

TOWN AND COUNTRY PLANNING ACT 1990 (As Amended)

Appeal by Bargate Homes
Against the decision of Havant Borough Council
to
Refuse Full Planning Permission for

Erection of 50 dwellings together with Access, Landscaping and Open Space

on

Land at Lower Road,
Bedhampton,
Havant
PO3 3NB

PROOF OF EVIDENCE OF;
DAVID JOBBINS BSc (Hons) Town Planning, Dip TP, Dip EM, MRTPI

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PLANNING INSPECTORATE REF: APP/X1735/W/20/3259067
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1.0 INTRODUCTION

1.1 My name is David Jobbins and I represent the Appellant, Bargate Homes, with respect to this Planning Appeal. I am a Director of Luken Beck MDP, a Planning Consultancy based in Southampton. I hold a BSc (Hons.) degree in Town Planning, a Diploma in Town Planning and a Diploma in Environmental Management and am a Chartered Town Planner. I have over 35 year's experience of planning within the UK including over 20 years within Local Government at senior level, including as Head of Planning and Transportation, and 12 years within the private sector at Director level. As such I have considerable experience of residential planning applications including those within the setting of heritage assets.

Projects in which I am/have been directly involved include:

- Lead Planning Consultant for Homes England in respect of an emerging Local Plan allocation and related planning application for between 815 - 845 dwellings comprising an urban extension to Welwyn Garden City, Hertfordshire;
- Planning Permission for 326 dwellings secured on land at New Alresford, Hampshire;
- Planning Permission secured for 320 dwellings on land at Canford Magna Poole;
- Many other planning applications on behalf of national and regional housebuilders including Barratt David Wilson Homes, Taylor Wimpey, Bellway Homes, Cala Homes, Seaward Properties and others;
- Numerous Planning and Listed Building Consents secured for the Harbour Hotel Group involving residential development within Conservation Areas and within the setting of Grade 1 & Grade II* listed buildings such as the redevelopment of the former Treloar School, Upper Froyle, Hampshire;
- As Director of Planning at Savills, responsible for a number of mixed-use regeneration schemes including the redevelopment of Poole Power Station and other major residential-led developments;
- As Head of Planning & Transportation at Christchurch Borough Council, responsible for determining all planning and related consents for major redevelopment schemes including those within Conservation Areas and within the setting of listed buildings;
- Attendance at numerous Planning Inquiries and hearings acting as expert witness for both the public and private sectors;

- 1.2** This proof should be read in conjunction with the planning application documents, Appellant's Statement of Case (**CD P1**) and agreed Statement of Common Ground (SoCG) (**CD P2**) with Havant Borough Council which have previously been sent to the Inspector. In addition, in order to avoid repetition, the submitted Design and Access Statement (**CD P3**) which provides detailed background information, will be used to supplement this statement where necessary.

STATEMENT OF TRUTH

- 1.3** The evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution, the Royal Town Planning Institute, and I confirm that the opinions expressed are my true and professional opinions.

SCOPE OF THIS PROOF

- 1.4** In this proof, I consider the relevant planning policy context to the appeal proposals and provide my opinion on the contribution the development will make to the social, environmental and economic objectives of planning and other material planning considerations and provide my view on the planning balance to be applied having regard to the status of the current Development Plan, the Council's significant lack of a 5 Year Housing Land Supply and to the emerging Local Plan.
- 1.5** Evidence will also be presented by Mr Steven Brown of Woolf Bond Ltd in respect of the Council's Housing Land Supply, whilst matters relating to heritage will principally be dealt with in the proof of Mr John Trehay of ToR Ltd.

2.0 THE PROPOSALS AND SITE DESCRIPTION

2.1 The full planning application the subject of this appeal comprises the erection of 50 dwellings (including 30% affordable homes) with new access from Lower Road together with associated infrastructure and Public Open Space. The proposals are explained in full within the submitted Design and Access Statement and also within the comprehensive Planning Officer reports to the Planning Committee (**CD P4 & P5**) and therefore I will not repeat it here. Copies of updated landscaping drawings to reflect the final proposed site layout are included at **CD P15** for completeness.

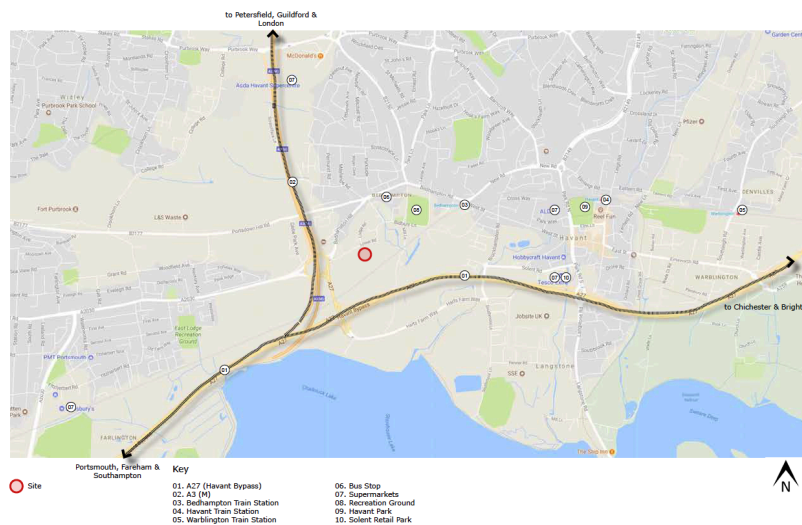


Proposed Site Layout with new access from Lower Road

2.2 The site lies within a highly sustainable location being within easy walking and cycling distance of extensive local facilities, public transport and employment opportunities within the 2km maximum preferred walking distance accepted by Hampshire County Council and as recommended by the CIHT in the publication 'Providing for journeys on foot'. In addition, Lower Road is part of the Havant Borough Council Cycling network and provides a connection to the National Cycle Route (NCN 22) at the 'Rusty Cutter' roundabout providing a safe cycling route to Portsmouth.

