrated how the development would significantly impact on the identified local practices. In the case before me the three nearest practices to the appeal site are heavily oversubscribed, with each practice accommodating more than 4,000 patients over their capacity. The proposed development is for up to 1,200 additional dwellings, which is substantially greater than the submitted decisions. Having regard to the extent to which the existing practices are oversubscribed and the scale of the appeal proposal, I do not consider it to be comparable to these other appeals.
- 11.34 I conclude that the contribution sought by ICB would be directly related to the development, necessary to make the development acceptable, and fairly and reasonably related to the development proposed. I therefore find this obligation to be CIL compliant.

*Local Centre Community Facility and Nursery*

- 11.35 Schedule Four provides for the delivery of the community facility and nursery within the local centre in accordance with Policy HA55 j) this matter is agreed between the parties. It is necessary to ensure that community facilities, including nursery provision are available for future residents and I am satisfied that it is necessary to make the development acceptable and would comply with the relevant tests. [5.18,5.27]

*Solent SPA and New Forest SPA*

- 11.36 Schedule Five makes provision for a financial contribution towards the Solent Recreation Mitigation Strategy and the New Forest Recreation Mitigation Strategy. These contributions are sought by Natural England. Neither FBC nor the appellant consider that the Scheme needs to provide any off-site mitigation to avoid an adverse effect on the integrity of these protected sites. Both FBC and HCC have concluded that, with the provision of the mitigation measures outlined within the various technical submissions the appeal proposals are acceptable, and that the development would not result in any significant adverse effects to biodiversity or statutory designated sites. [5.6]
- 11.37 Local Plan Policy NE3 states that in the absence of a financial contribution towards the Solent Recreation Mitigation Strategy, proposals will need to avoid or mitigate any 'in combination' negative effects from recreation through a developer-provided package of measures for the lifetime of the development. HA55 g) requires publicly accessible and managed green infrastructure linked to existing PROW to create high quality, attractive and functional parkland, natural

greenspace and sports facilities, and also to provide a reasonable alternative to recreation on the New Forest and Solent SPAs.

- 11.38 The Scheme would provide a Country Park. This would be located to the south and west of the Site, between the proposed new development and Tanners Lane to the Site's southern boundary, and between Peak Lane and Ranvilles Lane to the west. It would include new areas of publicly accessible greenspace, including Oxley's Meadow, Newlands Meadow and the Linear Park.[5.4]
- 11.39 Interconnected open spaces will be accessible within 200m of all new residents, thereby ensuring that residents have access to space for informal recreation. The Site will provide approximately 45ha of green infrastructure across 78ha of the total area. This is consistent with the requirements of the Local Plan Policy HA55 which requires 22.84ha to the west of Peak Lane to be development-free.
- 11.40 The Site is situated within the Zone of Influence of several European Designated sites including the Solent SPA and the New Forest SPA.

#### *Solent SPA*

- 11.41 The Site at its nearest point is only 660m from the Solent & Southampton Water SPA/Ramsar. It therefore has the potential to result in a likely significant effect, alone or in-combination with other projects and plans.
- 11.42 Natural England is satisfied that provided the Bird Reserve and associated mitigation measures are secured, the potential effects on the integrity of the Solent SPA arising from the loss of supporting habitat can be avoided. Natural England are also satisfied that the impacts of the Scheme on air quality can be screened out, subject to the assessment of in combination effects. Technical assessments completed by the Appellant and the Council for the FLP, concluded potential effects to air quality and nutrient neutrality would not affect the integrity of the conservation objectives of the designated sites. I therefore conclude that the effect on air quality can be screened out.[5.10,10.17]
- 11.43 Natural England is satisfied that the proposals would mitigate the "alone" effects arising from the increased resident population but consider that the Appeal Scheme should pay the full financial contribution to the Solent Recreation Mitigation Strategy to mitigate what they perceive to be residual effects that arise "in combination" with other development. [10.9]
- 11.44 The Green Infrastructure across the site has been designed following the criteria for Suitable Alternative Natural Greenspace (SANG) designed for the Thames Basin Heath SPA.<sup>39</sup> It includes a circular walk from Peak Lane to the east towards Tanners Lane, approximately a 2.5km loop with additional links to a circular route (1.7km) around the bird reserve to the west. The Scheme will also have areas for off-lead dog activity, with places to observe the bird reserve that will act as a focal point within a rural setting away from any residential structures.[7.43]

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<sup>39</sup> SANGs are designed to offer recreational opportunities and reduce visitor pressure on sensitive habitats such as SPAs.

11.45 The extent and the quality of the Green Infrastructure significantly exceeds what a development of this size would be expected to provide. It would accommodate recreational activity for residents, with specific measures for dog walkers implemented. The size of the Scheme allows for any effects on designated sites and supporting habitats to be mitigated for within the red line boundary. This approach was endorsed by the Local Plan Inspector. She concluded in respect of Policy HA55 that:

*“Publicly accessible and managed green infrastructure on the site will act as mitigation to counteract the likely significant effects of recreational disturbance on the New Forest and Solent Special Protection Areas in line with Policy NE3.”<sup>40</sup>*

11.46 Moreover, at the time of the Examination in Public, the SoCG between Natural England and the Council in relation to Policy HA55 indicated that a bespoke Green Infrastructure strategy for the development that suitably addresses both SPA supporting habitat and recreational disturbance could be achieved within the red line boundary.

11.47 I conclude that due to the size and quality of the Green Infrastructure proposed, the planning obligation in relation to the Solent SPA is not necessary to make the development acceptable. As such it would fail to comply with the tests at Regulation 122(2).

#### *New Forest SPA*

11.48 As the crow flies, the New Forest is approximately 11km west of the appeal site and therefore comes within the 13.8 km Zone of Influence for the New Forest SPA. Notwithstanding this, due to the need to circumnavigate Southampton Water, visiting the New Forest would require a round trip of about 57km avoiding the M27, and would take approximately 40mins each way. If using the M27 it would involve a round trip of about 70km, and take about 33 mins each way. The distance is calculated to the village of Ashurst car park off Lyndhurst Road, which is the nearest edge of the New Forest with car parking.<sup>41</sup>

11.49 The Green Infrastructure provides approximately 16.56ha per 1000 population. When a further 10ha area, proposed for bird reserve for wading birds with no access to the public, is deducted from land available for recreation, the total available area is approximately 35.72ha or 12.94ha per 1000 population. This compares to 8ha per 1000 population required under the SANG guidance. Consequently the Site is over providing by 4.94ha per 1000 population (based on 2.4 per dwelling and 1200 dwellings).

11.50 The majority of the Green Infrastructure to the east of Peak Lane will consist of more formal recreational Green Infrastructure with areas of play and sports pitches, that are broken up with pockets of ecological favourable habitats. There will be a c2.5km circular walk around the Site, with various opportunities to provide exercise for dogs off lead which is a fundamental requirement to ensure that residents use the Site rather than drive to the SPA. There will also be a number of focal features included open waterbodies with viewing areas and paths

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<sup>40</sup> CD7.3 paragraph 144

<sup>41</sup> Mr Goodman POE paragraphs 9.30 and 9.31

that lead away from the urban area, this includes many features associated with a SANG.

- 11.51 Having regard to the quality and quantum of the on-site Green Infrastructure proposed and the distance residents would need to travel, which significantly exceeds that required by Policy NE9, I agree with the parties that the appeal Scheme would fully mitigate the potential effects of increased recreational pressure both 'alone' and 'in-combination' with other plans or projects on the New Forest SPA. [5.6]
- 11.52 I therefore conclude that the planning obligation in relation to the New Forest SPA is not necessary to make the development acceptable and for this reason would not satisfy the CIL Regulation 122(2) tests.
- 11.53 Overall, I conclude that the proposal would adequately mitigate any potential recreational disturbance to the Solent or New Forest SPA in accordance with FLP Policy NE3. Consequently the planning obligations at Schedule Five of the UU would not satisfy Regulation 122(2).

### ***Education***

- 11.54 Site specific infrastructure required by Policy HA55 includes a 2 FE primary school. Since this is an outline application and the precise number and mix of dwellings is unknown there is some uncertainty regarding the child yield from the Scheme, and hence the number of primary school places required.
- 11.55 The parties agree that the yield should be based on a figure of 0.3 primary age children per new dwelling, other than one-bedroom dwellings and the extra care accommodation. Therefore, using the Strategic Housing Market Assessment mix for market housing, Affordable Housing and one-bedroom dwellings, the Scheme would generate a need for between 267 and 292 primary school places. The upper figure assumes that the extra care accommodation will not be delivered. On this basis the LEA seeks a 1.5 FE school.<sup>42</sup>
- 11.56 The appellant's position is that a 1.5FE school would exceed what is required by the Scheme. It proposes a 1FE school and to pay proportionate contributions until it can be established whether there is an unmet need from this and other development such to trigger another 0.5FE. However, sufficient land for a 1.5FE school would be transferred to the LEA, with an option for it to acquire additional land for a 2FE school, should this be necessary in the future.[5.30,5.31,7.39,7.38]
- 11.57 Having regard to the CIL tests, the provision of the primary school and the primary school land is necessary to make the development acceptable. Requiring the appellant to fund the entirety of a 1.5FE primary school, given that there would be about 47 surplus places should the extra care scheme come forward, cannot be considered to be fairly and reasonably related in scale and kind to the development. Moreover, falling school rolls and uncertainty regarding falling birth rates could mean that the surplus is even greater.[7.39]
- 11.58 Paragraph 62 of National Guidance on Securing Developer Contributions For Education provides that as far as possible (and often in relation to primary

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<sup>42</sup> Mr Jupp POE paragraph 7.76

- schools), new settlements large enough to require a new school should be expected to meet their full education requirement. It also provides that where an on-site school is required, it should be large enough to meet the need generated by the development, based on standard class sizes and forms of entry. [8.24]
- 11.59 Although there is uncertainty regarding the child yield from the development it is essential that sufficient school places are provided at the time they are needed. In this case, it is accepted by both parties that the school site would not be available until after the 500<sup>th</sup> eligible dwelling is occupied.
- 11.60 The planning obligation would provide sufficient land for a 1.5FE school, fund the construction of a 1FE school through the Initial Primary Education Contribution, and an additional contribution based on the number of eligible dwellings.
- 11.61 The appellant's evidence indicates that in January 2024 there were 281 spare places in the 4 primary schools closest to the appeal site.<sup>43</sup> This is not disputed by the LEA. Therefore at the present time given the number of surplus primary school places within the surrounding area, I am not persuaded that a 1.5FE school is necessary to meet the educational requirements of the development. Should the extra care accommodation be delivered there is a potential for 47 surplus spaces (almost 45% of the additional 0.5FE sought) assuming that all children from the Scheme go to the school on the appeal site. A surplus of this scale could be considered to be detrimental to the existing education landscape by drawing pupils from less popular, alternative, well established schools. Since school funding is predicated on the number of pupils that are on a school's roll, so it is in the best interest of schools to maximise intake within their capacity.[7.38]
- 11.62 HCC's Guidance on Planning Obligations and Developer Infrastructure Contributions (CD 9.23) states that developer contributions are sought based on a formulaic approach which models the potential pupil yield arising from a proposed development, and the need to provide additional school places (either through the provision of new schools or extensions to existing schools). It further states that where the number of pupils from a development is less than would be required to sustain an additional teaching space, the contribution will be calculated on a pro-rata basis. Requiring the appellant to fund a larger school than is necessary to meet the needs of the development, particularly given the number of surplus spaces within the locality of the site would not be consistent with this approach.
- 11.63 It would also mean that the appellant would be mitigating the educational demand arising from other developments that may take up the additional capacity, including the Seale / Williams site on the remainder of this allocation. For this reason, the contribution sought by HCC would not be CIL Regulation 122 compliant as it would not be fairly and reasonably related in scale and kind to the development. Should the child yield of the development exceed the capacity of a 1FE school there is a mechanism in place to make a financial contribution towards additional educational provision. I therefore conclude that Primary Education B would not meet the Regulation 122(2) tests. [7.40]

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<sup>43</sup> Mr Hunter POE paragraph 4.7

- 11.64 The UU also provides for a financial contribution towards SEND. This has been calculated at £720,637.58. Over 5% of pupils currently have an EHCP. Where possible these pupils are supported within mainstream settings however 40% of these pupils require a specialist place, either within a Resourced Provision Unit or a Special School.
- 11.65 Special school provision across the County is already at capacity. The cost per pupil for providing a special school place is estimated at approximately four times the build cost of mainstream provision. Costs for an additional classroom, to cater for up to 8 SEND pupils, will be based upon the primary age costs, i.e. £621,870 and will be located at the most appropriate local school, potentially outside of the development site boundary.
- 11.66 I find this contribution to be necessary to make the development acceptable, directly related to the development; and fairly and reasonably related in scale and kind to the development. Overall, with the exception of the Primary Education B contribution, I find that the planning obligations within Schedule Six of the UU would be CIL compliant.

*PROW*

- 11.67 HCC Countryside Service requests a contribution of £915,466 for the protection and enhancement of the PROW network close to the appeal site.

*Footpaths 48 and 51*

- 11.68 Footpaths 48 and 51 run alongside the Titchfield Canal Towpath, on its western side. They provide a linear route from Bridge Street to the coast; a distance of approximately 3.5km. Titchfield Canal is part of Titchfield Haven, a National Nature Reserve, managed by the County Council. Visitors to Titchfield Haven pay an entrance fee. It is also part of Solent and Southampton Water Ramsar site and SPA. HCC is seeking £555,666 towards resurfacing and widening these footpaths.
- 11.69 Both the FBC and the appellant are of the view that the improvements sought by HCC would encourage residents to visit Titchfield Haven which would be at odds with the Council's desire to limit recreational disturbance to this area. The provision of Green Infrastructure within the Scheme aims to limit such disturbance by providing alternative recreation space. [5.36]
- 11.70 HCC refers to the Posbrook Lane appeal decision where the Inspector found that contributions to the PROW met the tests within CIL. However, the Posbrook Lane site is much closer to these footpaths by comparison with the appeal site and does not include any open space. I therefore find it is not comparable to the appeal Scheme.[9.5]
- 11.71 I accept that Policy HA55 requires footpaths within the site to provide links to the existing PROW network. However, it is clear from the Policy that the emphasis is on links to the town centre and other services and facilities.
- 11.72 I conclude that the upgrades to footpaths 48 and 51 are not necessary to make the development acceptable, moreover through encouraging visits to the Titchfield Nature Reserve they would have the potential to give rise to

recreational harm to the Solent SPA, contrary to Policy NE3. Therefore these obligations would not be CIL compliant.

*Footpath 67*

- 11.73 The eastern part of Footpath 67 comes within the appeal site. The remainder lies to the west of Peak Lane and crosses an agricultural field. HCC submits that the western part would be a key link in the area for walking, riding and cycling as well as providing a link for circular routes. It is seeking the footpath to be upgraded to a bridleway and the replacement and widening of the existing bridge. The financial contribution sought is £73,800 for surfacing and £27,000 for bridge replacement. [9.7]
- 11.74 The appellant proposes to upgrade the part of footpath 67 that falls within the appeal site since it will form part of the circular walk proposed by the Scheme. The remainder of footpath 67, an agricultural field, is not within the control of the appellant. The introduction of an engineered surface would be likely to have implications for the existing agricultural use of the field, and there is no evidence to suggest that the owner of the field would be willing to accommodate such an upgrade. Nor is there any evidence to explain why the bridge would need to be replaced. Therefore, having regard to the walking and cycling routes proposed by the Scheme overall, upgrading this part of footpath 67 to a bridleway is not necessary to make the Scheme acceptable.

*Footpaths 68 and 70*

- 11.75 Footpaths 68 and 70 provide access along the southern boundary of the site towards Daedalus Way. Both HCC Countryside services and Highway Authority seek the upgrade of this route, to accommodate cycling, towards Crofton School in Stubbington. The mitigation sought by the Highway Authority also includes an upgrade to the pedestrian refuge on Daedalus Way to accommodate cycles. (These works are identified as works D6 in the highway mitigation). [9.9,9.10]
- 11.76 There is an existing concrete surface along most of the length of footpath 68. This provides vehicular access to the fishing lakes and is also used by agricultural equipment associated with Newlands Farm. Part of footpath 68 deviates from the concrete road and runs along the southern embankment of the fishing lakes. HCC consider that this matter should be resolved by the appellant.[9.9]
- 11.77 In terms of PROW, HCC Countryside Services is seeking £101,400 towards surfacing and £30,000 towards drainage. HCC Highway Authority also seeks the upgrade of this route which it considers should be delivered by way of a planning obligation and is seeking £516,720 and legal fees of £35,000.
- 11.78 The justification for the upgrade is that the site is within the catchment area of Crofton School and the LHA are of the view that the majority of children would attend Crofton School. The school census in 2023 found that 41% of children cycled to Crofton School, and applying this percentage to the proposed development, there would be 103 secondary pupils cycling to school.<sup>44</sup> The appellant considers the education trip rate to be 1.3%, equating to 8 trips per day.

