
Site Address:	Land South of Lower Road & West of Old Manor Farm, Bedhampton		
Proposal:	Outline planning application for up to 43 dwellings, with access from Lower Road and associated landscaping, open space and allotments, and all other matters reserved.		
Application No:	APP/21/01071	Expiry Date:	N/A
Applicant:	Bargate Homes and Vivid Homes		
Agent:	Steven Brown	Case Officer:	Leanne Richardson
Ward:	Bedhampton		

Briefing note from Alex Robinson - Executive Head of Place

Foreword

- 1.1 This outline planning application was originally made valid in October 2021 and was the subject of a number of agreed extensions of time in respect of the determination period of the application.
- 1.2 However, in August 2022 the applicants, Bargate Homes and Vivid Homes, lodged an appeal with the Planning Inspectorate, stating that the statutory period in which to decide the planning application had not been met by the Council. The Inspectorate confirmed that the appeal was valid on 7th February 2023, and the Appeal Hearing has been set for 9th – 10th May 2023.
- 1.3 With a valid appeal now in progress, the determination of the planning application no longer rests with the Council. However, the Council still needs to establish its case in the appeal proceedings.
- 1.4 Members should note that the General Scheme of Delegation to Officers, which forms part of the Constitution, gives the Head of Planning full delegated authority to *“...Determine the Council's case to be presented at appeals including the decision whether to appoint consultants to act upon the Council's behalf or to submit claims for costs against an appellant.”*

Introduction

- 2.1 This application was originally reported to Members at the Planning Committee held on 23rd February 2023 in order to establish the Council's case in the appeal proceedings, based on the application's details at that time. The report presented by Officers set out the findings of the Habitats Regulations Assessment/Appropriate Assessment undertaken in respect of the application, and then considered the following Planning Considerations:
 - (i) Principle of development
 - (ii) Housing mix and affordable housing
 - (iii) Impact upon the character and appearance of the area
 - (iv) Impact on Heritage Assets
 - (v) Impact upon residential amenity (for existing and future residents)
 - (vi) Highways, parking and accessibility issues
 - (vii) Flood Risk/Drainage
 - (viii) Ecology Impacts
 - (ix) Impact on Trees
 - (x) Impact on Archaeology

- (xi) Education
- (xii) Contamination
- (xiii) Developer Contributions/CIL and S106 requirements
- (xiv) Overall Conclusions and Planning Balance

2.2 At Minute 10/2/23 it was resolved that, had an appeal not been lodged, the Council would have been minded to refuse outline planning permission for the following reasons only:

- (1) *The surface water drainage strategy relies on deep-bore soakaways as final discharge points, that will be saturated by high groundwater levels for significant periods. Deep-bore soakaways are considered to be an option of last resort by the Lead Local Flood Authority and given the high water table, it is not considered appropriate in this location. More consideration of alternatives needs to be provided.*

In light of these concerns, it is considered that the proposals conflict with Policies CS15 and CS19 of the Havant Borough Local Plan (Core Strategy) 2011, Decision Making Principle 4 of the Housing Delivery Position Statement, and Paragraph 167 of the National Planning Policy Framework as without a suitable drainage scheme, flood risk will be increased. In addition, the submitted Flood Risk Assessment is not considered to be compliant with Paragraphs 049, 055 – 059 of the associated Flood Risk and Coastal Change guidance nor S7, S8 or S9 of the Non-statutory technical standards for sustainable drainage systems;

and

- (2) *Binding arrangements are not in place to secure the following aspects of the development, as a result of which it is not considered that the development could be undertaken in a satisfactory manner:*
- (i) *Affordable Housing;*
 - (ii) *Open Space, Allotments and associated infrastructure;*
 - (iii) *Solent Recreation Mitigation Strategy;*
 - (iv) *Highway/Travel Plan requirements;*
 - (v) *Public Access;*
 - (vi) *Site Management;*
 - (vii) *Drainage;*
 - (viii) *Community Worker provision; and*
 - (ix) *Associated monitoring fees.*

The carrying out of the development in the absence of such provision would result in an unsatisfactory and unsustainable form of development having due regard to Policies CS1, CS9, CS11, CS15, CS16, CS19, CS20, CS21, DM8, DM10, DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011; Policy DM24 of the Havant Borough Local Plan (Allocations) 2014; the Conservation of Habitats and Species Regulations 2017 (as amended); and the National Planning Policy Framework.