As can be seen from the extract from the Design and Access Statement below, the site lies close to recreational facilities at Bidbury Mead Recreation Ground (500m), shopping facilities

including Post Office in Park Lane (1km) and Pharmacy in Bedhampton Road (750m), Bedhampton Train Station (850m) Bus Services in Bedhampton Road (500m), Bidbury Infants/Juniors School off Bedhampton Road (900m) and larger food stores and shopping facilities within 2km. Consequently, the site lies within an attractive walking and cycling distance of many facilities thereby reducing the need for the use of the private car. As such the proposals meet the objectives of the NPPF and in particular Paragraphs 108 and 110 which seek to maximise sustainable transport modes.



Extract from Design and Access Statement showing relative location of facilities

2.3 Furthermore, the site itself is relatively level, immediately adjoins the existing settlement boundary and is generally free of constraints to development. Lower Road itself is of a suburban character, having been subject to extensive residential development over the last 50 years or so and therefore much of the character of the appeal site is derived from its proximity to the housing located to the north side of Lower Road directly opposite the appeal site. A significant, but unwelcome feature of the site, is the large and uncharacteristic conifer treeline that runs north to south which is noted at para 2.10 of the Old Bedhampton Conservation Area Appraisal (**CD H3**) as being an *“intrusive row of non-native coniferous trees”*. The indigenous hedgerow to the site frontage provides a strong sense of enclosure which contributes positively to the character and appearance of this part of Bedhampton. To the south lies the mainline railway line, whilst further to the south lies the A27 Trunk Road and to the west is further farmland beyond which is the A27/A3(M) Portsmouth to London Road.

- 2.4 The site lies within Flood Zone 1 and consequently is at low risk of flooding.
- 2.5 The former range of farm cottages and farm buildings (Old Manor Farm Buildings) lie to the north & west of the appeal site which have been converted to residential use. A substantial new dwelling has also been erected within this area along with other domestic extensions and garaging and associated paraphernalia. Their history and significance are described in detail within the proof of John Trehy, and I will therefore defer to his more detailed appraisal of the heritage value of the area.



Aerial photograph showing appeal site in relation to wider surroundings

- 2.6 The planning application was subject to extensive consultation prior to submission and, although recommended for approval by the Planning Officer, was refused by Planning Committee for two reasons as confirmed in the decision notice dated 26 March 2020. **(CD P6)** With respect to Reason 2, this will be overcome by the completion of a section 106 Agreement, a draft of which was submitted to the Council prior to the determination of the application.
- 2.7 As a consequence, this Proof will focus on Reason for Refusal 1 having regard to the Council's acknowledged significant lack of a 5-Year Housing Land Supply and to Paragraph 11(d) of the NPPF and the 'tilted balance' which is engaged. Evidence will also be presented by Mr Steven

Brown of Woolf Bond in relation to the Council's 5-Year Housing Land Supply position, and Mr John Trehy of ToR Ltd in respect of the impact of the appeal proposals upon the setting of heritage assets with particular reference to the impact upon the significance of the Old Bedhampton Conservation Area.

- 2.8** The Council has confirmed that there are no technical objections to the proposed development, and it does not consider there to be any unacceptable impact upon residential amenity associated with the development. With respect to highways matters, no objections were raised by Hampshire County Council (HCC) as Highways Authority and a Statement of Common Ground dated 17 December 2020 between HCC and the Appellant's Highways Consultants has been agreed confirming the absence of any material highways impact. **(CD P7)** It is therefore clear that the proposals will not result in a severe highways impact and therefore are acceptable in accordance with paragraph 109 of the NPPF.
- 2.9** This Proof will therefore consider the significant benefits that will arise should permission be granted, having regard to the three objectives of sustainable development, namely, economic, social and environmental, and I assess these benefits against the alleged harm caused to the setting of the Conservation Area which is believed to be overstated and insufficient to outweigh the contribution towards sustainable development. I therefore provide my view of the Planning Balance, which finds favour with the proposals having regard to the Council's significant lack of a 5 Year Housing Land Supply and the application of the 'tilted balance'.

3 PLANNING HISTORY

- 3.1** There are no planning applications directly relevant to this appeal although, in an effort to resolve the Council's concerns without the need for this Inquiry, a revised planning application has been submitted on an entirely without prejudice basis (LPA Ref: APP/20/01031). This application also proposes the erection of 50 dwellings but has been revised in respect of the layout adjoining the Old Manor Farm buildings to provide further separation. At the time of writing this proof, the application was subject to consultation and was therefore undetermined.

4 PLANNING POLICY

THE DEVELOPMENT PLAN.

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications be determined in accordance with the Development Plan unless other material considerations indicate otherwise. As confirmed within the SoCG with the Council (**CD P2**), the current Development Plan for the purposes of this appeal comprises;

- The Havant Borough Local Plan (Core Strategy) adopted March 2011 (covering the period 2006 to 2026),
- The Havant Local Plan (Allocations) Local Plan adopted 2014

The Council has confirmed that it is only relying on Policies CS11 and CS16 of the Core Strategy and Policy DM20 of the Allocations Local Plan which are found at **CD P8 & P9**. However, in my view, these policies are considerably out-of-date because they do not reflect up-to-date guidance found within the NPPF 2019 which post-dates the Core Strategy by 8 years and the Allocations Local Plan by 5 years.

- 4.2 In addition, the Council has produced the Pre-Submission Havant Local Plan 2036 which has undergone consultation and has been approved by the Council for submission to Examination and therefore weight can be given to the relevant policies of this emerging plan.

HAVANT BOROUGH LOCAL PLAN (CORE STRATEGY) 2011

- 4.3 This plan was adopted prior to the NPPF 2012, is out-of-date and in many respects fails to acknowledge the need to significantly boost housing supply in the light of the well documented housing crisis or address the golden threads running through sustainable development by which decisions should be guided. It is therefore my opinion that **Policy CS16** – High Quality Design is out-of-date and should therefore be afforded very limited weight. Notwithstanding this, it is also my view that the proposals accord with Policy CS16 and the adopted Havant Borough Design Guide SPD 2011 which promotes seven guiding design principles under the following headings, and which has influenced the resulting design approach to the proposals;

1. Distinctive Character

The proposals reinforce sense of place by adopting a design approach which is appropriate to its context in terms of scale, height and appearance, thereby creating a locally distinctive development which respects the more traditional character of the wider area;

2. Ease of Movement

The proposals provide a highly permeable layout which allows routes from Lower Road through the development and linking to the wider area beyond.