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<sup>44</sup> Ms Ballorin Rebuttal POE paragraph 3.3

This figure was derived from the Trip Generation data for education uses which forms part of the Transport Addendum.<sup>45</sup> The appellant's significantly lower figure is based on TRICS data, whereas HCC's figure is based on information from the school. I therefore prefer HCC's figure but acknowledge that due to the distance of the site from Crofton School, and the intervening Stubbington Bypass that this may be an over-estimate.[7.21,8.15]

- 11.79 The three nearest secondary schools to the appeal site are the Fareham Academy, Henry Cort Community School and Crofton School. The priority criteria differ slightly for each school, but are consistent that first priority is to looked after children, second is for children or families with an exceptional medical and/or social need and thirdly to children of staff. The next level of priority is for children within the catchment followed by children living out of the catchment.
- 11.80 The school closest to the appeal site is the Fareham Academy (0.8 miles), followed by Henry Cort Community College (1.8 miles) and then Crofton Secondary School (2 miles).
- 11.81 There were 408 spaces at the five secondary schools closest to the appeal site. HCC confirm that these schools are undercapacity and their numbers are inflated by pupils travelling longer distances to these schools.<sup>46</sup>
- 11.82 The Scheme is located immediately to the southern boundary of Fareham and would be separated from Stubbington by the Strategic Gap. Criterion f) of Policy HA55 requires pedestrian and cycle links to connect to Fareham Town Centre. As such the site represents an urban extension to Fareham.
- 11.83 Given parental choice and the potential spare capacity at all three secondary schools it is not possible to conclude on the number of children that would travel to Crofton School. However, it is probable that many families will choose Fareham Academy since it is significantly closer than the other two schools, and the site would be more closely integrated with Fareham than Stubbington.
- 11.84 Assuming that the children would be spread across the three nearest schools and using HCC's figure for the proportion of children cycling to school, there would be about 35 children cycling to Crofton School from the appeal site each day. In the interests of sustainable transport and active travel it is important that there is a safe route for children to walk and cycle to Crofton School.
- 11.85 The appellant identifies two alternative routes to Crofton School that would use the existing Peak Lane shared footway/cycle way and the Toucan crossing at the junction of Daedalus Way and Peak Lane. One of these would be off carriageway and would use a crossing designed to accommodate cyclists. A comparison of routes from the western part of the site to Crofton School would add between 80 and 360 m to the journey length. From the eastern part of the site the journey would be 820m longer. The appellant suggests that this would take about 3 minutes by cycle and this was not disputed by HCC.

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<sup>45</sup> CD 2.18 Transport Assessment Addendum Appendix A and Mrs Baker POE paragraph 3.46

<sup>46</sup> Mr Hunter POE paragraph 4.31

- 11.86 The route suggested by HCC would be unlit and not overlooked. For this reason, it is less likely to be used in winter months, and it is probable that many parents would be concerned about their children using this route. Therefore, having regard to the alternative routes available, with signalised crossings I do not consider it to be necessary for Footpaths 68 and 70 to be upgraded to a bridleway to accommodate children cycling to Crofton School. Moreover, to require the appellant to fund repairs to footpath 68 that were due to the actions of another party would mean that the contribution sought would not be fairly and reasonably related in scale and kind to the development. For these reasons, I do not consider the planning obligation sought would be Regulation 122(2) compliant.
- 11.87 The UU provides that if the planning obligation were found not to meet the Regulation 122(2) tests, it would make a financial contribution of £35,000 towards changing the status of footpaths 68 and 70 to permit cycling.

*Footpath 75*

- 11.88 Footpath 75 runs along the eastern boundary of the site connecting footpath 68 to Daedalus Way. HCC seek the resurfacing of this footpath, as well as upgrading it to a 3-metre-wide bridleway. HCC is seeking £75,600 towards these works.
- 11.89 At present this route is a typical public footpath with a grass surface, but prone to becoming muddy and waterlogged and in places overgrown. It is adjoined on the other side by the fence to HMS Collingwood. Given that this is an existing route I agree with HCC that it is unlikely that there would be any safety issues associated with the proximity of HMS Collingwood. Widening this route would however be likely to result in the loss of the hedge and trees along the route. [9.13]
- 11.90 The Scheme includes a shared pedestrian/cycle route within the site adjacent to this boundary and parallel to the existing path. This would be a permissive route and therefore HCC contend that the public would have no right to pass and repass and would therefore be of limited use to the existing local community.
- 11.91 The route would be preferable to the existing route in that it would be overlooked and integrated with the development. Unlike the proposal to upgrade the existing route, it would also enable the retention of the existing hedge. FBC concurs with this view.[5.36]
- 11.92 HCC is concerned that since the proposed route would not be a PROW, it may not be available for public use or in perpetuity to residents of the Scheme. However, paragraph 4.1 of Schedule Two of the UU requires the routes to be made available for public use. Any temporary closures to this and other on-site routes would need to be approved by FBC. I conclude that the on-site route proposed would be preferable to upgrading footpath 75 and although it would not be a designated PROW, it would be available to the public. Therefore, having regard to the Regulation 122(2) tests I find that the requested contribution would not be compliant since the Scheme would not give rise to any additional use of the existing footpath, and therefore it is not necessary to make the Scheme acceptable. [9.12]

- 11.93 In addition, HCC requests £10,000 towards furniture and signage improvements, £7,000 towards diversion and £35,000 towards legal costs.
- 11.94 The UU includes provision for the provision of a cycleway and footpath link from works D2 to the southern edge of Longfield Avenue, together with a financial contribution towards these works, or alternatively the appellant may complete the works under licence. These works are necessary to provide a link between the appeal site and Longfield Avenue and are not disputed by the appellant. I am satisfied that this obligation would meet the CIL122(2) tests.
- 11.95 Overall, I find that with the exception of the Bishopfield Road/Longfield Avenue link works, the planning obligations in respect of the PROW would not comply with CIL Regulation 122(2).

#### *HIGHWAY CONTRIBUTIONS AND HIGHWAY WORKS*

- 11.96 A number of the highway works and the mechanism for their delivery are agreed between the parties. These include works A1, C1, D1, D2, D2, D3, D4, D5, D10 and D11. The need for these works were identified by the Transport Assessment, Transport Assessment Addendum and in terms of the pedestrian and cycle routes are also necessary to deliver the sustainable transport measures required by Policy HA55. On this basis I am satisfied that 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. As such they are compliant with CIL Regulation 122(2)
- 11.97 Policy TIN2 states that development will be permitted where, amongst other matters, the residual cumulative impact on the road networks is not severe. The Highway Authority seeks strategic road capacity improvements at the Titchfield Gyratory (B2), St Margaret's roundabout (B3) and the A27 Segensworth roundabout (B4). There are also strategic non-highway capacity improvements at Gudge Heath Lane and the A27 (D9) and Longfield Avenue and Newgate Lane (D8). The difference between the parties relates to the type of contribution. The Highway Authority seeks a financial contribution towards these works.
- 11.98 The highway capacity impact has been derived from the results of the junction modelling within the Transport Assessment and the Transport Assessment Addendum (CD 2.11 and CD 2.17). The SRTM was used to model the proposed land allocations and identify key transport implications resulting from the scale and location of the allocations within the FLP.
- 11.99 The Transport Assessment was based on SRTM to obtain traffic flows with and without the proposed development in place. The site is allocated for development and is therefore included within the Local Plan model scenarios that include the full Local Plan development assumptions. A separate 2036 'Without Development' Scenario was produced with the development assumptions for the appeal site removed. The SRTM does not factor in any modal shift away from private car use that would result from the various measures to promote sustainable modes of transport that accompany the Scheme, including the Framework Travel Plan and physical improvements to pedestrian and cycle infrastructure. [7.19]

11.100 The appellant provides a summary of impacts of HA55 at the Titchfield Gyratory, St Margaret's Roundabout and Segensworth Roundabout in terms of changes in queues and delays between the 2036 scenarios with and without the combined traffic from the FLP allocations assessed in the SRTM model.<sup>47</sup> In all three locations, the modelling from the SRTM as presented in the Fareham Local Plan Strategic Transport Assessment (STA) Addendum (Ref CD 9.16) confirms that these junctions would operate over capacity in the absence of any additional traffic from the FLP allocations and that the latter would exacerbate the situation. Ms Baker's evidence also provides a similar analysis based on the 'first principles' approach, which show similar levels of delays and queuing at these locations with and without the proposed development. [5.49]

*Titchfield Gyratory(B2)*

- 11.101 Undisputed evidence from the appellant indicates that the gyratory is already operating over capacity and existing traffic experiences severe delays and that the appeal Scheme would not add significantly to either the queue length or the delay having regard to the baseline.
- 11.102 With the development during the AM peak, queue lengths on all arms other than Titchfield Hill ahead left and the West Circulatory right turn would reduce by comparison to the baseline scenario. The increase on the other two arms would be 2 and 6 Passenger Car Unit (PCU) respectively. There would be delays of over 30 mins on both of these arms without the development. This would marginally reduce with the development in place.<sup>48</sup>
- 11.103 In PM peak there would be a significant reduction in the number of PCUs using Titchfield Hill ahead left (141.7 PCUs) with the development compared to without. However, the delays would increase by about 142 seconds.<sup>49</sup>
- 11.104 Accordingly, there would be substantial delays at the Titchfield Gyratory with or without the appeal Scheme. The Highway Authority contend that if the Scheme is removed from the model, there would be a reassignment of background and development traffic flows from other allocations and as such the traffic flows are higher than with the development, however, no evidence was submitted to support this view. Based on the traffic modelling, the impact of the appeal Scheme at this junction would be insignificant in the AM peak and minimal during the PM peak when compared to the baseline. For this reason, the planning obligation is not necessary to make the development acceptable.
- 11.105 Should the SoS disagree with this conclusion the UU makes provision for a financial contribution towards these works. The Highway Authority seeks a contribution of £400,000. This represents the full cost of the improvement measures. The Highway Authority contends that improvements to the gyratory are required in order to meet Local Plan growth, and that given the size of the

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<sup>47</sup> Mrs Baker POE paragraphs 3.20 – 3.26

<sup>48</sup> Mrs Baker POE paragraph 3.20: 1793 second delay at Titchfield Hill ahead left without the Scheme compared to 1742 seconds with the Scheme. West Circular Right 2048 second delay without the Scheme compared to 2039 second with the Scheme.

<sup>49</sup> Mrs Baker POE paragraph 3:20: 1299 second delay without the Scheme compared to 1441 seconds with the Scheme.

remaining non-committed sites there is a risk that there would be insufficient funding to deliver capacity improvements required at the Titchfield Gyratory. However, both parties agree that the gyratory is already operating over capacity and existing traffic experiences severe delays. Therefore, any contribution towards improvements would be used in part to remedy an existing situation.[8.15]

- 11.106 In addition, requiring the appellant to fully fund the works at this location when it would have at most a minimal effect of the junction capacity would not be fairly and reasonably related in scale and kind to the development.
- 11.107 Policy TIN4 requires all developments (excluding householder applications) to provide and contribute towards the delivery of new or improved infrastructure, or other mitigation, to mitigate the impacts of the development. I therefore disagree with the Highway Authority that the remaining allocated sites are not of a sufficient size to secure the funding towards the capacity improvements.
- 11.108 The Highway Authority's alternative position is that the appellant should meet 80% of the cost of the works. This figure is based on the number of non-committed dwellings on sites allocated within the Local Plan and whether occupants of a particular site would be likely to use this junction.<sup>50</sup>[8.16]
- 11.109 In my view, even if the Highway Authority's request for a proportionate figure was justified, I find its assessment to be unduly simplistic for a number of reasons.
- 11.110 The calculation used by the Highway Authority assumes that the Scheme would deliver 1250 dwellings, whereas the application is for up to 1,200 dwellings. Moreover, the non-committed sites include allocation BL1, for 620 dwellings, which based on Appendix A of the Highway Authority's evidence will have no impact on any junction. I acknowledge that dwellings within the B1 allocation will be dispersed. Notwithstanding this, I find it improbable that these 620 dwellings will not have any impact on the strategic road network.
- 11.111 In addition to the allocated sites, the FLP anticipates that windfall sites would contribute about 1,120 dwellings over the plan period. Whilst not all of these may use the Titchfield Gyratory, they nevertheless represent a significant number of dwellings that could reasonably be expected to contribute towards the strategic network capacity improvements.
- 11.112 I therefore find that the Highway Authority's assessment over-estimates the number of dwellings on the appeal site and fails to take account of other dwellings that could contribute to the works. In order for the contribution to be fairly and reasonably related in scale and kind to the development, regard must be had to the effect of the development on the junction concerned. As set out above, it would be at most minimal. Therefore requiring the proposal to fully fund the upgrade to the Titchfield Gyratory would on the basis of the Highway Authority figures mean that the Scheme would be subsidising about 354 other dwellings on allocated sites,<sup>51</sup> and possibly a great many more if windfall sites and the BL1 allocation are taken into account.

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<sup>50</sup> See Ms Ballorin POE Appendix A.

<sup>51</sup> Includes up to 50 dwellings on the Seale / Williams site

*St Margaret's roundabout (B3) and Segensworth Roundabout (B4)*

- 11.113 The SRTM modelling did not result in any material change in the volume to capacity ratios at these locations. Evidence submitted on behalf of the appellant shows the effect of the proposal on flows at St Margaret's roundabout to be slight with 10 extra vehicles at any arm of the roundabout. Given that baseline flows range from 107 to 2,660 this is not considered to be significant.<sup>52</sup>
- 11.114 The Highway Authority seeks a financial contribution of £100,000 towards capacity improvements that include signalisation. For the same reasons as the Titchfield Gyrotory they seek 100% of the cost, or alternatively 85% of the cost, for the same reasons as given above.<sup>53</sup>[8.17]
- 11.115 Given the absence of any material change in the volume to capacity flows the impact on this junction would not be significant and the mitigation sought by the Highway Authority is not necessary to make the development acceptable.
- 11.116 At the Segensworth roundabout with the exception of Southampton Road South the increase in flows is modest. On Southampton Road South there would be an increase of 115 vehicles in the AM peak and 189 in the PM peak. Notwithstanding this, the STRM modelling indicates that this arm of the roundabout would have a flow to capacity ratio of less than 50%.
- 11.117 The works to the Segensworth roundabout have been part funded by existing s106 agreements. The Highway Authority seeks a contribution of £40,000 to fund the remainder of this Scheme, or alternatively 85% of the remainder. Given that the roundabout would still operate within capacity with the Scheme in place, the planning obligation is not necessary to make the Scheme acceptable.

*Pedestrian and Cyclist Provision*

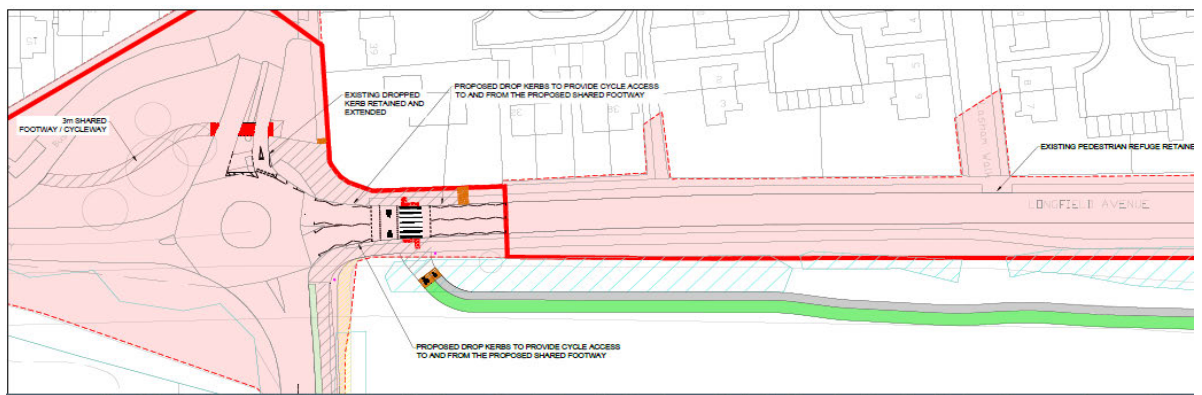
- 11.118 D6 is the upgrade of routes towards Crofton School. I have considered this matter within the PROW Obligations and concluded that it would not be CIL compliant.
- 11.119 D7 is the Rowan Way/Longfield Avenue/Peak Lane Junction. These works have been identified by the LCWIP. The Highway Authority seeks improvements to mitigate the cumulative impact of the Scheme on existing cyclists arising from the additional traffic generated. It considers that this additional traffic would exacerbate the personal injury accident record. The mitigation works are identified in the IDP and are anticipated to cost £1.6 million and comprise a compact Dutch roundabout. The Highway Authority seeks a contribution of £299,000.
- 11.120 There were 11 accidents at this roundabout between May 2019 and October 2023. Of these 4 involved a car and a pedal cycle. In the case of 3 of the accidents the cyclists were travelling west to east.