2.3 All other matters set out in the Officers' Committee report were considered by Members and therefore, the only matters outstanding to be addressed in the appeal proceedings from the Council's perspective were to have been the above reasons for refusal. However, since the Committee meeting further progress has been made which must be reflected in the Council's case, as set out below.

Reason for Refusal 1 – Surface Water Drainage Strategy

- 3.1 Since the application was considered at Planning Committee on 23rd February 2023, additional information has been presented to the Council, in consultation with the Lead Local Flood Authority (LLFA), which seeks to address reason for refusal 1 by delivering an acceptable surface water drainage strategy.
- 3.2 A Drainage Strategy Technical Note dated 23rd March 2023 produced by MJA Consulting sets out alternative surface water discharge proposals which seek to discharge to a watercourse utilising different connection points and routes. The Technical Note presents three alternative options which are:

- **Drainage Strategy Outfall Option 1**

The preferred route of a rising main to access the watercourse would be through the 3rd party parcel of land between Phase 1 and the watercourse. The landowner of this parcel has already entered into an Option with the Appellant for Phase 2 land. This is the shortest route to the watercourse and requires approximately 100m of rising main under soft ground. A headwall into the watercourse can be constructed as per the requirements of a flood risk exemption licence under the EA's environmental permitting rules.

- **Drainage Strategy Outfall Option 2**

If the first option is not feasible then the rising main could connect to the DN225 Southern Water surface water sewer along Lower Road, north of both phases. See appendix B for sewer records. This would still require a rising main to be placed through phase 1. A length of the Southern Water sewer lies within the site boundary and developer's land ownership which could be a point of connection. This option would require a Section 106 agreement with Southern Water and a pre-development enquiry to confirm capacity.

- **Drainage Strategy Outfall Option 3**

This option would require circa 200m of rising main to be laid along Lower Road before discharging to the watercourse south of the culvert beneath Lower Road. This culvert connects the north and south of Lower Road. This option would also require an adoptable pump station and necessary agreements with Highways. A headwall into the watercourse can be constructed as per the requirements of a flood risk exemption licence under the EA's environmental permitting rules.

- **Drainage Strategy Outfall Option 4***

If all the previous options are not feasible, which is unlikely, then option 4 would be to reassess the potential for deep boreholes onsite. The depth of groundwater was found to be circa 2.71 m BGL. This is similar to the groundwater level found on the adjacent site (Land to the south of Lower Road). On that site, the Environment Agency was consulted and ultimately approved a design of deep borehole soakaways into the saturated chalk. This decision was based on the location not being within a Source Protection Zone and have a multistage treatment system and emergency penstock valve prior to the boreholes.

***Note:** Option 4 relies on deep boreholes which was the intended strategy originally presented and which formed the basis for reason for refusal 1 in light of the outstanding holding objection by the Lead Local Flood Authority.

3.3 The LLFA have been consulted on this new material and advise that constructing an outfall pipe up to 500mm diameter through a headwall into a main river would fall under the Environment Agency's Environmental Permit standard rules and can be dealt with as an exception.

3.4 The LLFA have considered the proposed alternative options and in a response dated 24th March 2023, the LLFA have confirmed that all three options can be deliverable. It is therefore concluded that, subject to conditions to allow detailed information to be submitted as part of a reserved matters application or discharge of condition application, the LLFA have removed their objection.