3. Good Legibility

The layout provides for good legibility through the retention of existing routes and features to ensure easy and effective orientation through the site.

4. Good Continuity and Enclosure

Through the retention of the existing hedge fronting Lower Road, and by replacing the existing incongruous conifer treeline with a new indigenous hedge/tree line, the proposals will ensure good continuity and enclosure which reinforces local distinctiveness. The development will also provide an attractive frontage to Lower Road, complementing the existing streetscene.

5. Good Quality Public Realm

The site will provide large areas of attractive, well laid out, new Public Realm which will benefit both existing and proposed residents encouraging healthy lifestyles and social interaction which is supported by the NPPF.

6. Diversity and Detailing

The various designs and styles of dwellings, together with attention to detailing, reflects the varied character of the area and adds to architectural interest which will contribute successfully to the visual appearance of the area.

7. Adaptability and Sustainability

The proposals will result in adaptable and energy efficient dwellings within a sustainable location which cause no material harm to the local area. The proximity to local services and public transport will reduce reliance on the private car and encourage residents to walk or cycle. In addition, the provision of electric vehicle charging points will also assist in reducing carbon emissions. The development will also result in significant environmental, economic and social benefits.

As a result of the design approach adopted and the relatively low density proposed, which allows for generous spacing between buildings, substantial new landscaping and areas of Public Open Space, I consider that the appeal proposals comply fully with Policy CS16 of the Local Plan and the Council's Design SPD and comprise a well-designed development which fully respects its context and causes no material harm to the character or appearance of the area or to other material planning considerations.

- 4.4 Policy CS17 – Concentration and Distribution of Development within the Urban Areas,** seeks to control the location of development within the Borough with a priority towards the urban

areas including Havant which includes the suburb of Bedhampton. However, as with other relevant housing policies within the Plan, this policy is out-of-date and therefore only limited weight should be applied.

- 4.5. In addition to the housing supply policies, the policies relied upon the Council in respect of heritage assets are equally out-of-date as they do not reflect current guidance within the NPPF, including the need to assess any harm, substantial or less than substantial, against the public benefits of the proposals. **Policy CS11 – Protecting and Enhancing the Special Environment and Heritage of Havant Borough** of the Local Plan and **Policy DM20 – Historic Assets** of the Allocations Local Plan are therefore out-of-date and should only be afforded very limited weight.

THE HAVANT LOCAL PLAN (ALLOCATIONS) LOCAL PLAN 2014

- 4.6. The Allocations Plan allocates sites to meet the Borough's Housing and employment needs but recognises at Paragraph 3.04;

Havant Borough Council is firmly committed to meeting the housing needs of local residents. The Council is aware that if it plans to only find enough land to satisfy the Core Strategy requirement of 6,300 that there will not be enough flexibility to respond to changing circumstances over the life of the plan, such as allocated sites becoming unavailable due to landowner decisions. Therefore, the Council aims to allocate enough land to meet the 6,300 with an added amount to provide a flexible buffer to allow for changing circumstances.

- 4.7 **Policy AL1 – Presumption in Favour of Sustainable Development**, confirms that the Council will take a positive approach that reflects the presumption in favour of sustainable development as contained within the NPPF and will work proactively with applicants to approve proposals wherever possible that improves the economic, social and environmental conditions in the Borough. As such, I consider that the appeal proposals comply with Policy AL1 which supports sustainable development in line with the NPPF. It further confirms that where relevant policies are out-of-date, as in the case of this appeal, the Council will grant planning permission taking into account whether any adverse impacts would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate the development should be resisted. The supporting text to this Policy also advises;

2.05 At the heart of the NPPF is a presumption in favour of sustainable development. This means that local authorities should positively seek opportunities to meet the development needs of their area and that local plans should meet objectively assessed needs, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the NPPF indicate development should be restricted.....

This Policy largely reflects the current NPPF and consequently, I believe this Policy carries significant weight.

- 4.8 Policy AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements** relates to limiting development within gaps to help maintain the separate identity of settlements and to prevent their coalescence. However, it is clear that this Plan has not been successful in delivering the housing needs of the Borough as the Council have confirmed they cannot demonstrate a 5 Year Housing Land Supply as required by the NPPF and therefore, the presumption in favour of sustainable development applies. As this is the case, and having regard to Paragraph 11 of the NPPF, I believe this Policy should only be given very limited weight.

LOCAL PLAN HOUSING STATEMENT 2016

- 4.9** Until the publication of the Pre-Submission Havant Borough Local Plan 2036, the Council had adopted a Local Plan Housing Statement in December 2016 (**CD P10**). The purpose of this document was stated as;

The LPHS was the first step in the review of the Local Plan. The LPHS is a clear position statement as to which sites the council considers could deliver sustainable development to address the borough's housing need up to 2036; providing that the necessary infrastructure is provided alongside new housing.

The LPHS is an interim statement, a stepping stone in the development of the Havant Borough Local Plan 2036 (HBLP). It will be used when making decisions on planning applications for housing sites whilst the HBLP is in production.

- 4.10** Paragraph 3.14 of the Housing Statement confirmed,

3.14 The sites listed in Table 2 have all been considered through the 2016 SHLAA process to be deliverable or developable. As such they are free of constraints that cannot be mitigated, are available for development, and sustainable development could be achieved on the site. Whilst development on these sites would be contrary to Policies CS17 and AL2 which indicate that residential development should be resisted, it is necessary to make a departure from the Adopted Local Plan given the high level of housing need that exists. As such, the Council will support the principle of residential development on the sites ahead of the adoption of the Havant Borough Local Plan 2036, subject to compliance with the remainder of the policies in the Adopted Local Plan and the Guiding Principles in this Housing Statement.