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<sup>52</sup> Mrs Baker POE Paragraph 3.25

<sup>53</sup> See Ms Ballorin POE Appendix A.

- 11.121 The Highway Authority estimate that during the peak hours, the development will route between 8.2% to 10.4% additional motor vehicles through the junction (an increase of about 160 traffic movements). It is concerned that this increase in traffic may exacerbate the conflicts and road safety issues between cyclists and motor traffic. [8.19]
- 11.122 The mitigation works D1 include a new parallel crossing at Longfield Avenue to the east of Peak Lane. It is also proposed to provide a shared footway/cycleway on the north east corner of the roundabout. Together with the crossing this would link with the segregated cycleway/footway to be provided within the site.[7.22]
- 11.123 Mitigation measures D1 would significantly improve pedestrian and cyclist safety at the roundabout and reduce the scope for conflict with motorised vehicles. It would benefit those travelling from the site towards the town centre and other facilities as well as existing residents wishing to access the community and sports facilities on the appeal site.



*Extract From Longfield Avenue Improvement 22115-MA-XX-DR-C-0104A  
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- 11.124 I therefore conclude that the mitigation sought under D7 in addition to these works are not necessary to make the development acceptable. Should the SoS reach a different conclusion on this matter the Highway Authority state that the contribution of £299,000 is a pro rata contribution based on an overall cost of £1.61million. However, £1.61million is the overall cost of works to LCWIP route 127.1. I understand that this route is over 12km in length and on the basis of the information submitted to the Inquiry, I am unable to conclude that that the contribution sought is fairly and reasonably related in scale and kind to the Scheme. Consequently these works would not be CIL compliant.
- 11.125 D8 is a LCWIP scheme at Newgate Lane/Longfield Avenue within the IDP. It is also part of route 271.1. The measures are not yet fully developed, but the intention is to provide continuity through the junction for walkers and cyclists with toucan crossings and cycling links.
- 11.126 Although the parties agree on the need for the works D8, the mechanism for its delivery is in dispute, with the Highway Authority requiring a financial contribution and the appellant contending that it should be funded by CIL. The Highway Authority seek a contribution of £140,000 towards the £1.61 million cost of providing LCWIP route 127.1.

- 11.127 The IDP separates infrastructure contributions into those required in relation to specific allocations (Table 6) and projects that have been identified through evidence studies and responses from service providers that apply to sites across the Borough are set out at Table 7. The IDP advises that contributions towards these projects would be through a combination of developer contributions and other funding where identified.
- 11.128 Table 7 identifies this project as being necessary as part of the mitigation required due to the knock-on impacts of the FLP growth. Given the appellant's acknowledgement that the scheme is required to improve accessibility between the site and retail and employment opportunities at Newgate Lane, although it is not a site-specific requirement, I consider that it is necessary to make the development acceptable in planning terms. However, the mitigation has not yet been developed, and the contribution requested by HCC relates to a much larger scheme. On the basis of the available information, I am not satisfied that the contribution sought is fairly and reasonably related in scale and kind to the development. For this reason, the contribution sought would not comply with CIL Regulation 122(2).
- 11.129 D9 is the Gudge Heath Lane/A27. This is identified at Table 7 of the IDP due to the knock-on effects of Local Plan development. It is also identified as part of the LWCIP which aims to improve cycle route continuity through the junction and improve east/ west cycle route continuity and connectivity to Gudge Heath Lane and Redfields Lane.
- 11.130 The Highway Authority states that an upgrade of the signal timings to MOVA has been introduced and that it seeks to prioritise active travel mode improvements over highway capacity improvements to encourage more trips by sustainable modes by existing and future residents. It is of the view that this approach would satisfactorily mitigate capacity impact from the development as this would result in vehicular trips being removed from the network and in turn alleviate the capacity impact at this location.
- 11.131 The junction capacity has been assessed within Local Plan Strategic Transport Assessment and Addendum as well as by the appellant Transport Assessment and Addendum. The Local Plan assessment included the impacts from the appeal site as part of the Local Plan growth, whilst the Appellant's assessment, which is specific to the appeal Scheme shows the traffic flows with and without the development. The appellant's assessment has not been disputed by the Highway Authority, and I find it more useful in order to assess the impact of the development. The figures within the appellant's Transport Proof of Evidence reflect those within the Transport Assessment, however, they differ from those within the Transport Assessment Addendum.<sup>54</sup> I have therefore relied on the more recent figures within the Transport Statement Addendum.<sup>55</sup>
- 11.132 On the basis of these figures the junction would be congested on 4 arms within the AM peak both with and without the development, although 3 of these arms would exceed the junction capacity due to the development. In the PM peak two

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<sup>54</sup> Mrs Baker POE paragraph 3.13

<sup>55</sup> CD 2.17 paragraph 6.1.18 Table 5.5

arms would be congested with and without the Scheme, and due to the Scheme a further arm would be congested, although all would operate within capacity, albeit at towards the upper end. The Scheme would add up to 12 PCUs during the AM peak and 7 during the PM peak. In the context of the overall volume of traffic using this junction the increase in the length of the queue is modest and would be unlikely to lead to significant delays.

- 11.133 Notwithstanding this, the appeal Scheme would add to congestion and delays. The intention to mitigate it through implementing improvements to the pedestrian and cycling infrastructure would accord with Policy TIN7 and Section 9 of the Framework that seeks to promote sustainable travel. The Local Plan Strategic Transport Highway Assessment (CD 9.15) states that there is a reasonable level of crossing movements on the Gudge Heath Lane arm of the junction which is on main route between Fareham railway station/town centre and Fareham College to the west. However, there is no formal crossing facilities, and as a consequence users must cross during gaps in the traffic with the aid of a narrow central island.
- 11.134 The Highway Authority seek a contribution of £410,000 towards the full cost of the scheme. As an alternative, it seeks a proportionate contribution of 85% (£360,000) on a similar basis to mitigation B2, B3 and B4. The appellant disputes that a contribution is necessary since the impact on the junction is not severe and the improvement scheme is not justified to address the impacts of the appeal Scheme alone.
- 11.135 The mitigation works have been identified as a strategic requirement and in part are necessary to address the existing poor pedestrian and cycling facilities at this junction. Whilst the appeal Scheme may add to the congestion at this junction it would not significantly add to the congestion or exacerbate the existing conditions for pedestrians and cyclists. I therefore find that requiring the appellant to fund the full costs of the works would not be Regulation 122(2) CIL compliant. For the reasons given above in relation mitigation works B2, B3 and B4 I do not find the proportionate cost suggested as an alternative to meet the tests either.
- 11.136 I have considered the alternative figure proposed by the appellant. This represents about 50% of the contribution sought. The appellant adopts a similar position in relation to other highway contributions, however, there is insufficient information for me to conclude that even this lower figure would be fairly and reasonably related in scale and kind to the development. As such I find the contribution towards works at D9 would fail to comply with the tests at CIL Regulation 122(2).
- 11.137 Overall, I conclude that Highway contributions B2, B3, B4, D6, D7, D8, and D9 at Schedule Eight of the UU would not comply with CIL Regulation 122(2).

### ***BNG and Nitrates***

- 11.138 It is common ground between the Appellant and FBC that the Development is going to result in a reduction of nitrates entering the Solent. There is a condition ensuring that the Development delivers at least 10% BNG. Therefore, it is accepted between the parties that the obligations in Schedules 9 and 10 are not necessary to make the development acceptable in planning terms.

11.139 Schedule Nine in relation to Biodiversity Units and Schedule Ten in relation to Nitrates, enable any excess BNG Units (i.e. the biodiversity net gain in excess of 10%) and / or the net nitrate reduction to be used to enable the delivery of other site.

11.140 These obligations would not comply with CIL Regulation 122(2) since they are not necessary to make the development acceptable. Consequently they cannot be a reason for granting planning permission.

#### *Conclusion on Planning Obligations*

11.141 I conclude that the following planning obligations would not comply with CIL Regulation 122(2) for the reasons given above:

- Schedule Two - the Sports Hub provision contribution
- Schedule Five - contributions towards the Solent Recreation Mitigation Strategy and the New Forest SPA, New Forest SAC and the New Forest RAMSAR
- Schedule Six - Primary Education Contribution B
- Schedule Seven - contributions toward footpaths 48, 51, 67, 68, 90,&75
- Schedule Eight - contributions towards highway mitigation,B2, B3, B4, D6 ,D7, D8, & D9
- Schedules Nine and Ten BNG and Nitrates.

11.142 Should the SoS agree that the above obligations are incompatible with any of the relevant tests, the UU provides at paragraph 3.3 that they shall not be enforceable by the FBC or HCC.

#### **CIL**

11.143 The parties disagree as to whether certain elements of infrastructure sought by FBC and HCC should be funded by a planning obligation or CIL. These elements include some highway mitigation measures, some PROW, and the Sports Hub.

11.144 The highway mitigation and PROW in dispute are mitigation measures B2, B3, B4, D6, D7, D8, & D9 and the contributions towards footpaths 48, 51, 67, 68, 70 & 75. In each case I have found that the planning obligation sought would not comply with CIL Regulation 122(2) tests.

11.145 The Sports Hub is identified as a borough-wide infrastructure requirement within the IDP. The Council's evidence to the CIL examination identified that leisure facilities, with the exception of Ferneham Hall and the Longfield Sports hub would be funded by s106 contributions. However, in the case of the Sports Hub, the entire shortfall was included in the funding gap. This would indicate that FBC did not anticipate collecting s106 contributions towards the Sports Hub.

11.146 I agree with FBC that planning obligations can be used to fund infrastructure that has a broader community function, provided it complies with the Regulation 122(2) tests. However, I find that many of the disputed mitigation measures

above were either not necessary to make the development acceptable, or not reasonably related in scale and kind to the development. In the case of the former whether they are funded by CIL or s106 does not arise. When assessing the latter it may be relevant to take account of CIL, including the evidence taken into account when setting the CIL rate.

- 11.147 Where evidence presented to the CIL examination indicates that the funding gap to justify the level of CIL includes the full cost of a particular item of infrastructure, it is a reasonable expectation that if the Local Planning Authority wishes to see that particular item of infrastructure delivered that it would use CIL monies. Seeking s106 contributions for such items risks double funding and fall to be assessed under the fairly and reasonably related in scale and kind to the development test within CIL 122(2).
- 11.148 CIL provides the charging authority with the flexibility to choose what infrastructure they need to deliver their relevant plan, but they must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The Scheme would be liable for about £10 million CIL Levy. It is clearly a matter for the Council as to how this levy is used. There would however be sufficient funds to deliver the infrastructure sought by the disputed planning obligations. Therefore, it would be for FBC to decide whether these items of infrastructure are a priority.

### ***Appropriate Assessment***

- 11.149 The Conservation of Habitats and Species Regulations 2017 (as amended) require that where a plan or project is likely to have a significant effect on a European site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the SoS in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
- 11.150 The appeal site lies within an influential proximity (5.6km) to five European designated sites; Solent & Southampton Water Ramsar / SPA, Portsmouth Harbour Ramsar / SPA, Solent & Dorset Coast SPA, Solent Maritime SAC and the New Forest SPA.
- 11.151 A number of pathways were scoped out of the assessment. The Scheme gives rise to likely significant effects due to hydrological effects and loss of supporting habitat during construction and hydrological effects and recreational pressure during operation. Mitigation measures include a Construction Environment Management Plan in respect of the hydrological impacts, a 10 hectare bird reserve to mitigate the loss of supporting habitat, and about 45ha of Green Infrastructure, with approximately 22.84ha of this occurring to the west of Peak Lane (including bird reserve) to mitigate recreational disturbance.
- 11.152 Natural England acknowledge that this mitigation would avoid adverse impacts on the integrity of these European Sites with the exception the in-combination effects of recreational disturbance on the Solent SPA and recreational disturbance to the New Forest SPA.

- 11.153 My conclusions above in relation to Schedule Five of the UU found that the Scheme would avoid adverse impacts on these sites, due to the quantum and quality of the Green Infrastructure to be provided and the travel distance to the New Forest.
- 11.154 It is a matter for the SoS as the competent authority to make an Appropriate Assessment of the Scheme on the integrity of these European Sites. Appendix E of this Report provides the information to inform the SoS Habitats Regulations Assessment.

***Other Matters***

- 11.155 Interested parties raised a number of other matters both at the Inquiry and in written representations. The Framework is clear that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Therefore, having regard to allocation of the site within a recently adopted Local Plan I am satisfied that the principle of the development is acceptable. FBC agrees with this position.
- 11.156 Several parties raised concerns about the impact of the proposal on the Strategic Gap which separates Fareham and Stubbington. The appeal Scheme reflects the delineation of the Strategic Gap shown on the Indicative Framework Plan at Policy HA55 and the masterplanning principles at appendix D of the FLP.
- 11.157 There were also concerns regarding the height and layout of the proposed development, particularly in the vicinity of the Strategic Gap. Since this is an outline application these matters, including any lighting and fencing to the Sports Hub, will be addressed as part of the reserved matters.
- 11.158 The Stubbington bypass has recently been completed and written and oral evidence to the Inquiry suggests that it has eased traffic congestion in the area. Interested parties are concerned that the impact of traffic from the Scheme may cause congestion and thereby negate the recent improvements. The highway impacts of the Scheme have been extensively considered, both at the time the site was allocated and in the context of the appeal Scheme. The Local Plan Strategic Transport Assessment and the appellant's Transport Assessment found the proposal to be acceptable in terms of its impact on the highway network. No substantive evidence to the contrary has been submitted. I therefore conclude that the appeal Scheme would not add significantly to congestion on the Stubbington bypass.
- 11.159 Various parties were concerned that there was insufficient education and health infrastructure to support the proposal. The LEA confirm that current school forecasts indicate that there would be sufficient capacity for secondary age children at the catchment school Crofton School and across the Secondary School landscape within the vicinity of the development. The Scheme would make provision for a new primary school on the appeal site. There is uncertainty as to the size of the school required as well as potential adverse implications of over-providing school places on existing schools in the area.
- 11.160 I have found above that a 1FE would provide sufficient capacity for up to 700 eligible dwellings. The additional pro rata contribution proposed by the appellant

would adequately mitigate the need for any additional places arising from the appeal Scheme should more than 700 eligible dwellings be delivered on the appeal site. In addition, sufficient land is safeguarded for a period of ten years should the LEA find a need for a 2FE to serve the appeal Scheme and other developments that may come forward. Moreover, the appellant's undisputed evidence is that there is considerable excess capacity within nearby primary schools. In addition, the UU also makes a contribution towards SEND education.

- 11.161 In terms of health services, it is evident that existing services are oversubscribed. The ICB (the organisation responsible for commissioning primary care services) does not want a new medical facility on the appeal site, but instead seek a contribution towards the expansion/relocation of other services. The UU provided for this contribution.
- 11.162 A number of parties questioned whether the Southern Water Peel Common Sewage Treatment Works had sufficient capacity to treat waste from the development. Southern Water has confirmed that it can have the capacity to facilitate foul sewerage disposal from the proposed development. Detailed design issues relating to the foul water infrastructure would be considered at the reserved matters stage.