3.5 The recommended conditions are as follows:

1. No development shall begin until a detailed surface water drainage scheme for the site, based on the principles within the Drainage Strategy Technical Note options 1 to 3, ref: SS/23/0157/6430, has been submitted and approved in writing by the Local Planning Authority. The submitted details should include:

- a) A technical summary highlighting any changes to the design from that within the approved documentation and confirmation of discharge option.*
- b) Approvals in principle in relation to land access or other approvals required to implement the discharge option.*
- c) Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.*
- d) Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.*
- e) Evidence that urban creep has been included within the calculations.*
- f) Confirmation that sufficient water quality measures have been included to satisfy the methodology in the Ciria SuDS Manual C753.*
- g) Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.*

2. Details for the long term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any of the dwellings. The submitted details shall include maintenance schedules for each drainage feature type and ownership.

3.6 Having regard to the above, Officers consider that in light of the additional information presented by MJA Consulting, which has been thoroughly reviewed by the Lead Local Flood Authority, a suitable drainage strategy can be secured to mitigate flood risk. Consequently, following consultation with the LLFA, Officers have concluded that reason for refusal 1 can no longer be defended at the upcoming Appeal Hearing.

Reason for Refusal 2 – Infrastructure Requirements

- 3.7 With regards to reason for refusal 2, the Appellants have submitted a Unilateral Undertaking to the Planning Inspectorate to secure the required developer contributions and other infrastructure following discussions between the Borough Council's Solicitor, Hampshire County Council and the Appellant. In the light of this, Officers have concluded that reason for refusal 2 can no longer be defended at the upcoming Appeal Hearing.

Conclusion

- 4.1 As set out above, matters relating to the principle of the development (including housing mix and affordable housing); the impact of the development upon the character and appearance of the area; the impact on heritage assets; impacts on residential amenity; highways impacts; ecology; trees; archaeology; education; and contamination were all set out in the Officers report presented to Members on 23rd February 2023. All of those matters have previously been considered and did not form part of the projected reasons for refusal. Furthermore they are not affected by the amended drainage strategy now proposed.
- 4.2 The amended drainage strategy proposals have been found acceptable by the LLFA. On this basis Officers have concluded that reason for refusal 1 can no longer be defended at the upcoming Appeal Hearing.
- 4.3 With regards to reason for refusal 2, a Unilateral Undertaking has been submitted to the Planning Inspectorate to secure the required developer contributions and other infrastructure following discussions between the Borough Council's Solicitor, Hampshire County Council and the Appellant. In the light of this, Officers have concluded that reason for refusal 2 can no longer be defended at the upcoming Appeal Hearing.
- 4.4 The Council relied on these objections as a basis for refusal, and it is no longer reasonably able to do. Moreover, the Council does not have any other grounds/evidence on which to progress these reasons for refusal. National Guidance requires that the Council works co-operatively with appellants in appeal proceedings, and agrees statements of common ground in a timely manner in the lead up to appeals to resolve issues.
- 4.5 The General Scheme of Delegation to Officers, which forms part of the Constitution, gives the Head of Planning full delegated authority to “...*Determine the Council's case to be presented at appeals including the decision whether to appoint consultants to act upon the Council's behalf or to submit claims for costs against an appellant.*”
- 4.6 I will therefore be informing the Planning Inspectorate of the changes to the Council's case and that had an appeal not been lodged the Local Planning Authority would have been minded to grant outline planning permission for Application APP/21/01071 subject to:

(A) The submission of a Unilateral Undertaking in a form satisfactory to the Solicitor to the Council to secure the following aspects of the development:

- (i) Affordable Housing;
- (ii) Open Space, Allotments and associated infrastructure;
- (iii) Solent Recreation Mitigation Strategy;

- (iv) Highway/Travel Plan requirements;
- (v) Public Access;
- (vi) Site Management;
- (vii) Drainage;
- (viii) Community Worker provision;
- (ix) Associated monitoring fees; and

(B) Appropriate planning conditions;

And the Council's case in the appeal against non-determination of the application will be conducted on that basis.