The appeal site was included with Table 2 as site UE30 and consequently, the Council had already considered the site to be deliverable, developable and free of constraints that cannot be mitigated such that “sustainable development can be achieved on the site”.

EMERGING HAVANT BOROUGH LOCAL PLAN 2036

- 4.11** This Plan has been endorsed by Full Council for submission to the Secretary of State and has recently completed its final consultation. The Council has therefore reaffirmed its support to the principle of development of the appeal site for “around 50 dwellings.” It is also notable that the Council’s decision notice and agreed SoCG do not oppose the principle of developing the site, although there is a difference of opinion over the potential impact upon the Old Bedhampton Conservation Area, the principal point at issue in this appeal. Paragraph 48 of the NPPF confirms that decision-makers may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections and the degree of consistency of the relevant policies in the emerging plan to the NPPF. In particular, Paragraph 48c) of the NPPF advises *“the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given”*. The draft Local Plan should be accorded significant weight having been subject to both Regulation 18 and Regulation 19 consultation and at the time of writing this proof, is expected to be submitted for examination shortly. Furthermore, it is my view that the relevant policies of the draft plan are entirely consistent with the Policies within the NPPF 2019. (CD P11)
- 4.12** Paragraph 49 of the NPPF sets out two tests in relation to prematurity – that the development is “so substantial” and secondly, that the “cumulative effects would be so significant” which do not apply to the current appeal proposals. As such, any favourable decision in relation to this appeal would not, in my view, be premature having regard to Paragraphs 48 & 49 of the NPPF.
- 4.13** The spatial strategy of the emerging plan includes making efficient use of sites to assist with significantly boosting housing supply. Furthermore, it confirms that the Borough is unable to meet its housing requirement on previously developed land and therefore will also rely upon greenfield sites such as the appeal site to meet its Objectively Assessed Need. Policy H3 – Housing Densities advises *“Any residential development must maximise its contribution to addressing housing need.....”* It continues by stating that in locations like the appeal site, they should not be developed at less than 40 dwellings per hectare. However, in recognition of the characteristics of the site, the appeal proposals fall well below this at 13.1 dwellings per hectare.
- 4.14** In addition, **Policy E13** – Proposals affecting Heritage Assets, follows advice within the NPPF and, in the case of less than substantial harm, requires the decision-maker to balance any such harm against the public benefits of the proposals which is consistent with Paragraph 196 of the NPPF.

- 4.15** Of direct relevance to this appeal is **Policy H20** which allocates the appeal site for development which is consistent with the Local Plan Housing Statement and the more recent Strategic Housing Land Availability Assessment (SHLAA) August 2020 in that it recognised the potential of the site to deliver around 50 dwellings together with Public Open Space and other associated benefits. Furthermore, the Council has confirmed that such sites are essential in helping to meet the Council's housing supply which it is currently falling far short of achieving. It is also notable that the Council's Housing Land Supply Update December 2020 relies upon the appeal site to help deliver its housing supply.

The Sustainability Appraisal produced to support the Local Plan included an assessment of all sites including the appeal site in which the supporting commentary advised;

The site was assessed positively against a number of objectives. This was mostly due to the site's close proximity to local shops, services and local green spaces, as well as educational and sports facilities. As such, the site is accessible via walking, cycling, bus and train which would reduce residents' reliance on the car. The assessment of objective 4 could be improved further by the incorporation of low carbon design. The site's potential affordable housing generation was also a positively assessed factor.....

With regard to objectives 6 and 7, it is acknowledged that the development of a greenfield site in close proximity to a conservation area will have a significant effect on the current landscape. Nevertheless, as 50 dwellings are proposed on a 3.71ha parcel of land, the density of the proposal is rather low. This would allow for a larger degree of scope to mitigate the uncertainties raised in the above objectives. As such, sensitive planning could be demonstrated through the development management process to overcome these initial negative assessments.

Overall Recommendation:

This site is recommended for inclusion in the Draft Local Plan 2036 providing that the above recommendations are included in the policy requirements for this site.

The previous Local Plan Housing Statement also confirmed that the appeal site could be brought forward in advance of the adoption of the emerging plan in order to meet the Borough's housing needs. The release of the site for housing is therefore important to significantly boost housing supply as recognised by Paragraph 59 of the NPPF.

OLD BEDHAMPTON CONSERVATION AREA APPRAISAL 2019

- 4.16** The appeal site itself does not lie within any area designated for its valued landscape or heritage importance, although part of the site lies adjacent to an outlying area of the Old Bedhampton Conservation Area known as Character Area 5 - Old Manor Farm. This 'Character Area' is divorced from the main historic part of the Conservation Area and, unusually, stands

in isolation as a small group of buildings which were added to the Conservation Area in September 2019 during the consideration of the appeal application. The original buildings themselves are not particularly historic, dating from around the beginning of the 20th Century with no outstanding or remarkable features of note. Their conversion to residential use has dramatically changed their function and overall character such that they relate more to the 20th Century dwellings to the north side of Lower Road than to their agricultural past. The Conservation Area Appraisal which was undertaken to support this extension confirms;

C. Old Manor Farm buildings

7.6 These buildings provide insight into the agricultural past of the settlement. Whilst they are no longer in their original agricultural use, they retain some interesting architectural features and the relationship between the buildings is distinctly that of a farmyard arrangement.

In addition, a substantial new dwelling has been erected which, together with the residential extensions, substantial double garages and domestic paraphernalia, detract from the historic significance of these buildings. However, with respect to the surrounding agricultural land, which includes the appeal site, the CA Appraisal confirms;

7.8 Although these areas form part of the setting to the conservation area, and historic connections can be evidenced from mapping and other sources, they are mainly fields that do not have the special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Therefore, these areas are not included within the revised boundary of the conservation area.