### ***Planning Balance and Conclusion***

- 11.163 The Main parties agree that the appeal should be allowed, subject to suitable conditions and planning obligations. The proposal is consistent with the intent of FLP Policy HA55. The land use parameter plan depicts the arrangements of uses across the site and is consistent with the indicative framework plan associated with policy H55. The proposal will provide suitable Green Infrastructure including recreational space that is considered to be a reasonable alternative to recreation at the Solent and New Forest SPA and protected sites. The Scheme includes a bird reserve with suitable features. The form and capacity of the highway access from Longfield Avenue and Peak Lane are appropriate and the overall Scheme incorporates measures for walking and cycling. The proposal would also make suitable provision for a local centre, provide the necessary land for the delivery of the Sports Hub and make suitable provision for education and healthcare.
- 11.164 The proposal would provide considerable economic environmental and social benefits including the delivery of affordable housing, extra care accommodation and market housing. The Housing Delivery Test records FBC's performance as 55% and in these circumstances the appeal Scheme would make a significant contribution towards the supply of homes within FBC in accordance with the policies within the Framework.
- 11.165 I find that the appeal Scheme would accord with the development plan as a whole and in the absence of any material considerations to the contrary, planning permission should be granted.

## **12 Recommendation**

- 12.1 For the reasons set out above and having had regard to all other matters raised, I recommend that the SoS exercises the 'blue pencil' in accordance with paragraph

3.3 of the UU in relation to the planning obligations set out at paragraph 11.141 above.

- 12.2 I recommend that the appeal should be allowed, and that planning permission should be granted subject to the imposition of the conditions set out in Appendix C to this Report.

*Lesley Coffey*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT, HALLAM LAND MANAGEMENT

Thomas Hill KC	Instructed by Owen Jones of LRM Planning Limited
He Called:	
Mr Kurt Goodman BSc MSc CMIEEM	FPCR
Mr Ben Hunter BA DipMS	EFM Ltd
Mrs Jenny Baker BEng(Hons) MSc, DIC	Markides Associates
Mr Owen Jones BA(Hons) DIP TP MSc MRTPI PIEMA	LRM Planning Limited

FOR THE LOCAL PLANNING AUTHORITY

Paul Shadarevian	Instructed by Fareham Borough Council
He Called:	
Mark Saunders	Hampshire County Council
Valerie Ballorin MSC MCIHT	Transport Seeds
Stephen Jupp MRTPI	Fareham Borough Council

INTERESTED PERSONS

Rt Honourable Suella Braverman MP Malcolm Dicken	NHS Hampshire and Isle of Wight ICB
Phillip Millard	Hampshire County Council Countryside Services
Councillor Needham Councillor Hayres Ann Richards Robert Marshall Mr Morill	Fareham Society

**DOCUMENTS SUBMITTED DURING THE INQUIRY**

- ID1 LPA Opening Statement
- ID2 Amendment to Sports Provision Table
- ID3 Appellant's Opening Statement
- ID4 Fareham Society's Statement
- ID5 Plan Showing Locations for Highway Mitigation Submitted by LPA,
- ID6 Travel to School Maps submitted by LPA
- ID7 Updated Education Statement of Common Ground
- ID8 PROW Statement of Common Ground - 28th October 2024
- ID9 Open Space Names Plan from Design & Access Statement
- ID10 Cllr Needham's Statement
- ID11 Ann Richard's Statement
- ID12 Cllr Mrs Hayre's Statement
- ID13 Rt Hon Suella Braverman KC MP's Statement
- ID14 Infrastructure, Transport and Housing -  
<https://www.suellabraverman.co.uk/campaigns/infrastructure-transport-and-housing>,
- ID15 Unilateral Undertaking - GWLG 04.11.2024
- ID16 Explanatory Note on UU - GWLG 04.11.2024
- ID17 Draft Planning Conditions - 11th November
- ID20 CIL Compliance Statement
- ID21 LPA Closing Statement
- ID22 Self Build and Custom Build SoCG
- ID23 Travel Plan Condition
- ID24 Updated Transport Statement of Common Ground
- ID25 Medical practices in proximity to the Appeal Site
- ID26 Dame Caroline Dinenage DBE MP's Statement
- ID27 Appellant's Closing Statement

## RECOMMENDED CONDITIONS

	Agreed between the parties
1	<p><b><u>Reserved matters approval</u></b></p> <p>Details of the appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) for each phase of development shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase takes place. The development shall be carried out in accordance with the approved details.</p> <p><b>Reason:</b> To comply with Section 92 of the Town and Country Planning Act 1990</p>
2	<p><b><u>Time period for the submission of reserved matters</u></b></p> <p>Application for approval of the reserved matters for at least one of the phases shown on the phasing plan approved by condition 6 shall be made to the Local Planning Authority no later than the expiration of 3 years from the date of this permission. All subsequent reserved matters shall be submitted no later than 10 years from the date of this permission.</p> <p><b>Reason:</b> To comply with Section 92 of the Town and Country Planning Act 1990</p>
3	<p><b><u>Time period for commencement of development</u></b></p> <p>The development of each phase permitted by condition 6 shall commence no later than 2 years from the date of approval of the last of the reserved matters to be approved for that phase.</p> <p><b>Reason:</b> To comply with Section 92 of the Town and Country Planning Act 1990</p>
4	<p><b><u>Approved Plans (land use)</u></b></p> <p>The development hereby permitted relates to the land shown on the site location plan (drawing number 148-AAP-001 Rev D) and shall be carried out in general accordance with the details shown on the Land Use and Green Infrastructure Parameter Plan (drawing number 148-AAP-02 Rev V).</p> <p><b>REASON:</b> To ensure that the development is carried out in accordance with the approved plan and in the interests of proper planning</p>
5	<p><b><u>Approved Plans (access)</u></b></p> <p>The means of access hereby permitted shall be constructed in general accordance with the following drawings:</p> <p>Peak Lane Site Access 22115-MA-XX-DR-C-0108 P02</p>

	<p>Longfield Avenue Site Access 22115-MA-XX-DR-C-0109 P02</p> <p><b>REASON:</b> To ensure that the development is carried out in accordance with the approved plan.</p>
<p>6</p>	<p><b><u>Phasing Plan</u></b></p> <p>Prior to the submission of the first application for reserved matters a plan shall be submitted to the local planning authority identifying the phasing for the development and shall include the following:</p> <ul style="list-style-type: none"> <li>i. Residential phase(s) and their associated character areas as defined by Appendix D of the Local Plan and the indicative number of market and affordable homes and self and/or custom build plots in each phase</li> <li>ii. The primary school</li> <li>iii. A safe route for access to the Primary School during the construction process</li> <li>iv. The local centre (including the residential and mixed-use areas)</li> <li>v. The location(s) of the extra care land (within or adjacent to the local centre) comprising at least 50 units.</li> <li>vi. Oxleys Meadow, Newlands Meadow and the Linear Park as defined on plan HLM089-005</li> <li>vii. Neighbourhood and Local Equipped Areas of Play</li> <li>viii. The Sports Hub</li> <li>ix. Surface water drainage</li> <li>x. On and off-site highways works including pedestrian and cycle improvements</li> </ul> <p>No development shall commence until the local planning authority has approved in writing the phasing plan and the development shall thereafter be constructed broadly in accordance with the agreed phasing plan.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development.</p>
<p>7</p>	<p><b><u>Design Code</u></b></p> <p>Prior to the approval of the first reserved matters in any of the phases containing residential development identified in Condition 6, a Design Code for that phase shall be submitted to and approved by the Local Planning Authority. Each Design Code shall reflect the relevant character area(s) defined in Appendix D of the Fareham Local Plan.</p>

	<p>The Design Code shall accord with the Policy HA55 Illustrative Masterplan and Supporting Principles in Appendix D of the Fareham Local Plan and shall include the following details for each of the character areas:</p> <ul style="list-style-type: none"> <li>a) the built form of the character area, namely the structure of blocks, key groupings or individual buildings, density, building form and depth, massing, scale, building heights, orientation of buildings, roofscape, including ridge lines and pitches, building elements such as eaves, openings (windows and doors) and porches, external materials, boundary treatments;</li> <li>b) principles relating to the self and custom build plots within that phase;</li> <li>c) the street network hierarchy, cycle routes, footpaths and public spaces, providing typical street cross sections;</li> <li>d) landscaping, areas of public realm, green links, sustainable urban drainage, and open space within the areas of built development (excluding the areas of Newlands, the Linear Park and Oxleys Meadows shown on plan HLM089-005), including enclosure, shading, natural surveillance, public art, materials, street furniture, signage and lighting;</li> <li>e) the approach to vehicular and cycle parking for residential and non-residential uses, including but not restricted to parking for people with disability, visitor parking, and electric vehicle charging;</li> <li>f) principles for ancillary infrastructure/buildings such as waste and recycling provision.</li> </ul> <p>Each reserved matter application shall accord with the details of the relevant approved Design Code document and be accompanied by a statement which demonstrates compliance with the approved Design Code document.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development as required by Policy HA55.</p>
8	<p>Each reserved matters application for a phase that includes housing shall include a Housing Delivery Statement to provide the following details:</p> <ul style="list-style-type: none"> <li>(i) The number and proportion of market homes proposed</li> <li>(ii) The number and proportion of affordable homes proposed</li> <li>(iii) The tenure of the affordable homes proposed</li> <li>(iv) The number and proportion of Category M4(2) and M4(3) dwellings pursuant to condition 37</li> </ul>

	<p>(v) The location of the self and custom build plots reserved for such use subject to the marketing requirements specified in condition 45</p> <p>(vi) Energy efficiency measures pursuant to the condition 27</p> <p>With the exception of the first Housing Delivery Statement, each successive Housing Delivery Statement shall provide cumulative figures comprising all prior phases.</p> <p><b>REASON:</b> In the interest of providing a mixed, sustainable and diverse new community</p>
9	<p><b><u>Earthworks</u></b></p> <p>Prior to the commencement of the development hereby approved a site wide earthworks strategy shall be submitted to and approved by the LPA. The Earthworks Strategy shall provide the following details:</p> <ol style="list-style-type: none"> <li>a. Existing ground levels</li> <li>b. Proposed ground levels for the built development areas, as shown on the land use parameter plan (148-AAP-002 Rev V)</li> <li>c. Proposed ground levels for the green infrastructure, as shown on the green infrastructure parameter plan</li> <li>d. The volumes of cut and fill and arisings associated with the formation of the proposed levels set by criteria b. and c</li> <li>e. A method statement describing the means by which the proposed ground levels shall be formed including as relevant: the phasing of earthworks and enabling works, temporary excavation and storage, the movement of arisings and topsoil across the site, and topsoil handling and re-use procedures</li> </ol> <p>All earthworks during the construction period shall be implemented in broad accordance with the approved strategy.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development.</p>
10	<p><b><u>Oxleys Meadow Open Space Scheme of Works and Management Plan</u></b></p> <p>Prior to the commencement of development hereby approved, a scheme for Oxleys Meadow (as shown on drawing HLM089-005) shall be submitted to and approved in writing by the LPA. The scheme shall accord with the principles set out in the 'Open Space and Habitat Creation' Document (December 2023) and shall include the following details:</p> <ol style="list-style-type: none"> <li>i. hard and soft landscaping details</li> <li>ii. biodiversity enhancement in accordance with condition 15</li> </ol>

	<ul style="list-style-type: none"> <li>iii. the bird reserve area including a wildlife hazard risk assessment</li> <li>iv. tree and hedgerow protection</li> <li>v. areas of retained planting</li> <li>vi. areas for new planting</li> <li>vii. earthworks</li> <li>viii. boundary treatments</li> <li>ix. pedestrian and cycle routes and connections to Peak Lane and Ranvilles Avenue and PROW 67</li> <li>x. hardstanding</li> <li>xi. surface water drainage</li> </ul> <p>The scheme shall also include a timetable for implementation of the above environmental mitigation and a management and maintenance plan for 80 years which shall include the arrangements for adoption by any public authority or any other arrangements to secure the operation of the scheme throughout its lifetime.</p> <p>The Scheme shall be laid out in accordance with the approved details.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development.</p>
11	<p><b><u>Linear Park Open Space Scheme of Works and Management Plan</u></b></p> <p>The first reserved matters submission relating to landscaping for the phase or phases of the development containing the Linear Park (as shown on drawing HLM089-005) shall include the following details:</p> <ul style="list-style-type: none"> <li>i. hard and soft landscaping details</li> <li>ii. ecological enhancement in accordance with condition 15</li> <li>iii. routes for pedestrians and cyclists and connections to the adjoining areas of built development and Newlands Meadow</li> <li>iv. play equipment</li> <li>v. street furniture</li> <li>vi. earthworks</li> <li>vii. surface water drainage</li> </ul> <p>The scheme shall also include a timetable for implementation and a management and maintenance plan for 80 years which shall include the arrangements for adoption by any public authority or any other arrangements to secure the operation of the scheme throughout its lifetime.</p>

	<p>The Scheme shall be laid out in accordance with the approved details.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development.</p>
12	<p><b><u>Newlands Meadow Open Space Scheme of Works and Management Plan</u></b></p> <p>The first reserved matters submission relating to landscaping for the phase or phases of the development containing Newlands Meadow (as shown on drawing HLM089-005) shall include the following details:</p> <ol style="list-style-type: none"> <li>i. hard and soft landscaping details</li> <li>ii. biodiversity enhancement in accordance with condition 15</li> <li>iii. tree and hedgerow protection details</li> <li>iv. areas of retained planting</li> <li>v. play equipment</li> <li>vi. earthworks</li> <li>vii. boundary treatments</li> <li>viii. pedestrian and cycle routes including connections to Tanners Lane</li> <li>ix. surface water drainage</li> </ol> <p>The scheme shall also include a timetable for implementation and a management and maintenance plan for 80 years which shall include the arrangements for adoption by any public authority or any other arrangements to secure the operation of the scheme throughout its lifetime.</p> <p>The Scheme shall be laid out as in accordance with the approved details approved.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development.</p>
13	<p><b><u>Play Equipment</u></b></p> <p>Each reserved matters application for a phase of the development that includes housing (other than an application just for the extra care home) shall include where relevant details of play equipment as specified by condition 6. Such details shall include:</p> <ol style="list-style-type: none"> <li>i. the number of pieces of play equipment and their specification</li> <li>ii. means of enclosure</li> <li>iii. hard and soft landscaping</li> </ol>

	<ul style="list-style-type: none"> <li>iv. street furniture</li> <li>v. surface water drainage measures</li> </ul> <p>The play equipment shall be installed in accordance with the approved reserved matters scheme.</p> <p><b>REASON:</b> To provide the necessary infrastructure at appropriate stages of construction and to ensure a comprehensive, well serviced development</p>
14	<p><b><u>Ecological mitigation and enhancement</u></b></p> <p>Save for Oxleys Meadow, Newlands Meadow and the Linear Park shown on drawing HLM089-005 each reserved matter application for a phase shall include details of ecological mitigation and enhancement measures specified by the Biodiversity Net Gain Plan approved pursuant to condition 15 as part of the landscape works required for the related phase.</p> <p><b>REASON:</b> To ensure a comprehensive and appropriate form of development.</p>
15	<p><b><u>Biodiversity net gain</u></b></p> <p>No development shall take place until a site wide Biodiversity Gain Plan setting out the measures that will provide net gains for biodiversity of at least 10% has first been submitted to and approved by the local planning authority in writing. The submitted plan shall:</p> <ul style="list-style-type: none"> <li>i. Quantify the pre and post development biodiversity value of the site using the DEFRA statutory metric (February 2024), unless the local planning authority first agrees in writing that another metric may be used, with an explanation of the condition scores set out in the DEFRA guidance. Plans of the site must be provided together with Excel spreadsheet copies of the completed relevant metrics to demonstrate how the metric conclusions were reached;</li> <li>ii. Identify how a cumulative Biodiversity Net Gain of at least 10% will be achieved across the whole development having regard to individual phases;</li> <li>iii. Demonstrate that the proposed habitat is on a 'like for like' basis and avoids the 'trading down' of habitat type i.e., replacing rare habitat with much more common habitat;</li> <li>iv. Demonstrate that proposals have followed the 'mitigation hierarchy': avoiding habitat loss where possible; minimising the extent of negative impacts that cannot be avoided; restoring degraded ecosystems where negative impacts cannot be avoided or minimised; and as a last resort compensating for any residual negative impacts;</li> </ul>