- 4.17** The context to the appeal site is therefore very much derived from its immediate proximity to Bedhampton, now a large suburb of Havant, a substantial town which provides access to extensive local services, employment opportunities and public transport facilities, including the nearby Bedhampton Train station with direct links to London, Portsmouth and beyond which reinforces the sustainable credentials of the site.
- 4.18.** Having regard to the above, I consider that the emerging Local Plan and particularly Policies H20 and E13 can be given significant weight.

NATIONAL PLANNING POLICY FRAMEWORK 2019 (NPPF)

- 4.19** Guidance is provided by Central Government in the form of the NPPF published in 2019 which is a significant material consideration in the determination of planning applications and this appeal. The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. (Paragraph 7). Furthermore, it advises that there are three objectives to sustainable development, namely economic, social and environmental. With regard to each objective, the NPPF defines their purpose as;

An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 11 of the NPPF also confirms that Plans and decisions should apply a presumption in favour of sustainable development. It further advises that for Plan-making, this means plans should positively seek opportunities to meet the development needs of their areas and be sufficiently flexible to adapt to rapid change and that, **as a minimum**, they should provide for objectively assessed needs for housing and other uses. For decision-making, this means approving plans that accord with an up-to-date development plan without delay **or, where the policies most important for determining the application are out-of-date, then granting permission** unless policies within the NPPF that protect areas or assets of particular importance provides a clear reason for refusing permission or any adverse impacts of granting approval would significantly and demonstrably outweigh any benefits when assessed against the policies in the NPPF as a whole.

- 4.20 The Council's position is that it cannot demonstrate a 5 Year Housing land Supply and therefore, the 'tilted balance' is in play. The current supply is stated by the Council to be less than 4.5 years but this matter will be dealt with comprehensively in the separate proof of evidence of Mr Steven Brown who will quantify the scale of the HLS shortfall and consequently the weight to be given to these housing proposals.
- 4.21 Paragraph 49 is also relevant insofar as it relates to prematurity and advises that, for sustainable development, prematurity will rarely be a valid reason to refuse planning permission except in limited circumstances which do not apply here. Furthermore, Paragraph 213 of the NPPF confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. It advises that due weight should be given, according to their degree of consistency with the NPPF and that the closer the policies are, the greater weight that may be given.
- 4.22 With respect to delivering a sufficient supply of homes, Paragraph 59 makes clear that to support the 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..."* In the case of the appeal site, it is very clear that additional land is needed and even with the appeal site included within the latest Housing Supply update, the Council is not allocating sufficient sites to meet its housing requirement. It is therefore vital that sites such as the appeal site are brought forward to meet this pressing need.
- 4.23 As I have already said, the site lies within a highly sustainable location close to shops, schools, recreational facilities and employment opportunities and is well served by public transport such that it is supported by Paragraphs 103, 108 and 100 which seek to locate housing proposals where sustainable transport modes can be maximised such as here.
- 4.24 With respect to historic environment, the NPPF advises that these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance (Paragraph 184). Furthermore, underlining that change is not necessarily harmful, Paragraphs 185 and 192 confirm that Local Planning Authorities should take into account;
- c) the desirability of new development making a positive contribution to local character and distinctiveness.*
- 4.25 With respect to considering potential impacts, Paragraph 193 advises that great weight should be given to the assets' conservation, whilst paragraph 194 confirms that any harm to, or loss of the significance of the heritage asset, including to its setting, should require clear and convincing justification.

4.26 Paragraph 196 advises that where a proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. In this case, whilst I believe no harm to significance arises, should the Inspector consider that less than substantial harm is caused, I believe this is far outweighed by the planning benefits of the appeal scheme as I explain below.

POLICY ASSESSMENT

4.27 Whilst proposals should be determined in accordance with Development Plan unless material considerations indicate otherwise, in this case, it is clear that relevant policies of the existing Development Plan are out-of-date and the presumption in favour of sustainable development applies. I say this because;

- The Council has acknowledged that it has a significant shortfall in its Housing Land Supply such that Paragraph 11, Footnote 7 of the NPPF is engaged and the most important policies are therefore out-of-date. Furthermore, and the tilted balance applies;
- A number of relevant Policies within the Development Plan are out-of-date as they are not consistent with the NPPF and do not provide for the necessary sites to accommodate the identified needs of the Borough and do not seek to apply the public benefit tests within Paragraph 196 in respect of Heritage Assets and less than substantial harm.

3.1. The Council is failing to significantly boost housing supply and the appeal site is recognised as being one such site that the Council needs delivered to assist in meeting its acute housing need, including for affordable housing. This latter point will be explored in more detail in the Proof of Mr Steven Brown in which it is confirmed that the Council's evidence indicates an annual need of at least 227 affordable dwellings from 2011 to 2031. Against this need, as of 1st April 2020, the Authority has under-delivered by 1,287 dwellings. This represents a very significant shortfall.

4.28 It is however agreed that simply because the policies are out-of-date, they cannot be disregarded, but the weight to be given is significantly reduced. I set out below my view on the most relevant policies and the weight to be applied.

Policy Havant Local Plan (CS) 2011	Up-to-date	Weight to be applied
CS9 - Housing	N	Limited
CS11 - Protecting and Enhancing the Special Environment and Heritage of Havant Borough	N	Limited
CS16 - High Quality Design	N	Limited
CS17 - Concentration and Distribution of Development within the Urban Areas	N	Limited

Policy Allocations Local Plan 2014	Up-to-date	Weight to be applied
AL1 Presumption in Favour of Sustainable Development	Y	Significant
AL2 Urban Area Boundaries and Undeveloped Gaps between Settlements	N	Limited
Policy DM20 Historic Assets	N	Limited

Policy Havant Local Plan 2036	Up-to-date	Weight to be applied
DR1 Delivery of Sustainable Development	Y	Significant
E1 High Quality Design	Y	Significant
E13 Historic Environment and Heritage Assets	Y	Significant
H1 High Quality New Homes	Y	Significant
H2 Affordable Housing	Y	Significant
H3 Housing Density	Y	Significant
H20 Land South of Lower Road	Y	Significant

4.29 In my view the appeal proposals comprise a highly sustainable form of development which results in significant and compelling material planning considerations which outweigh any potential conflict with the out-of-date policies of the Development Plan. In addition, I believe significant weight can now be given to the Policy H20 of the emerging Local Plan which allocates the site for development of about 50 dwellings. Therefore, having regard to the planning balance, the following section will demonstrate that there are well-founded and robust reasons to justify an approval of planning permission.

- 4.30** There is extensive case law relating to the tilted balance and the assessment of benefits vs harm although no case law will be definitive as each case will be determined on its individual merits. However, the following appeal decisions may be of assistance to the Inspector with respect to the weight to be applied to the provision of housing and affordable housing in the overall balance;

Land at Citroen Site, Capital Interchange Way, Brentford TW8 0EX

Appeal Ref: APP/G6100/V/19/322691 September 2020 (CD P12)

In this recent case, notwithstanding the Council being able to demonstrate a 5 Year HLS, the Secretary of State agreed with his Inspector and allowed the appeal having regard to “*overall, the benefits of housing should be given substantial weight*”. *The Secretary of State advised;*

31. Overall, the Secretary of State considers that the benefits of the scheme are collectively sufficient to outbalance the identified ‘less than substantial’ harm to heritage assets he has identified at paragraphs 13-19 of this decision letter. He considers that the balancing exercise under paragraph 196 of the Framework is therefore favourable to the proposal.

In coming to his recommendation to allow the appeal, the Inspector concluded;

15.92 At its heart, the balance is a simple one between the harms, primarily those that would be caused to the settings of a number of heritage assets, and the public benefits, mostly of new housing, particularly AH.....

15.94 For all these reasons, assessed against the NPPF, the benefits of the scheme should outweigh the harms. This balance amounts to a material consideration of sufficient weight that it could indicate determination other than in accordance with the development plan. With regard to the designated heritage assets, I consider that the development plan should not result in a different outcome from the NPPF. Nevertheless, if the same judgements were felt to lead to conflict with the development plan as a whole, then support from the NPPF could still indicate otherwise, such that the proposals should be approved in any event.

Land at Long Street Road, Hanslope

Appeal Ref: APP/Y0435/W/17/3177851 March 2018 (CD P13)

In this appeal the Inspector concluded;

39. The Council’s approach to the assessment of supply levels has evolved over time, taking account of changing circumstances. Having regard to the uncertainties associated with the

sites, commented on by both main parties, I consider that overall the realistic level of supply is likely to equate to slightly less than 4.5 years.

He further advised;

Public benefits

53. The social benefits of the scheme would include a significant contribution towards making up the shortfall I have identified in the deliverable supply of housing sites relative to the requirements of the CS and the Framework. Thereby it would facilitate the Government's aim of boosting significantly the supply of housing. I give it substantial weight.

54. In addition, under the terms of the s106, 30% of the proposed units would contribute towards meeting the need for Affordable Housing in the Council's area, in accordance with LP Policy H4 and the aims of the Framework. I consider that this planning obligation is 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. There would be no conflict with the CIL Regs. I give substantial weight to the provision made for Affordable Housing.

57. I consider overall, that the public benefits of the scheme weigh heavily in its favour.

64. Furthermore, I give little weight to the identified conflict with LP Policy HE5, as it is far more onerous than the Framework, prohibiting any development that would adversely affect the setting of a Listed Building, irrespective of the degree of harm.

69. Nonetheless, the Framework indicates that where relevant policies of the Development Plan are out of date, planning permission should be granted unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or, specific policies in the Framework indicate that development should be restricted. In my judgement, the latter does not apply. Furthermore, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. I conclude on balance, having regard to likely economic, social and environmental impacts, the scheme would amount to sustainable development under the terms of national policy. This weighs heavily in favour of a grant of planning permission.

5 THE PLANNING BALANCE

PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

- 5.1. It is my view that the ‘tilted balance’ is engaged for the reasons as set out within Paragraph 11d Footnote 7 of the NPPF and the presumption in favour of sustainable development applies. There are no footnote 6 policies which would provide a clear reason for refusing permission and which would prevent the tilted balance from being applied. In addition, owing to the dates of adoption of the existing the Local Plans, they are inconsistent with the NPPF as they do not fully reflect the housing need or the tests within Paragraph 196 in relation to the impact upon heritage assets. As a consequence, only limited weight can be applied. It is therefore necessary and important to consider the significant public benefits of the proposals against any conflict with the adopted Local Plan and other material planning considerations. I set out these below.

Social Objectives

Benefit 1

- 5.2 The appeal proposals will deliver 50 dwellings for which there is a significant and demonstrable need within the local area. The delivery of an appropriate mix of 35 market homes ranging from terraced, semi-detached and detached 2 – 4 bedroom properties will ensure that the needs of a wide range of residents are met to which significant and compelling weight should be given as supported by Paragraph 59 of the NPPF with respect to significantly boosting housing supply. This is reinforced by the Councils accepted lack of a 5-year HLS which adds further to the weight to be given to the provision of new homes which will contribute to the aims and objectives of the NPPF as reinforced by the Government in its numerous statements on the current housing crisis. As a consequence, I consider this benefit should be given **significant weight**.

Benefit 2

- 5.3 In addition to market homes, the Council acknowledges there is also a significant unmet need for affordable housing and at the time of writing this proof, the Council advised there are 2,467 households registered on Hampshire Home Choice seeking accommodation in Havant of which 47% are seeking either 2, or 3-bedroom homes. The appeal proposals will provide 15 (30%) affordable homes in accordance with the Council’s aspirations for the site. These affordable homes, of a mixed size and tenure, will greatly assist with accommodating local residents in most need of housing from within the Borough. This is something which also deserves to be given substantial weight in the decision-making process as evidenced by other appeals in which the absence of a 5 Year Housing land supply along with proposals for market and affordable housing are proposed were considered to outweigh other planning matters. I therefore consider this benefit should be given **very significant weight**.