	<ul style="list-style-type: none"> <li>v. Demonstrate that proposals maximise the connectivity of the proposed habitat with habitat in the wider area to avoid fragmented or isolated habitat;</li> <li>vi. Confirm how the proposed measures to secure 10% Biodiversity Net Gain will be managed, maintained, monitored and funded for a minimum of 30-years.</li> </ul> <p>Thereafter the approved Biodiversity Net Gain measures shall be managed, maintained, monitored and funded in accordance with the approved details.</p> <p><b>REASON:</b> To secure biodiversity net gain in accordance with the Local Plan Policy NE2.</p>
16	<p><b><u>Construction Environment Management Plan</u></b></p> <p>No development shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the LPA. The CEMP shall include the following:</p> <ul style="list-style-type: none"> <li>a) Soil movement, methods of tracking soil movement and details for demonstrating soil will be suitable for use;</li> <li>b) Construction Traffic Management (to include the co-ordination of deliveries and plant and materials and the disposing of waste resulting from demolition and/or construction so as to avoid undue interference with the operation of the public highway, particularly during the Monday-Friday AM Peak (0800-0900) and PM Peak (1630-1800) periods);</li> <li>c) Site Office location;</li> <li>d) Working hours;</li> <li>e) Contractor parking areas for use during construction;</li> <li>f) Areas for loading and unloading;</li> <li>g) Construction lighting details;</li> <li>h) Construction access details;</li> <li>i) The storage of materials and construction waste, including waste recycling where possible;</li> <li>j) The storage and dispensing of fuels, chemicals, oils and any hazardous materials (including any hazardous soils);</li> <li>k) The proposed method of working (this shall include details to monitor and prevent adverse impacts to surface water, groundwater and adverse impacts caused by noise, vibration, odours);</li> <li>l) The proposed maintenance and aftercare of the site;</li> </ul>

	<p>m) The provision of road and wheel cleaning facilities, including any required drainage;</p> <p>n) Traffic management measures to address the potential conflict between users of the footpath network and the construction vehicles; Dust and dirt control measures;</p> <p>o) Measures to avoid impacts on the non-statutory designated sites, retained habitats and trees; and</p> <p>p) Measures to minimise impacts on any existing occupied residential properties.</p> <p>q) Details of any pilling where necessary</p> <p>The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.</p> <p><b>REASON:</b> In the interest of managing the construction process so as to avoid impact on the highway network and to ecological and arboricultural receptors and in the interest of the amenities of the area.</p>
17	<p><b><u>No burning of materials</u></b></p> <p>No materials obtained from site clearance or from construction will be burnt on the site.</p> <p><b>REASON:</b> To protect residential amenity</p>
18	<p><b><u>Existing and proposed ground levels</u></b></p> <p>Pursuant to condition 1, each reserved matter application shall be accompanied by details of existing and proposed ground levels, and, where relevant, finished floor levels of the dwellings and other buildings for which approval is sought.</p> <p><b>REASON:</b> To ensure an appropriate form of development.</p>
19	<p><b><u>Archaeological scheme of investigation</u></b></p> <p>No development shall commence in any of the phases identified by Condition 6 until an Archaeological Written Scheme of Investigation for that phase has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a programme of archaeological assessment for the works proposed within that phase and the written results of the Scheme of Investigation shall be provided to the LPA.</p> <p><b>REASON:</b> The site is potentially of archaeological significance and any finds and sites located within the development site will need to be recorded and kept under review.</p>
20	<p><b><u>Contamination</u></b></p>

	<p>No development shall take place within any phase identified by Condition 6 until:</p> <ol style="list-style-type: none"> <li>i. A desk-top Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority for that phase. Should the Contamination Assessment reveal a potential for contamination, a programme and methodology for an intrusive site investigation and an assessment of the risks posed to human health, the building fabric and the wider environment including water resources shall be submitted to and approved in writing by the Local Planning Authority.</li> <li>ii. Where the site investigation and risk assessments under criterion (i) identify remedial works are required, details of these works shall be submitted to and approved in writing by the local planning authority prior their installation/construction, including a programme for their implementation.</li> <li>iii. For any phase where criterion (ii) has required the approval of remedial works, none of the dwellings or buildings shall be occupied or brought in to beneficial use, and none of the open space shall be available to the public until there has been submitted to and approved in writing by the Local Planning Authority verification that those required remediation measures have been fully implemented in accordance with the approved details. Unless otherwise agreed in writing with the Local Planning Authority such verification will include: as built drawings, photographs of the remediation works in progress, certificates demonstrating that imported and/or material left in situ is free from contamination.</li> </ol> <p><b>REASON:</b> To ensure a safe living/working environment</p>
21	<p><b><u>Contamination</u></b></p> <p>If any previously unidentified land contamination is found during the carrying out of the development, it shall be reported immediately in writing to the Local Planning Authority. Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be undertaken in accordance with details that shall have been approved in writing by the Local Planning Authority. Thereafter, any remediation measures shall be carried out in accordance with the approved details and verification details provided to the LPA in accordance with Condition 20.</p> <p><b>REASON:</b> To ensure a safe living/working environment</p>
22	<p><b><u>Site wide surface water drainage scheme</u></b></p> <p>No development shall take place until a site wide surface water drainage scheme, based on sustainable drainage principles as set out within the</p>

	<p>Brookbanks Flood Risk Assessment (ref 10007 FRA02 Rv5) has been submitted to and approved in writing by the Local Planning Authority.</p> <p>The development shall be carried out in accordance with the approved details.</p> <p><b>REASON:</b> To provide the necessary infrastructure at appropriate stages of construction and to ensure a comprehensive, well serviced development</p>
<p>23</p>	<p><b><u>Phase specific surface water drainage scheme</u></b></p> <p>Prior to the commencement of development in each of the phases identified in Condition 6, a phase specific surface water drainage scheme, based on the Site Wide Surface Water Drainage Scheme approved pursuant to condition 22, shall be submitted to and approved in writing by the Local Planning Authority for that phase.</p> <p>Each phase specific surface water drainage strategy shall include:</p> <ul style="list-style-type: none"> <li>i. The critical design storm period for each attenuation feature</li> <li>ii. Drainage areas and assumptions on impermeability</li> <li>iii. The methods employed to control the surface water discharge and volume</li> <li>iv. Infiltration testing in pits (not boreholes) to support the assumed infiltration rates</li> <li>v. The factor of safety assumed for each infiltration feature</li> <li>vi. The run-off rate calculations for discharge to surface waters</li> <li>vii. Measures proposed to achieve the relevant water quality treatment</li> <li>viii. Future management and maintenance responsibilities</li> <li>ix. Details of any impacts on source protection zones or solution features</li> </ul> <p>The drainage scheme submitted shall be implemented prior to the occupation or use of the building or development to which it relates. Where the drainage scheme for any area relies on drainage features outside of the area of development concerned these must be completed sufficiently to perform the necessary attenuation and treatment function and demonstrated as part of the details submitted. No area of built development shall be allowed to discharge run-off unattenuated and untreated into existing receiving watercourses. The development shall be carried out in accordance with the approved details.</p> <p><b>REASON:</b> To provide the necessary infrastructure at appropriate stages of construction and to ensure a comprehensive, well serviced development</p>

24	<p><b><u>Arboricultural impact assessment and method statement</u></b></p> <p>An arboricultural impact assessment and method statement shall be submitted to and approved in writing prior to the following works within the Site being commenced:</p> <ol style="list-style-type: none"> <li>i. The access works at Peak Lane and Longfield Avenue permitted pursuant to condition 5;</li> <li>ii. Pedestrian or cycle links onto Longfield Avenue, Peak Lane and Tanners Lane shown indicatively on drawing 148-AAP-02 Rev V;</li> <li>iii. Development within a phase identified by Condition 6.</li> </ol> <p>Any tree and hedgerow protective measures required by the approved method statement shall be installed prior to the development to which those measure relate taking place. Protective fencing shall be maintained and retained for the full duration of the works or until such time as may be agreed in writing by the Local Planning Authority. No activities, material storage, or placement of site huts or other equipment shall take place within the fencing without the prior written approval of the Local Planning Authority.</p> <p>All service routes, drain runs, soakaways or excavations in connection with the development of a phase identified by Condition 6 shall remain wholly outside the tree and hedgerow protection areas unless otherwise agreed in writing with the Local Planning Authority.</p> <p><b>REASON:</b> In order to retain established landscaping on the site and in the interests of the visual amenities of the area.</p>
25	<p><b><u>Water efficiency details</u></b></p> <p>No residential or commercial development shall take place within a phase as defined in the phasing plan pursuant to Condition 6 until details of water efficiency measures for that phase (or part thereof) 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 an average of 110ltrs per person per day. The development shall be carried out in accordance with the approved details.</p> <p><b>REASON:</b> To ensure an appropriate and sustainable form of development.</p>
26	<p><b><u>Details of roads, footpaths and cycleways</u></b></p> <p>Pursuant to Condition 1, each reserved matter application containing layout shall include details of the following:</p> <ol style="list-style-type: none"> <li>i. The positions and widths of roads, footpaths and cycleways including gradients and surface materials;</li> </ol>

	<ul style="list-style-type: none"> <li>ii. Details of parking provision (on and off plot) and any associated manoeuvring areas;</li> <li>iii. Sweep path analysis to demonstrate manoeuvring of a refuse collection vehicle safely through the development proposed;</li> <li>iv. Street lighting including lighting calculations, contour illumination plans and means to reduce light pollution);</li> <li>v. The method for managing highway surface water drainage including local sustainable disposal; and</li> <li>vi. A timetable for the delivery of the above.</li> </ul> <p>The development shall be undertaken in accordance with the approved details.</p> <p><b>REASON:</b> To ensure that roads, footways, cycleways, street lighting and surface water drainage are constructed to an appropriate standard to serve the development</p>
27	<p><b><u>Energy efficiency details</u></b></p> <p>Each reserved matter application for a phase of the development that includes housing shall provide details of energy efficiency measures in accordance with the Brookbanks Sustainability and Energy Strategy (10007 EN01 Rv1). The development shall be undertaken in accordance with the approved details.</p> <p><b>REASON:</b> To ensure an appropriate and sustainable form of development</p>
28	<p><b><u>Solar reflection reduction</u></b></p> <p>Where the energy efficiency measures required pursuant to Condition 27 include a photovoltaic panel or panels to be mounted on a dwelling house or building that is subject to a reserved matters application, such an application shall include details of solar reflection reduction measures to limit incidence of glint and glare. Such photovoltaic panels shall only be erected in accordance with the approved details.</p> <p><b>REASON:</b> To ensure a comprehensive, well serviced development that can co-exist without implications for the safety of aircraft visiting Solent Airport.</p>
29	<p><b><u>Obstacle Limitation Surface</u></b></p> <p>No residential or commercial development within a phase as defined in the phasing plan pursuant to Condition 6 shall take place until a statement demonstrating that the buildings proposed (including their construction) has no impact upon the Obstacle Limitation Surface area for Solent Airport at Daedalus. Where buildings penetrate the Obstacle Limitation Surface details of the obstruction to the surface, period of the obstruction and any resultant lighting because of the penetration shall first be submitted to and</p>

	<p>approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.</p> <p><b>REASON:</b> To ensure a comprehensive, well serviced development that can co-exist without implications for the safety of aircraft visiting Solent Airport.</p>
30	<p><b><u>Sports Hub details pursuant to a reserved matters application</u></b></p> <p>Any application for reserved matters approval on the land identified as the sports hub on plan 148-AAP-02 Rev V shall include the following details:</p> <ol style="list-style-type: none"> <li>i. site levels</li> <li>ii. the scale and appearance including elevations and floorplans of any buildings</li> <li>iii. hard and soft landscaping</li> <li>iv. surface water drainage</li> <li>v. access</li> <li>vi. car and cycle parking</li> <li>vii. lighting, and where relevant. flood lighting for playing pitches including lux levels and cowlings to reduce light spill</li> <li>viii. circulation</li> <li>ix. means of enclosure</li> <li>x. the specification of any playing pitches</li> </ol> <p>The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.</p> <p><b>REASON:</b> To ensure a comprehensive, well serviced development</p>
31	<p><b><u>Primary School details</u></b></p> <p>Any application for reserved matters approval on the land identified as the primary school on plan 148-AAP-02 Rev V shall include details of any buildings, hard and soft landscaping, drainage, site levels, access, lighting, parking proposed as part of the Primary School and a timetable for delivery. The works shall be undertaken in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.</p> <p><b>REASON:</b> To provide the necessary infrastructure at appropriate stages of construction and to ensure a comprehensive, well serviced development</p>
32	<p><b><u>Local centre mixed use area</u></b></p> <p>No residential development above a non-residential ground floor use within the phase containing the local centre (as defined in the phasing plan</p>

	<p>pursuant to condition 6) shall be occupied until the non-residential development (use classes E and F2) have been completed in accordance with the approved details.</p> <p><b>REASON:</b> To ensure the provision of commercial facilities to create a mixed community and to ensure active frontages facing onto public areas in accordance with policy HA55.</p>
33	<p><b><u>External lighting</u></b></p> <p>No residential or commercial development shall take place within a phase as defined in the phasing plan pursuant to Condition 6 until a scheme of permanent external lighting (excluding street lighting determined pursuant to condition 26) has been submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and extent of light scatter and a schedule of the equipment design (luminaire type, mounting height, aiming angles and luminaire profiles). Development shall be carried out in accordance with the approved details.</p> <p><b>REASON:</b> To ensure lighting does not materially harm the area, protected species or impact upon airport safety</p>
34	<p><b><u>Local centre details pursuant to a reserved matters application</u></b></p> <p>Any reserved matter application within the local centre phase as defined by the phasing plan approved pursuant to Condition 6 shall include the following details:</p> <ol style="list-style-type: none"> <li>i. site levels</li> <li>ii. the scale and appearance including elevations and floorplans of any buildings</li> <li>iii. hard and soft landscaping</li> <li>iv. surface water drainage</li> <li>v. access and parking</li> <li>vi. lighting</li> <li>vii. circulation</li> <li>viii. means of enclosure</li> </ol> <p>Such details shall accord with the Design Code prepared for that phase of the development approved pursuant to Condition 7.</p> <p><b>REASON:</b> To ensure an appropriate form of development.</p>
35	<p><b><u>Working hours</u></b></p> <p>No work relating to the construction of any of the development hereby permitted (Including works of demolition or preparation prior to operations)</p>

	<p>shall take place before the hours of 08:00 or after 18:00 Monday to Friday, before the hours of 08:00 or after 13:00 Saturdays or at all on Sundays or recognised public and bank holidays, unless otherwise first agreed in writing with the local planning authority.</p> <p><b>REASON:</b> To protect the amenities of the occupiers of nearby residential properties</p>
36	<p><b><u>Affordable housing scheme</u></b></p> <p>No development shall take place within any housing phase defined on the phasing plan approved by Condition 6 until a scheme for the provision of affordable housing within that phase has been submitted to and approved in writing by the Local Planning Authority.</p> <p>The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework (2023) or any future guidance that replaces it.</p> <p>The scheme shall include:</p> <ol style="list-style-type: none"> <li>i. the proportion of affordable housing to be provided within that phase, which for the avoidance of doubt may be more or less than 40% provided that the accumulation of each scheme delivers 40% of the dwellings approved as affordable housing;</li> <li>ii. the tenure mix for the affordable housing within that phase which shall accord with the following unless otherwise agreed by the LPA: at least 10% as social rent, at least 55% as affordable rent, and at least 10% to be provided as affordable home ownership;</li> <li>iii. the timing of the construction of the affordable housing in relation to the occupancy of the market housing;</li> <li>iv. the arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) if no RSL is involved;</li> <li>v. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and</li> <li>vi. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.</li> </ol> <p><b>REASON:</b> To ensure the scheme accords with Policy HP5</p>
37	<p><b><u>Adaptable and accessible homes</u></b></p> <p>Of the dwellings that are approved pursuant to Condition 1, 15% shall achieve Building Regulation Category M4(2) and 2% of the market</p>

	<p>dwellings and 5% of the affordable homes shall achieve Building Regulation Category M4(3).</p> <p><b>REASON:</b> To accord with Policy HP7 of the Local Plan</p>
38	<p><b><u>Employment and Skills Strategy</u></b></p> <p>Prior to the commencement of the development hereby approved an Employment and Skills Strategy shall be submitted to the LPA for approval and shall be implemented as approved by the applicant or their successor in title thereafter.</p> <p><b>REASON:</b> To support local employment during the construction phase of the proposed development</p>
39	<p><b><u>Self and/or custom build plots</u></b></p> <p>The development hereby approved shall provide serviced plots for self and/or custom builders for at least 10% of the total number of dwellings (excluding apartments), unless otherwise agreed in writing by the LPA.</p> <p>The dwellings hereby permitted for development as self and/or custom build shall be built or completed by:</p> <ul style="list-style-type: none"> <li>(a) individuals,</li> <li>(b) associations of individuals, or</li> <li>(c) persons working with or for individuals or associations of individuals, who have built or completed the dwelling to occupy as their home.</li> <li>(d) A developer commissioned by individuals.</li> </ul> <p>Each dwelling shall thereafter only be occupied in the first instance by the individual or association of individuals who built, completed or commissioned the dwelling</p> <p><b>REASON:</b> To enable the delivery of self and/or custom build properties in accordance with Policy HP9.</p>
40	<p><b><u>Identification of self and/or custom build plots by phase</u></b></p> <p>The first reserved matters application for layout in any residential phase shall contain a plan setting out the location of the proposed self and/or custom build plots to be submitted to and approved in writing by the Local Planning Authority.</p> <p><b>REASON:</b> To enable the delivery of self and/or custom build dwellings.</p>
41	<p><b><u>Access and services to self and/or custom build plots</u></b></p> <p>Within a phase which contains self and/or custom build plots not more than 75% of the non-self/custom build dwellings shall be commenced until there is a direct connection to all of the self and/or custom build plots, less</p>

	<p>the final carriageway and footway surfacing, from the existing highway, and connection to services and utilities has been made to the permitted self and custom build plot boundaries. The final carriageway and footway surfacing serving the self and custom build plots shall be commenced within three months and completed within six months from the commencement of the penultimate self and/or custom-built dwelling for which permission is to be granted.</p> <p><b>REASON:</b> To ensure the roads and footways are constructed and services and utilities are laid in a satisfactory manner, and to ensure safe and suitable access and servicing to the self and/or custom build plots.</p>
42	<p><b><u>Self and/or custom build marketing strategy</u></b></p> <p>(a) Prior to the commencement of the first phase of residential development identified in the phasing plan approved pursuant to condition 6 a Self and/or Custom Build Marketing Strategy shall be submitted to the LPA for approval. The Marketing Strategy shall specify how self and/or custom build plots within each residential phase shall be marketed and shall include information specified in Appendix 2 of the Self and Custom Build Supplementary Planning Document (Fareham Borough Council SPD 2023) or any subsequent replacement.</p> <p>(b) Following not less than 12 months of marketing, the applicant or their successor in title shall prepare and submit to the LPA a Marketing Exercise Report which shall document the marketing of the self and/or custom build plots that has been undertaken and the number of such plots that have been disposed of to persons or organisations listed in condition 39.</p> <p>(c) Where the applicant or their successor in title has not disposed of the self and/or custom build plots in the terms specified in self or custom build marketing strategy details not otherwise sought (scale, appearance, landscaping) for the identified self and/or custom build plots may be submitted for the LPAs approval and they may no longer be required to be occupied by persons or organisations listed in condition 39.</p> <p>(d) Where the Marketing Exercise Report demonstrates that the identified self and/or custom build plots have not been taken up by persons or organisations listed in condition A, with the written agreement of the LPA subsequent phases of the proposed development may propose less than 10% of the dwellings as self and/or custom build plots.</p> <p><b>REASON:</b> To ensure the provision of self or custom build plots accords with Policy HA9</p>
43	<p><b><u>Local Centre marketing plan</u></b></p> <p>A Local Centre Marketing Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the 400<sup>th</sup> dwelling.</p>

	<p>The marketing scheme will contain details of the commercial uses within the mixed-use area and the nursery and how both will be marketed to potential purchasers of the Local Centre Area. The local centre and nursery will be marketed in accordance with the approved details.</p> <p><b>REASON:</b> To ensure the provision of commercial development to create a mixed community in accordance with policy HA55.</p>
44	<p><b>Local Centre details</b></p> <p>The submission of the first reserved matters application for mixed use development within the local centre (as defined in the phasing plan approved pursuant to condition 6) shall include details of at least: 800 square metres of class E floorspace and a community facility (class F2) of at least 300 square metres and where appropriate the nursery of at least 400 square metres.</p> <p><b>REASON:</b> In the interest of providing a mixed, sustainable and diverse new community.</p>
45	<p><b><u>Extra Care marketing plan</u></b></p> <p>An Extra Care Marketing Plan shall be submitted to the Local Planning Authority for approval prior to the occupation of the 400th dwelling. The Extra Care Marketing period shall be not less than 12 months in duration and the Marketing Plan shall specify:</p> <ol style="list-style-type: none"> <li>i. the details of and arrangements for marketing of the Extra Care land in the location(s) identified in the approved phasing plan pursuant to Condition 6, including, but not limited to, the agents used to promote the sale (including contact details), advertising methods used, information regarding any interest received during that time and why any interest (if any) was not pursued</li> <li>ii. the arrangements including timescales for the disposal of the Extra Care land to a prospective purchaser</li> <li>iii. the conditions where the Extra Care land is no longer needed to be marketed for the specified purpose</li> <li>iv. the procedures for reporting the results of the marketing activity to the LPA</li> </ol> <p>In the event of written agreement from the LPA that the results of the marketing activity reported pursuant to criterion (iv) does not require the Extra Care land as specified in criterion (iii) to be retained for that purpose, reserved matters approvals pursuant to Condition 1 may be sought for C3 housing other than the Extra Care.</p> <p><b>REASON:</b> To ensure the scheme accords with Policy HA55.</p>
46	<p><b>Extra Care Scheme</b></p>

	<p>As part of any reserved matters application for the extra care units, an extra care scheme will be submitted to the LPA. The extra care scheme shall include:</p> <ul style="list-style-type: none"> <li>(i) details of the number of extra care units to be provided;</li> <li>(ii) the design standards;</li> <li>(iii) the persons who will be eligible to live in the extra care units; and</li> <li>(iv) details of the nominations agreement.</li> </ul> <p>The extra care units shall not be constructed or occupied otherwise than in accordance with the approved extra care scheme.</p> <p>The extra care unit will be retained as an extra care facility and for no other purpose within use class C3 of the Town and Country Planning (Use Classes) Order 1997 (as amended).</p> <p><b>REASON:</b> To ensure the extra care proposals are appropriate and their occupancy is suitably controlled.</p>
47	<p><b><u>Temporary pedestrian and cycle route within the site</u></b></p> <p>Prior to approval of the first reserved matters application which includes dwellings, a scheme for a temporary pedestrian and cycle route within the site (in general accordance with drawings 22115-MA-XX-DR-C-104A P09 and 22115-MA-XX-DR-C-104B P08) shall be submitted to the LPA for approval. The scheme shall provide details of the alignment and surface material for the temporary pedestrian and cycle route as well as an implementation strategy which shall include provisions for alternative routing during the construction phases of the adjacent development parcels where necessary. The temporary pedestrian and cycle route shall be laid out in accordance with the approved scheme and shall be available to the public. The temporary pedestrian and cycle route shall be maintained until its various sections are replaced by the permanent pedestrian and cycle route approved pursuant to condition 1.</p> <p><b>REASON:</b> To enable pedestrian and cycle infrastructure to be provided in a timely fashion</p>
48	<p><b><u>Travel Plan</u></b></p> <p>No development shall be occupied in of any residential phases or the local centre phase identified on phasing plan approved by condition 6 until a phase specific travel plan for that phase has been submitted and approved by the Local Planning Authority. Each phase specific Travel Plan shall include detailed measures in accordance with Sections 9 and 10 as relevant of the Framework Travel Plan (Brookbanks 2020) and once approved such detailed measures shall be adhered to and implemented throughout the construction and use of the development. Each phase specific Travel Plan shall calculate the travel plan cash deposit required in</p>

	<p>respect of each phase, which will be the sum of the cost of implementation and compliance with the targets and measures of the Travel Plan plus 10%.</p>
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	<p><b>REASON:</b> To promote active and sustainable modes of travel in accordance with Policy TIN1.</p>
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## CORE DOCUMENTS

<b>A</b>	<b>PRE -INQUIRY TIMETABLE DOCUMENTS</b>
1	Post CMC Note - 12th September 2024
2	Inspectors Note - 22nd October 2024
3	Site Visit Itinerary
<b>B</b>	<b>STATEMENTS OF CASE PDF 325 KB</b>
<b>B1</b>	<p><b><u>Appellant Statements of Case</u></b> PDF 26 KB</p> <p><u>Statement of Case with Appendices</u>, PDF 9 MB</p> <p><u>Site Location Plan - 148-AAP-001 Rev.D</u>, PDF 3 MB</p> <p><u>Correspondence regarding determination of application 1</u>, PDF 9 MB</p> <p><u>Correspondence regarding determination of application 2</u>, PDF 8 MB</p> <p><u>Correspondence regarding determination of application 3</u>, PDF 5 MB</p>
<b>B2</b>	<p><b><u>Local Planning Authority Statements of Case</u></b> PDF 26 KB</p> <p><u>LPA Statement of Case</u>, PDF 717 KB</p> <p><u>1 - HA55</u>, PDF 5 MB</p> <p><u>2 - Committee Report</u>, PDF 1 MB</p> <p><u>3 - Supplement Update Report for Planning Committee</u>, PDF 185 KB</p> <p><u>4 - Supplement Written Deputations for Planning Committee</u>, PDF 254 KB</p>
<b>C</b>	<b>ii. CORE DOCUMENTS</b>
	<p><u>CD1 - Application Documents</u>, PDF 19 KB</p> <p><u>CD1.1 Application Form - June 2020</u>, PDF 246 KB</p> <p><u>CD1.2 Covering Lettter - 30th June 2020</u>, PDF 1 MB</p> <p><u>CD1.3 Site Location Plan - 148-AAP-001 Rev B</u>, PDF 4 MB</p> <p><u>CD1.4 Building Heights Parameters Plan 148-AAP-004 Rev C</u>, PDF 1 MB</p> <p><u>CD1.5 Development Density Parameters Plan - 148-AAP-003 Rev C</u>, PDF 1 MB</p>

[CD1.6 Illustrative Development Phasing Parameters Plan - 148-AAP-005 Rev C, PDF 1 MB](#)

[CD1.7 Land Use & Green Infrastructure Parameters Plan - 148-AAP-002 Rev J, PDF 1 MB](#)

[CD1.8 Proposed Northern Roundabout - 10007-HL-02 Rev D, PDF 1 MB](#)

[CD1.9 Proposed Western Roundabout -10007-HL-06 Rev E, PDF 690 KB](#)

[CD1.10 Constraints Plan - 148-AAP-007 Rev A, PDF 612 KB](#)

[CD1.11 Illustrative Masterplan 148-AAP-006 Rev A, PDF 7 MB](#)

[CD1.12 Design & Access Statement \(1 of 5\) - June 2020, PDF 7 MB](#)

[CD1.12 Design & Access Statement \(2 of 5\) - June 2020, PDF 5 MB](#)

[CD1.12 Design & Access Statement \(3 of 5\) - June 2020, PDF 8 MB](#)

[CD1.12 Design & Access Statement \(4 of 5\) - June 2020, PDF 6 MB](#)

[CD1.12 Design & Access Statement \(5 of 5\) - June 2020, PDF 3 MB](#)

[CD1.13 Environmental Statement Main Text - June 2020, PDF 6 MB](#)

[CD1.14.1 ES Appendix 1.1 LRM Scoping Report - Environmental Impact Assessment, PDF 6 MB](#)

[CD1.14.2 ES Appendix 1.2 FBC Scoping Opinion, PDF 5 MB](#)

[CD1.14.3 ES Appendix 2.1 Site Location Plan, PDF 4 MB](#)

[CD1.14.4 ES Appendix 2.2 Environmental Constraints Plan, PDF 612 KB](#)

[CD1.14.5 ES Appendix 2.3 Minerals Report, PDF 10 MB](#)

[CD1.14.6 ES Appendix 3.1 Land Use Plan, PDF 1 MB](#)

[CD1.14.7 ES Appendix 3.2 Building Heights Plan, PDF 1 MB](#)

[CD1.14.8 ES Appendix 3.3 Density Plan, PDF 1 MB](#)

[CD1.14.9 ES Appendix 3.4 Illustrative Phasing, PDF 1 MB](#)


[CD1.14.10 ES Appendix 6.1 Local Plan Supplement Extract, PDF 418 KB](#)


[CD1.14.11 ES Appendix 7.1 Planning Policies and Legislation, PDF 281 KB](#)


[CD1.14.12 ES Appendix 7.2 Phase One & Protected Species \(June 2020\), PDF 2 MB](#)


[CD1.14.13 ES Appendix 7.3 Bat Survey Report \(June 2020\), PDF 6 MB](#)


[CD1.14.14 ES Appendix 7.4 Great Crested Newt Survey Report \(June 2020\), PDF 2 MB](#)


[CD1.14.15 ES Appendix 7.5 Reptile Report \(June 2020\)](#),  PDF 3 MB


[CD1.14.16 ES Appendix 7.6 Riparian Survey Report \(June 2020\)](#),  PDF 2 MB


[CD1.14.17 ES Appendix 7.7 Dormice Report \(June 2020\)](#),  PDF 2 MB


[CD1.14.18 ES Appendix 7.8 Breeding Bird Report \(June 2020\)](#),  PDF 3 MB


[CD1.14.19 ES Appendix 7.9 Wintering Bird Survey Report \(June 2020\)](#),  PDF 5 MB


[CD1.14.20 ES Appendix 7.10 Test of Likely Effects \(June 2020\)](#),  PDF 3 MB


[CD1.14.21 ES Appendix 8.1 Landscape Policy](#),  PDF 204 KB


[CD1.14.22 ES Appendix 8.2 Landscape & Visual Impact Assessment Methodology](#),  PDF 170 KB


[CD1.14.23 ES Appendix 8.3 Visual Baseline](#),  PDF 137 KB


[CD1.14.24 ES Appendix 8.4 Visual Assessment](#),  PDF 226 KB


[CD1.14.25 ES Appendix 9.1 Agricultural Land Classification and Soil Resources \(June 2020\)](#),  PDF 2 MB


[CD1.14.26 ES Appendix 10.1 Economic Impact Technical Note v2.0](#),  PDF 205 KB


[CD1.14.27 ES Appendix 11.1 Flood Risk Assessment](#),  PDF 6 MB


[CD1.14.28 ES Appendix 11.2 Nitrates Neutrality Report](#),  PDF 4 MB


[CD1.14.29 ES Appendix 12.1 Heritage Assessment \(May 2020\)](#),  PDF 9 MB


[CD1.14.30 ES Appendix 13.1 Transport Assessment \(Revised July 2020\)](#),  PDF 3 MB























[CD1.14.31 ES Appendix 13.1 Transport Assessment Appendices Contents](#),  PDF 202 KB





















[CD1.14.32 ES Appendix 13.1 TA Appx A - Parameter Plan](#),  PDF 333 KB

[CD1.14.33 ES Appendix 13.1 TA Appx B - Scoping Note](#),  PDF 4 MB






















[CD1.14.34 ES Appendix 13.1 TA Appx C - Personal Injury Collision Data](#),  PDF 1 MB


[CD1.14.35 ES Appendix 13.1 TA Appx D - Sustainable Transport Information](#),  PDF 1 MB

	<p><a href="#"><u>CD1.14.36 ES Appendix 13.1 TA Appx E - Access Junction Layout Drawings</u></a>,  PDF 986 KB</p> <p><a href="#"><u>CD1.14.37 ES Appendix 13.1 TA Appx F - Off-site Highway NMU Mitigation</u></a>,  PDF 3 MB</p> <p><a href="#"><u>CD1.14.38 ES Appendix 13.1 TA Appx G - Framework Travel Plan</u></a>,  PDF 1 MB</p> <p><a href="#"><u>CD1.14.39 ES Appendix 13.1 TA Appx H - Junction Assessment Results</u></a>,  PDF 5 MB</p> <p><a href="#"><u>CD1.14.40 ES Appendix 14.1 Future Day Time Noise Contours</u></a>,  PDF 369 KB</p> <p><a href="#"><u>CD1.14.41 ES Appendix 14.2 Noise Monitoring Locations</u></a>,  PDF 2 MB</p> <p><a href="#"><u>CD1.14.42 ES Appendix 14.3 Shooting Range Noise Mitigation</u></a>,  PDF 4 MB</p> <p><a href="#"><u>CD1.14.43 ES Appendix 15.1-15.4 Air Quality</u></a>,  PDF 428 KB</p> <p><a href="#"><u>CD1.15 Environmental Statement Non Technical Summary - June 2020</u></a>,  PDF 10 MB</p> <p><a href="#"><u>CD1.16 Statement of Community Involvement - June 2020</u></a>,  PDF 4 MB</p> <p><a href="#"><u>CD1.17 CIL Form</u></a>,  PDF 391 KB</p> <p><a href="#"><u>CD1.18.1 Land Ownership Notification 1</u></a>,  PDF 162 KB</p> <p><a href="#"><u>CD1.18.2 Land Ownership Notification 2</u></a>,  PDF 162 KB</p> <p><a href="#"><u>CD1.18.3 Land Ownership Notification 3</u></a>,  PDF 162 KB</p> <p><a href="#"><u>CD1.18.4 Land Ownership Notification 4</u></a>,  PDF 343 KB</p>
<p><b>i.C2</b></p>	<p><b>i.CD2 - Post Submission Application</b>  PDF 20 KB</p> <p>CD2.1 Covering Letter - 28th October 2022 ,  PDF 509 KB</p> <p>CD2.2 Land Use &amp; Green Infrastructure Parameter Plan -148-AAP-002 Rev L ,  PDF 2 MB</p> <p>CD2.3 Development Density Parameter Plan - 148-AAP-003 Rev F ,  PDF 1010 KB</p> <p>CD2.4 Building Heights Parameter Plan - 148-AAP-004 Rev F ,  PDF 929 KB</p> <p>CD2.5 Illustrative Masterplan - 148-AAP-006 Rev D ,  PDF 3 MB</p> <p><a href="#"><u>CD2.6 Revised Planning Statement - October 2022</u></a>,  PDF 19 MB</p>