Benefit 3

- 5.4 The provision of circa 2 ha of accessible Public Open Space, including a Community Orchard and Children's allotments, will promote active and important social interaction and encourage healthy lifestyles which is endorsed by Paragraphs 91 and 96 of the NPPF. This is another compelling social benefit of the proposals, which should also be afforded **moderate weight**.

Benefit 4

- 5.5 The proposals are located in a sustainable location, close to local facilities, employment opportunities and good public transport choices such that the reliance on the private car is reduced. The site also enables accessibility to the wider part of Bedhampton and beyond through the provision of an attractive pedestrian and cycle route within and through the site to which **significant weight** can be given.

Environmental Objectives

Benefit 5

- 5.6 Whilst the Council suggest no environmental benefits will arise, this is most surprising and strongly disputed by the Appellant who has worked collaboratively with the Council throughout the entire process to ensure a well-designed, highly attractive development is secured. The proposals will result in the introduction of a positive and successful development which respects the context of the site including setting to the Old Farm Buildings and will form a successful and enduring addition to Bedhampton for existing and future generations. I therefore consider this can be given **moderate weight**.

Benefit 6

- 5.7 In addition, the new homes will be highly energy and water use efficient and are designed to be in full accordance with Building Regulations Part L which will result in lower carbon emissions whilst providing an economic and comfortable home. The provision of electrical vehicle charging points is also accommodated and a condition requiring details of such provision is welcomed by the Appellant. I therefore consider this can be given **moderate weight**.

Benefit 7

- 5.8 The Proposals will result in a net biodiversity gain which is a further environmental benefit of the proposals. The Council's ecologist advised;

The application is accompanied by an Ecological Assessment (Aluco, April 2019) which provides a sound appraisal of the site's ecological features. The site comprises an arable field with narrow margins and bordered by mature vegetation such as tree lines and dense scrub.

Overall, the site is a fairly typical area of south Hampshire farmland and is of generally limited ecological value

He continued;

Overall, the proposed landscaping scheme provides a useful area of open greenspace within the south of the site. This will include areas of sown species-rich grassland, native hedgerow, trees and scrub and wetland features and should provide a valuable range of habitats. Mitigation measures are provided for the identified ecological receptors, entailing timing vegetation removal to avoid nesting bird impacts and the use of habitat modification to encourage the translocation of reptiles from the northern boundary. I am content with the proposed mitigation, compensation and enhancement measures, if you are minded to grant permission, can I suggest that these are secured through a suitably-worded planning condition requiring the provision of a single, site-wide ecological mitigation strategy. This strategy should be in full accordance with any landscaping, drainage and lighting strategies

It is also the case, that the development will result in a significant reduction in the use of nitrates following cessation of intensive agricultural use of the land which will benefit the water quality and biodiversity of the Solent Maritime Special Area of Conservation (SAC) and the Chichester and Langstone Harbours Special Protection Area (SPA).

In my view, the biodiversity benefits summarised above should be given **significant weight**.

Benefit 8

- 5.9 In addition, although the site is covered by an area Tree Preservation Order, the existing, intrusive and alien coniferous tree belt will be replaced with a far more appropriate indigenous tree shelter belt which will provide a much-improved setting to the area and along with additional indigenous landscaping throughout the site, also will secure significant environmental benefits through habitat creation and foraging corridors for wildlife. In my view, this should be given **moderate weight**.

Economic Objectives

Benefit 9

- 5.10 The development will contribute significantly to the economic prosperity of the area as a direct result of the development. This will arise as a result of local employment opportunities during the construction period (of circa 18 months), the creation of wages which will be likely to be spent locally and the investment in local businesses in respect of trades/servicing the construction and supply of materials etc. Following completion of the development, the residents will contribute significantly to the local economy through spending on local businesses, local facilities and supporting public transport and similar. As a result, it is

considered that a significant economic contribution will arise as a result of the development to which **moderate weight** should be given.

- 5.11** In my view, the substantial benefits of the proposal as outlined above, are considered to outweigh the neutral/alleged less than substantial harm to the setting of the Conservation Area, and Mr. John Trehay will present compelling evidence to demonstrate that the proposals will cause no harm to the significance of the Conservation Area including Character Area 5, owing to the significance of the heritage assets and the design approach adopted. As such, the potential impacts of the development are limited and are insufficient to outweigh the many public benefits. I summarise my view of the various planning benefits in the Table below.

Public Benefit/Impact	Harmful/Beneficial/Neutral	Weight to be given
Provision of market housing	Beneficial	Significant
Provision of affordable housing	Beneficial	Very Significant
Provision of Public Open Space	Beneficial	Moderate
Sustainable location and improved accessibility through site	Beneficial	Significant
Well-designed development	Beneficial	Moderate
Energy Efficiency	Beneficial	Moderate
Biodiversity Enhancements	Beneficial	Significant
Removal of Coniferous Tree line	Beneficial	Moderate
Economic Benefits (employment and wages/local expenditure)	Beneficial	Moderate
Impact upon setting of Conservation Area/heritage assets	Neutral	Limited
Impact upon Landscape	Neutral	Limited

- 5.12.** In the light of the above, it is my view, that cumulatively, the benefits of the proposals provide tangible and compelling material planning considerations which outweigh any conflict with the out-of-date policies of the Development Plan. Paragraph 11 of the NPPF applies a presumption in favour of sustainable development and the proposals will contribute significantly to the 3 objectives within Paragraph 8 of the NPPF.

- 5.13. With respect to Paragraph 196 of the NPPF, the proposals do not cause harm to the significance of heritage assets in my view for the reasons given within the proof of evidence of John Trehy, however, notwithstanding this, should the Inspector consider that less than substantial harm to arise, the public benefits of the scheme as outlined above are considered to override any less than substantial harm that may arise to such significance. In Mr. Trehy's Proof he summarises as follows (inter alia):

5.6 As my evidence has shown, the Appeal Site does not form an essential or key component of the significance, understanding or appreciation of the historic character and appearance of the Old Bedhampton conservation area. The range of positive design measures are largely acknowledged in the conservation officer's reports (both before and after the amendments to the conservation area boundary) and these ensure no harm will occur to the historic core of the conservation area or any of the nationally designated listed buildings. Whilst we recognise minor visual change to character area 5 Old Manor Farm, this is primarily due to close proximity and change from agricultural land to residential.