<p><a href="#"><u>CD2.7 Design &amp; Access Statement (1 of 3) - July 2022,</u></a>  PDF 10 MB</p> <p><a href="#"><u>CD2.7 Design &amp; Access Statement (2 of 3) - July 2022,</u></a>  PDF 2 MB</p> <p><a href="#"><u>CD2.7 Design &amp; Access Statement (3 of 3) - July 2022,</u></a>  PDF 20 MB</p> <p><a href="#"><u>CD2.8 Revised Flood Risk Assessment - 10007 FRA02 Rv5,</u></a>  PDF 8 MB</p> <p><a href="#"><u>CD2.9 Sustainability and Energy Statement - 10007 EN01 Rv1,</u></a>  PDF 659 KB</p> <p><a href="#"><u>CD2.10 Habitat Creation &amp; Open Space Document - July 2022,</u></a>  PDF 14 MB</p> <p><a href="#"><u>CD2.11 Transport Assessment (Part 1) - 22115 001 Rev A,</u></a>  PDF 17 MB</p> <p><a href="#"><u>CD2.11 Transport Assessment (Part 2) - 22115 001 Rev A,</u></a>  PDF 10 MB</p> <p><a href="#"><u>CD2.12.1 Environmental Statement Addendum Main Text (October 2022),</u></a>  PDF 1 MB</p> <p><a href="#"><u>CD2.12.2 Environmental Statement Addendum Main Text Appendices A-I,</u></a>  PDF 24 MB</p> <p><a href="#"><u>CD2.12.3 Environmental Statement Addendum Main Text Appendices J-M,</u></a>  PDF 5 MB</p> <p><a href="#"><u>CD2.12.4 Environmental Statement Addendum Main Text Appendices N-S,</u></a>  PDF 20 MB</p> <p><a href="#"><u>CD2.13 Certificate C,</u></a>  PDF 161 KB</p> <p><a href="#"><u>CD2.14 Press Advertisement - 25th November 2022,</u></a>  PDF 65 KB</p> <p><a href="#"><u>CD2.15 Covering Letter - 15th December 2023,</u></a>  PDF 353 KB</p> <p><a href="#"><u>CD2.16 Land Use Parameter Plan - 148-AAP-002 Rev S,</u></a>  PDF 936 KB</p> <p><a href="#"><u>CD2.17 Transport Assessment Addendum Text &amp; Drawings,</u></a>  PDF 9 MB</p> <p><a href="#"><u>CD2.18 Transport Assessment Addendum - Appendices A to D,</u></a>  PDF 9 MB</p> <p><a href="#"><u>CD2.19 Transport Assessment Addendum - Appendices E to H,</u></a>  PDF 10 MB</p> <p><a href="#"><u>CD2.20 Habitat Open Space Document - December 2023,</u></a>  PDF 9 MB</p>
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- [CD2.23 Peak Lane Site Access & Improvement - 22115-MA-XX-DR-C-0103-P06, PDF 1 MB](#)
- [CD2.24 Longfield Avenue Improvement \(Sheet 1\) - 22115-MA-XX-DR-C-0104A-P07, PDF 2 MB](#)
- [CD2.25 Longfield Avenue Improvement \(Sheet 2\) - 22115-MA-XX-DR-C-0104B P06, PDF 1 MB](#)
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	<p><u><a href="#">CD9.14 Department for Transport Cycle Infrastructure Design (LTN1-20)</a></u>,  PDF 14 MB</p> <p><u><a href="#">CD9.15 Fareham Local Plan Strategic Transport Assessment</a></u>,  PDF 5 MB</p> <p><u><a href="#">CD9.16 Fareham Local Plan Strategic Transport Assessment Addendum</a></u>,  PDF 2 MB</p> <p><u><a href="#">CD9.17 Hampshire Local Transport Plan 4 (LTP4)</a></u>,  PDF 14 MB</p> <p><u><a href="#">CD9.18 Fareham Infrastructure Delivery Plan (March 2023)</a></u>,  PDF 37 MB</p> <p><u><a href="#">CD9.19 Sport England Facility Cost Guidance - Q3 2024</a></u>,  PDF 55 KB</p> <p><u><a href="#">CD9.20 Sport England Life cycle costs – Q2 2023 (Indoor Facilities)</a></u>,  PDF 55 KB</p> <p><u><a href="#">CD9.21 Fareham Playing Pitch Strategy</a></u>,  PDF 5 MB</p> <p><u><a href="#">CD9.22 NHS Healthcare Contributions for GP Provisions - Technical Note for Developers</a></u>,  PDF 259 KB</p> <p><u><a href="#">CD9.23 Guidance on Planning Obligations &amp; Developer Infrastructure Contributions</a></u>,  PDF 2 MB</p> <p><u><a href="#">CD9.24 Department of Education Securing Developer Contributions for Education</a></u>,  PDF 388 KB</p> <p><u><a href="#">CD9.25 Assessment of Walked Routes to School - Guidelines</a></u>,  PDF 416 KB</p>
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<b>.F</b>	<p><b>.REPRESENTATIONS ON THE APPEAL PDF 26 KB</b></p> <ul style="list-style-type: none"> <li>• Rt Hon Suella Braverman KC MP , PDF 1 MB</li> <li>• The Fareham Society , PDF 975 KB</li> <li>• 1. Interested Party Comment , PDF 418 KB</li> <li>• 2. Interested Party Comment , PDF 1 MB</li> <li>• 3. Interested Party Comment , PDF 1 MB</li> </ul>

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<b>I.H</b>	<p><b>..PLANNING OBLIGATIONS</b>  <b>PDF 26 KB</b></p> <ul style="list-style-type: none"> <li>• LA1712 - Unilateral Undertaking dated 21st November 2024 , i  PDF 32 MB</li> </ul>

## INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS REGULATIONS ASSESSMENT

### INTRODUCTION

1. The proposals comprise an outline planning application for the erection of up to 1200 dwellings with a local centre, primary school, health and community facilities and areas of open space for recreation and biodiversity opportunities. Access will be gained from the existing road network off Peak Lane and Longfield Avenue, via the provision of a new roundabout and / or signalised junctions.
2. The proposals provide for a significant amount of green infrastructure (GI) comprising approximately 50% of the overall site (c. 39.17ha). This GI includes a Country Park which runs along the south boundary of the Application Site and continues to the west of Peak Lane encircling Oxleys Coppice Site of Importance for Nature Conservation (SINC). The area of GI to the east of Peak Lane will have a formal play area.
3. The Conservation of Habitats and Species Regulations 2017 (as amended) require that where a plan or project is likely to have a significant effect on a European site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.
4. This assessment has regard to the appellant's Shadow Habitats Regulation Assessment, and the views of Natural England.<sup>56</sup>

### PROJECT LOCATION

5. The Site is approximately 77.77 hectares divided into two areas by Peak Lane. The eastern areas comprise largely of arable land with hedgerows and ditches forming periphery features typical of the surrounding arable area. The field compartments to the west of Peak Lane, were historically arable fields that have been rotational cropped and then set aside, but recently, due to lack of farming practices, this has now developed a semi-improved grassland community in one compartment to the east.
6. The appeal Site is bounded to the north by Longfield Avenue and Rowan Way which form the southern extent of Fareham. The urban area to the north of Longfield Avenue and Rowan Way is primarily residential with associated community facilities including retail and education. To the east is HMS

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<sup>56</sup> CD 2.45, CD 3.13.3

Collingwood, the headquarters of the Royal Navy's training establishment. To the west is Ranvilles Lane, beyond which the site is bounded by agricultural fields leading up to Titchfield Road and the Meon Valley. To the south are open arable fields leading up to the urban edge of Stubbington.

7. The Proposed Development site is in proximity to several European designated sites in proximity to the appeal Site. Of these the proposed development lies within an influential proximity (5.6km) to five sites; Solent & Southampton Water Ramsar / SPA, Portsmouth Harbour Ramsar / SPA, Solent & Dorset Coast SPA, the Solent Maritime SAC and the New Forest SPA/SAC/Ramsar.

## **EUROPEAN DESIGNATED SITE AND REASONS FOR DESIGNATION**

### ***Solent & Southampton Water Ramsar / SPA (660m south west)***

8. The reasons for designation are:

#### *Ramsar*

- ***Ramsar Criterion 1*** One of a few major sheltered channels between a substantial island and mainland in European waters, exhibiting an unusual strong double tidal flow and has long periods of slack water at high and low tide. It includes many wetland habitats characteristic of the biogeographic region: saline lagoons, saltmarshes, estuaries, intertidal flats, shallow coastal waters, grazing marshes, reedbeds, coastal woodland and rocky boulder reefs.
- ***Ramsar Criterion 2*** Supports important assemblages of rare plants and invertebrates. At least 33 British Red Data Book invertebrates.
- ***Ramsar Criterion 5***: A mean peak count of waterfowl for the 5 year period of 1998/99 – 2002/2003 of 51,343
- ***Ramsar Criterion 6***: Supports more than 1% of the individuals in a population for the following species: Ringed Plover *Charadrius hiaticula*, dark-bellied Brent Goose *Branta bernicla bernicla*, Eurasian Teal *Anas crecca* and Black-tailed Godwit *Limosa limosa*

#### *SPA*

- ***Article 4.1*** Supporting populations of 1% or more of the Great British population for the following species in the breeding season, including Mediterranean gull *Larus melanocephalus*, Sandwich tern *Sterna sandvicensis*, Common tern *Sterna hirundo*, Little tern *Sterna albifrons*, and Roseate tern *Sterna dougalli*.
- ***Article 4.2*** Supporting populations of 1% or more of the biogeographic population of the following species Black-tailed Godwit, dark-bellied Brent Goose, Teal and Ringed plover.
- This site also qualifies under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 waterfowl, or 20,000 seabirds in any

season (average 51,361 birds over a 5-year mean 1992/93 – 1996/97, of which 21,401 were waterfowl and 29,960 were waders)

### **Portsmouth Harbour Ramsar/SPA (1.4km east)**

9. The reasons for designation are:

#### *Ramsar*

- Ramsar Criterion 3: The intertidal mudflat areas possess extensive beds of eelgrass *Zostera angustifolia* and *Zostera noltei* which support the grazing dark-bellied brent geese population.
- Ramsar Criterion 6: Supports an internationally important assemblage dark bellied brent geese

#### *SPA*

- *Article 4.1* Supports populations of European or National assemblages of overwintering species, including Black-tailed Godwit, dark-bellied Brent Goose, Dunlin *Calidris alpina alpina* and Red-breasted merganser *Mergus serrator*

### **Solent & Dorset Coast SPA (1.4km east)**

10. The main criteria for the classification is the 1000 pairs of three species of terns.

- *Annex 1: Common Tern *Sterna hirundo** Breeding population estimated to be 10,000 pairs, with an estimated 983 individuals in the SPA, making up 4.92% of the GB breeding population.
- *Annex 1: Common Tern *Sterna sandvicensis** Breeding population estimated to be 11,000 pairs, with estimated 882 individuals in the SPA, making up 4% of the GB population.
- *Annex 1: Little tern *Sternula albifrons** Breeding population estimated to be 1,900 pairs, with estimated 126 individuals in the SPA, making up 3.31% of the GB population.

### **Chichester & Langstone Harbours Ramsar/SPA (10km southwest)**

11. The reasons for designation are:

#### *Ramsar*

- *Ramsar Criterion 1:* Two large estuarine basins linked by the channel which divides Hayling Island from the main Hampshire coastline. The site includes intertidal mudflats, saltmarsh, sand and shingle spits and sand dune
- *Ramsar Criterion 5:* Supports international importance wintering waterfowl 76480 waterfowl (5 year peak mean 1998/99-2002/2003)
- *Ramsar Criterion 6:* Supports an internationally important assemblage of spring/autumn species including: Ringed plover, Black-tailed godwit and Common redshank *Tringa totanus tetanus*. Winter peak counts of dark-bellied

brent goose, Common shelduck *Tadorna tadorna*, Grey plover *Pluvialis squatarola* and Dunlin.

**Solent Maritime SAC (4.6km west)**

12. The reasons for designation are:

SAC

Annex II habitats that are the primary for selection of this site.

- *Estuaries*: The Solent encompasses a major estuarine system on the south coast of England with four coastal plain estuaries (Yar, Medina, King's Quay Shore, Hamble) and four bar-built estuaries (Newtown Harbour, Beaulieu, Langstone Harbour, Chichester Harbour)
- *Spartina swards Spartinion maritimae*: Solent Maritime is the only site for smooth cord-grass *Spartina alterniflora* in the UK and is one of only two sites where significant amounts of small cordgrass *S. maritima* are found.
- *Atlantic salt meadows Glauco-Puccinellietalia maritimae*: The Solent contains the second-largest aggregation of Atlantic salt meadows in south and south-west England.

**Solent & Isle of Wight Lagoons SAC (8km south east)**

13. The reasons for designation are:

SAC

Annex I habitats that are the primary for selection of this site.

- *Coastal lagoons*: The lagoons show a range of salinities and substrates, ranging from soft mud to muddy sand with a high proportion of shingle, which support a diverse fauna including large populations of three notable species

**New Forest Ramsar / SPA / SAC (11km west)**

14. The reasons for designation are:

Ramsar

- *Ramsar Criterion 1*: Valley mires and wet heaths are found throughout the site and are of outstanding scientific interest. The mires and heaths are within catchments whose uncultivated and undeveloped state buffer the mires against adverse ecological change. This is the largest concentration of intact valley mires of their type in Britain.
- *Ramsar Criterion 2*: The site supports a diverse assemblage of wetland plants and animals including several nationally rare species. Seven species of nationally rare plant are found on the site, as are at least 65 British Red Data Book species of invertebrate.

- *Ramsar Criterion 3*: The mire habitats are of high ecological quality and diversity and have undisturbed transition zones. The invertebrate fauna of the site is important due to the concentration of rare and scarce wetland species. The whole site complex, with its examples of semi-natural habitats is essential to the genetic and ecological diversity of southern England.

#### SPA

This site qualifies under Article 4.1 of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive.

- *During the breeding season*: Dartford Warbler *Sylvia*, Honey Buzzard *Pernis apivorus*, Nightjar *Caprimulgus europaeus*, Woodlark *Lullula arborea*, Hen Harrier *Circus cyaneus*.
- *Over winter*: Hen Harrier *Circus cyaneus*,

#### SAC

Annex I habitats that are a primary reason for selection of this site;

### HABITAT REGULATIONS ASSESSMENT IMPLICATIONS OF THE PROJECT

15. Due to the distance of the proposed development from the identified European sites, a number of impact pathways can be scoped out of this assessment. These include Chichester & Langstone Ramsar/Harbour Ramsar/SPA and Solent & Isle of Wight Lagoons SAC, which are 10km and 8km distant respectively.

#### ***The Solent Sites***

##### *Pathways Screened Out*

16. The impact pathways in relation to the Solent & Southampton Water Ramsar/SPA<sup>57</sup> include construction impacts (dust/noise and direct loss of habitat) and nutrient neutrality. The operational impacts include air quality and hydrological effects.
17. The appeal site is between 660m (Solent & Southampton Water Ramsar/SPA) and 4.6km (Solent Maritime SAC) from European Sites. Indirect effects such as dust particle release, have the potential to disrupt the biological functionality of flora species. The distance which dust particles are likely to travel is between 350-400m with effects greater the closer to the source of release. There are no European sites within this zone and therefore this pathway can be scoped out of

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<sup>57</sup> For the purposes of this assessment this includes the Portsmouth Harbour Ramsar/SPA, Solent & Southampton Water Ramsar/SPA, Solent Maritime SAC and the Solent and Dorset Coast SPA.

the assessment. Due to the intervening distance, the effects on SPA/Ramsar designated species, particularly birds, will not be impacted by noise/vibration effects during the construction activity.

18. In terms of nutrient neutrality there will be a reduction of nitrogen/nitrates leeching and a betterment from the Proposed Development. The conclusion of the total nitrogen load from wastewater and future development nitrogen leeching, has led to a positive nitrate neutrality resulting in a benefit to the Solent Catchment area. These benefits mean that nutrient neutrality can be scoped out of any further assessment.
19. Turning to the operational effects, there is a potential risk from road traffic emissions that protected sites that fall within 200m of road affected by a project or plan. This occurs at along the B3334 north of Stubbington (750m south west of the appeal Site), the A32 near Fleetlands (1.3km east) and where the A32 joins the A27 (1.5km north east). Residents are unlikely to access these routes since they are not direct routes for which residents would take to access the wider area. Traffic data indicates that there would be a two-way hourly traffic flow increase of eleven vehicles due to the development, which is an Annual Average Daily Traffic (AADT) of 120, and therefore considerably below the 1,000 AADT threshold for a significant effect. Therefore, the potential effects of emissions on these receptors from this pathway can be screened out of the assessment.
20. There is no confirmed hydraulic connectivity from the Site that would potentially affect the Portsmouth Harbour Ramsar/SPA, Solent and Dorset SPA and Solent Maritime SAC. Consequently, the potential effects to the hydrological resource can be scoped out of this assessment for these European Sites.

#### *Potential Impacts*

21. The Proposed Development will generate construction impacts and operational impacts that have the potential to affect the Solent & Southampton Water Ramsar / SPA, Portsmouth Harbour Ramsar/SPA sites and the following qualifying features of the sites – assemblages of birds, including Brent Geese and coastal habitats. The impact pathways are hydrological effects and loss of supporting habitat during construction and hydrological effects and recreational pressure during operation.
22. *Construction Impacts* - Hydrological Effects Ditch D7 abuts the southern boundary of the appeal site to the west of Peak Lane, this runs into Crofton ditch, off site, which then runs south into Titchfield Haven SSSI which is a part of the Solent & Southampton Water Ramsar/SPA. The proposals in the western parts of the site consist of 1.5ha of residential uses, 3.6ha of outdoor sports areas and 17.8ha of GI including the large expanses of Country Park to the south and west of Peak Lane.
23. There is potential during the construction phase that pollution may enter the ditch D7, this could be from chemical spills, vehicle leakages of fuel and oils or sediment. Crofton ditch runs approximately 890m south from the appeal Site

boundary into the Titchfield Haven and then Solent & Southampton Water Ramsar/SPA. Due to the proximity of the appeal site to these habitats a likely significant effect cannot be ruled out.

24. The Solent Waders and Brent Goose Strategy (SWBGS) (2020) has been produced by the Solent Waders and Brent Goose Strategy Steering Group, which has been supported by Hampshire County Council, Hampshire & Isle of Wight Wildlife Trust (HIWWT), Coastal Partners, Hampshire Ornithological Society, RSPB and Natural England.<sup>58</sup> The aim of this document is to protect a network of non-designated terrestrial wader and Brent goose sites that provide supporting habitat to the Solent SPAs
25. The SWBGS classifies land within the surrounding area, separate from the SPA, for their value to support SPA species, these range from 'core' areas to 'candidate' sites. It is important to stress that the 'low use' classification is defined as 'having records of birds in low numbers.
26. FPCR have undertaken 40 wintering bird surveys between 2018/19 to 2021/22 with additional wintering and SPA surveys conducted between 2013/14 to 2015/16. During these surveys 'notable species' were recorded, but no specific bird species that are qualifying features of the Solent SPA/Ramsar were identified. Based on these findings purely by FPCR, the Site does not reach the 'low use' classification. As such, the habitats within the Site do not appear to form important supporting habitat for the species, as they would be expected to occur in greater numbers and frequency.
27. The land west of Peak Lane (F17G) is still classified as 'low use', although there is only one record of several golden plover individuals on this parcel, on a single occasion in 2015.
28. The proposed development will see the loss of 'low use' supporting habitat to the east of Peak Lane (F76 and F17M), where there will be GI located to the south of the development, but this will have the primary function for recreation. The loss of these two fields with regards to the SWBGS, will result in the loss of supporting habitats for the generalist waterfowl species. No SPA qualifying bird species will be displaced, as they were absent during the FPCR surveys. Based on the SWBGS the loss of these two fields to the east of Peak Lane, designated as supporting habitat, could have a potential adverse effect on the species utilising them, and thus cause an indirect adverse effect on the integrity of the SPA/Ramsar.
29. *Operational Impacts* Hydrological Effects -The increase in the extent of the built environments due to the appeal scheme will correspondingly increase the extent of associated hardstanding environments, whereby runoff from such surfaces including roads and pavements, could carry pollutants into the watercourses around the periphery of the Site. The Site is part of the wider catchment for the

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<sup>58</sup> CD 9.9

SPA/Ramsar, so all surface water will eventually lead to these areas, therefore a likely significant effect cannot be ruled out.

30. Land west of Peak Lane will be entirely devoted to GI, comprising approximately 22.84ha of open greenspace, with a number of new ditches and waterbodies created; this will also include some enhancements of existing ditches around Oxleys Coppice. Ditch D7 runs south of the land west of Peak Lane, linking to Titchfield Haven SSSI and Solent & Southampton Water Ramsar/SPA. Accordingly, any likely significant effect cannot be ruled out during any GI enhancements and creation works.
31. The Solent Recreation Mitigation Strategy (2017) assessed that any developments within 5.6km of the Solent SPAs would have the potential to result in a likely significant effect, alone or in-combination with other project and plans.<sup>59</sup> The Site at its nearest point is only 660m from the Solent & Southampton Water SPA/Ramsar, therefore a likely significant effect is likely to occur without mitigation.
32. In conclusion, the proposed development could have a likely significant effect on the Solent and Southampton Water SPA/Ramsar sites due to hydrological effects during construction and operation, on the Solent SPA due to the loss of supporting habitat during construction, and recreational pressure during operation.

#### *Mitigation*

33. To mitigate for the potential release of pollutants into on-site ditch systems and then consequently to the Solent & Southampton Water SPA/Ramsar, a Construction Environment Management Plan (CEMP) will be implemented across the Site during the construction phase.
34. The CEMP will be implemented to ensure that all precautionary measures are undertaken, these will also follow guidance on Pollution Prevention Guidance for businesses.<sup>60</sup>
35. The runoff during construction works, which might result from the compaction of the ground, will be mitigated for by ground water level monitoring which will be detailed through the CEMP. The temporary increases in impermeable areas will be directed to a temporary drainage sedimentation area, which will be agreed with the Environment Agency. All the above measures would ensure that there is no significant effect with regards to hydrology during construction.
36. The approximate 22.84ha of land to the west of Peak Lane will consist largely of a meadow grassland habitat. This would be split into three areas, with a central area directly south of Oxleys Coppice consisting of a 10ha 'reserve' that is specifically designed to create habitats that can be utilised by bird species, but

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<sup>59</sup> CD 9.8

<sup>60</sup> See CD 2.45 paragraph 4.3 for the specific Guidance for Pollution Prevention measures proposed

- particularly waders. The 'reserve' will initially be fenced off with a native hedgerow planted around the perimeter, which will develop a thick and thorny barrier that will stop residents and dogs from accessing this area in the long term. The delivery of the bird reserve would be secured by the UU and suggested condition 10 would require the submission of a management plan for the reserve.
37. A management strategy will be put into place to ensure that the habitats maintain their functionality for waders, this will include the monitoring of the waterbodies to ensure that open muddy areas persist on the scrapes and drawdown zones, and that succession does not take place leading to them becoming over vegetated and subsequently dry out.
38. The habitats to the east and west of the reserve will consist of the same grassland meadow habitats but will not be cut during the wintering months. These areas will have public access, although this will be kept to informal paths, there will be areas of woodland/scrub/shrub features added to the west side of Oxleys Coppice, that will create foraging resources, and although these areas are likely to be used by the public, there is still potential for the habitats to be utilised by species previously recorded to the east of Peak Lane.
39. The substantial betterment of the habitats to the west of Peak Lane, will create features that are currently absent from the Site and immediate area. It would provide refuge, loafing and foraging opportunities for wader species. These measures will increase the likelihood of bird species that are qualifying features of the SPA to visit the Site.
40. This habitat creation and management of GI, and specifically the reserve will form a better supporting habitat than those that are currently present, thus ensuring that there is no likely significant effect on the SPA/Ramsar from loss of supporting habitats.
41. *Operational Impacts Hydrological Effects* – The Flood Risk Assessment details the specific measures to ensure that there are no significant effects on the Solent Ramsar/SPA.<sup>61</sup> The SUDS would provide the mechanism for which surface water can be stored and treated, then discharged with improved water quality. The assessment has identified ditches and SUDs to the west and east of Peak Lane to function as appropriate receptors for storm water discharge, where pre-existing 'greenfield' rates of run-off will be retained.
42. The impermeable surfaces will collect pollutants from a range of sources including clean activities, wear from car tyres, vehicle oil and exhaust leaks and general atmospheric deposition. The SuDS treatment train uses a sequence of SuDS facilities, to allow run-off to pass through several different SuDS before reaching the receiving watercourse or water bodies. This would provide a significant benefit by the passive removal of pollutants from run-off.
43. Areas such as car parks, roadways and garaging will have concrete or

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<sup>61</sup> CD2.8

- bituminous hard paving to avoid leaching into the ground. All the above measures taken together, will ensure that there is no likely significant effect with regards to hydrology during occupation.
44. Recreational Disturbance - The creation of a large network of GI through the entire Site will include the provision of approximately 45ha of GI (excluding sports hub & allotments), with approximately 22.84ha of this occurring to the west of Peak Lane (including bird reserve). The majority of the GI to the east of Peak Lane will consist of more formal recreational GI with areas of play and sports pitches. These would be broken up with pockets of ecologically favourable habitats. There would be a c2.5km circular walk around the Site, with various opportunities to provide exercise for dogs off lead which is a fundamental requirement to ensure that residents use the Site rather than drive to the SPA. There would also be a number of focal features, including open waterbodies with viewing areas and paths that lead away from the urban area, this includes many features associated with a Suitable Alternative Natural Greenspace (SANG) which has specific guidance on the design of GI for mitigation.
  45. The GI provides approximately 16.56ha per 1000 population. When the 10ha proposed bird reserve is deducted from the land available for recreation, the total available area is approximately 35.72ha or 12.94ha per 1000 population. This compares to the 8ha per 1000 population required under the SANG guidance. On this basis the Site is over-providing relative to the SANG guidance by 4.94ha per 1000 population.
  46. The over provision of GI and implementation of quality recreational opportunities will benefit the residents of the development, and those outside it. The design ensures that there are routes designed with a number of open spaces to facilitate off lead dog exercise, which optimises the GI value and reduces any reliance for regular visits to exercise dogs at the SPAs, which are more sensitive to dog disturbance.
  47. The latest research by Footprint Ecology (2022) found that 61% of visitors to the SPA were dog walkers. The quantum and the quality of the GI proposed, including the specific measures for dog walkers, considerably exceeds that which is required by both the Local Plan and the SANG guidance. The size of the scheme allows for any effects on designated sites and supporting habitats to be mitigated within the red line boundary and would reduce the reliance on trips to the SPA/Ramsar from new and existing residents.
  48. Natural England accepts that the proposed GI would address 'alone' recreational impacts on the SPA. It however contends that 'residual' visits to the SPA would result in an 'in-combination impact' since the experience of visiting the coast cannot be recreated elsewhere. It therefore seeks a full contribution towards the Solent Recreation Mitigation Strategy, which it considers to be in line with the precautionary approach.
  49. As is clear from the Local Plan Inspector's Report and the wording of Policy HA55 g) the on-site GI is considered to be a reasonable alternative to the to recreation

on the New Forest and Solent SPAs. I note Natural England's concerns regarding the in-combination impacts, however, the safeguarding of the integrity of the European Sites is Policy led, other developments within Fareham will need to provide similar measures or provide financial contributions to ensure that they comply with Policy NE4. Therefore, as any new development will need to meet these requirements, cumulative impacts will be avoided, and thus in-combination effects will not result.

50. In addition, the proposed open space would be located close to the existing urban areas of Fareham, and readily accessible by foot or cycle. Having regard to the quantum and quality of open space proposed it would be likely to attract visitors, including dog walkers from the surrounding areas of Fareham. Therefore, having regard to the intent of Policy HA55 g), together with the location and quality of the open space proposed, I conclude that there would be no likely significant effect on the Solent SPA sites due to recreational disturbance either alone, or in combination with other plans or projects.

### ***New Forest Sites***

51. The Site falls within 11km of the New Forest, based on a straight-line assessment. Natural England raised concerns regarding recreational pressure on the New Forest European Sites. However, visiting the New Forest from the appeal site would involve travelling around Southampton Water which substantially extends the distance that residents would need to travel. The driving distance from the Site to the nearest edge of the New Forest via car, which is estimated to be the village of Ashurst, is approximately 35km, resulting in a round trip of 70 km. Consequently, residents of the appeal site are unlikely to regularly visit the New Forest for recreational purposes.
52. Evidence collected during the Footprint Ecology research of 2020, suggested that Fareham, Isle of Wight Gosport, and Winchester, be excluded from this Zone of Influence, due to the geographical separation. Due to the distance of the appeal site from the New Forest European Sites this pathway can be scoped out of the assessment.
53. Notwithstanding this, Natural England accepts that the on-site GI would divert some visits which would have been made to the New Forest European sites. However, it contends that due to the unique draw of the New Forest some residual visits would still occur. For this reason, it advises the contributions to the New Forest Park Authority should be made in line with Fareham's Interim Strategy to address these impacts.
54. The Local Plan does not include a policy to address recreational disturbance on the New Forest. The Council has approved an Interim Mitigation Scheme which forms a material consideration in the determination of planning applications.<sup>62</sup> This encourages new alternative recreational opportunities to divert potential

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<sup>62</sup> CD9.7

visitors away from the New Forest SPA.

55. Paragraph 27 of the Interim Mitigation Strategy states that: *“Where on-site recreation mitigation is not provided, a financial contribution will be sought towards the provision of new green spaces or the enhancement of existing green spaces including provision for their long-term maintenance and management costs”*. Paragraph 30 further states: *“This money would be collected on developments that were unable to provide on-site mitigation, via legal agreements or section 111 agreements.”*
56. As set out above in relation to the Solent Area, the appeal Site would provide an extensive, high quality recreational area for future and existing residents. As such it accords with the interim approach. Should the Secretary of State disagree that this pathway should be scoped out, the mitigation provided by the GI would avoid any likely significant effect. This approach accords with Policy HA55 g) that considers the on-site GI to be a reasonable alternative to the recreational impacts on the New Forest SPA.
57. I conclude that there would be no likely significant effect on the New Forest European sites due to recreational disturbance either alone, or in combination with other plans or projects.

#### **HABITATS REGULATIONS ASSESSMENT CONCLUSION**

58. As set out above a number of pathways in relation to the Solent Sites and the recreational impacts on the New Forest Sites have been screened out.
59. There is potential for likely significant effects during construction and operation on the Solent Sites. During construction the hydrological effects would be mitigated by the CEMP that would ensure that all precautionary measures are undertaken in relation to construction activities, including surface water run-off. The loss of habitat would be mitigated by the proposed bird reserve. During operation, the measures within the Flood Risk Assessment, including the SuDS processes would avoid contamination of the watercourses due to pollutants, including from cars and general atmospheric deposition. Natural England is satisfied with these measures.
60. The potential for adverse recreational activities on the Solent SPA sites would be mitigated by the on-site GI, as set out at Policy HA55 g) of the Local Plan. Due to the distance of the appeal site from the New Forest the potential for recreational disturbance has been screened out, but in any event, any adverse recreational pressures would be mitigated by the GI on site.
61. Overall, I conclude the scheme would not have a likely significant effect on the integrity of the Solent European sites or the New Forest European sites. The conclusions above represent my assessment of the evidence presented to me, but did not represent an appropriate assessment as this is a matter for the Secretary of State to undertake as a competent authority.





# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.