6 THIRD-PARTY REPRESENTATIONS

- 6.1 There are no technical reasons why the appeal proposals should not proceed having regard to the submitted reports and responses from statutory consultees and in the absence of any adverse objections to the proposals. The various consultee responses are set out within the attached Planning Committee Reports which are extremely comprehensive, balanced and well considered. The Planning Officer's conclusions are fully supported and provide a useful summary in respect of the Third-Party representations, none of which have regard to, or outweigh the substantial contribution to the three objectives to sustainable development and the need to significantly boost housing supply.
- 6.2. In contrast to the numerous reports produced to support the application and also having regard to the responses received from statutory consultees, none of which take issue with the development, subject to appropriate planning conditions and obligations, the objectors do not provide robust evidence to support their position.
- 6.3. With respect to the Statement of Case submitted on behalf of the Bedhampton Heritage Alliance, (BHA) much of the statements made are without merit and do not pass detailed scrutiny including the description of the local area which is far from tranquil as alleged. It is clear that the BHA do not agree with either the conclusions of the Planning Officer's rigorous appraisal or the various statutory consultee responses despite offering no convincing evidence to substantiate a robust counter position. It is however agreed that, if harm is

demonstrated, a balanced judgement is needed in terms of weighing the public benefits of the proposals against any alleged harm.

- 6.4. The BHA heavily criticise the Local Plan process undertaken by the Council, however, the Appellant's experience has been that the Council has undertaken its duties wholly in accordance with the relevant legislation and with diligence and professionalism. The fact that the BHA do not agree with the outcome does not mean the process was in anyway flawed as alleged. Furthermore, it is respectfully suggested that this appeal is not the appropriate forum to discuss the Local Plan process undertaken. The BHA also wrongly state at Paragraph 8.2 that the current planning application was submitted in an acknowledgement of the harm to the Conservation Area. As stated quite clearly within the current application, this was submitted on a without prejudice basis and therefore the claims by the BHA in this regard are disingenuous.
- 6.5. Notwithstanding the robust Transport Assessment submitted with the application and the absence of objections from the Highway Authority, the BHA allege that highway safety will be compromised, yet no compelling evidence has been produced to support this claim. The agreed SoCG between HCC and the Appellant's Highways Consultants further reinforces the view that no material highway impact will arise from the development. In addition, the correspondence from The Director of Economy, Transport and Environment has personally written to the BHA to confirm;

My officers are therefore content with the current safe operation of Lower Road, including the short section without footway. The additional vehicular, pedestrian and cyclist trips generated by this development are not considered to compromise the existing operation of the road. Development proposals are considered against the National Planning Policy Framework (NPPF), paragraph 109 which states: "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 would be severe". Based on the evidence provided by the applicant and my officer's own assessment of the proposals, the highway authority has recommended that there would not be an unacceptable impact on highway safety, nor a severe cumulative impact on the road network, should Havant Borough Council choose to approve this planning application.

(Mail dated 08/10/2019 from Mr Jarvis to David Hindley **CD P14**)

The Inspector is therefore requested to place limited weight upon these objections in the face of robust and comprehensive evidence to the contrary and which do not form sound reasons for refusing the application.

7 CONCLUSIONS

7.1 The Council's decision to refuse planning permission is without merit for the following reasons;

- The Havant Local Plan 2011 and evidence base and Havant Borough Local Plan (Allocations) 2014 pre-date the NPPF and therefore cannot be said to reflect current guidance or the desperate housing crisis facing the country and the need to significantly boost housing supply or the tests to be applied when considering heritage assets. In addition, as agreed by the Council, the Council does not have a 5-Year Housing Land Supply which consequently renders the relevant housing supply policies of the Local Plan out of date. There are no footnote 6 policies which would provide a clear reason for refusing permission and which would prevent the tilted balance from being applied. As such, the 'tilted balance' and presumption in favour of sustainable development are engaged as provided for by Paragraph 11 of the NPPF.
- The proposals are in full compliance with the emerging Local Plan and in particular Policy H20 to which significant weight can be attached having regard to its compliance with the NPPF.
- The appeal proposals will make a substantial and compelling contribution to the three objectives to sustainable development namely **Economic**, both during the construction phase and once complete; **Social** – by the provision of much needed housing including a significant proportion of affordable homes, along with the provision of large areas of Public Open Space which will encourage healthy lifestyles and **Environmental**, through the introduction of a well-designed development which has full regard to its context including the adjacent outlying part of the Conservation Area and by the removal of the existing, intrusive and inappropriate linear conifer belt which dominates the area and detracts from local character and also the significant biodiversity enhancements that will arise as a result of the development;
- The principal reason for refusal relates to the impact upon the setting of the very recently extended Conservation Area to include the Old Manor Farm Buildings, yet the significance of this small group of relatively recent buildings has already been severely compromised by its conversion to residential and by the numerous extensions/alterations, substantial domestic garaging and residential paraphernalia evident on the site. In addition, the erection of a substantial new dwelling has further eroded their significance. The proposals have been purposefully designed to respect the

context of this recent addition to the Conservation Area and cause no harm to its significance as acknowledged by the adopted Conservation Area Appraisal which states;

Although these areas [including land south of Lower Road] form part of the setting to the conservation area, and historic connections can be evidenced from mapping and other sources, they are mainly fields that do not have the special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Therefore, these areas are not included within the revised boundary of the conservation area.

(Paragraph 7.8 of Old Bedhampton Conservation Area Appraisal September 2019)

- Should it be considered that less than substantial harm arises to heritage assets, it is my firm view that this is significantly and demonstrably outweighed by the public benefits of the proposals such that planning permission can be granted
- With respect to Reason for Refusal 2, this will be overcome through the completion of a Section 106 Agreement which deals with each of the issues raised.