

**TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)**

**STATEMENT OF
HAVANT BOROUGH COUNCIL**

**Southdown View
Long Copse Lane
Emsworth**

**Local Planning Authority Reference:-18/00929/
Planning Inspectorate Reference:-
APP/X1735/W/19/3227101**

APPEAL BY Mr Madgewick

THE SITE AT Southdown View, Long Copse Lane, Emsworth

Planning Inspectorate Reference: APP/X1735/W/19/3227101

LPA Ref: APP/18/00929

1.0 THE APPEAL SITE AND ITS SURROUNDINGS

- 1.1 The application site comprises an area of land of 0.5ha, lying on the northern side of Long Copse Lane, in the northern part of Emsworth. Long Copse Lane is a road of mixed character - at its western end, where it links with Hollybank Lane, the southern frontage of the road forms part of an established suburban area featuring a mix of dwellings with a density of approximately 18 dwellings per hectare, with open fields to the north. Approximately 300m east of the junction with Hollybank Lane, and beyond the junction with Redlands Lane, the character of the road changes on its southern frontage to feature a row of individual dwellings in larger plots, with a density of approximately 5.6 dwellings per hectare, before this gives way to open fields.
- 1.2 To the north, the land features a number of isolated dwellings and a sequence of stables/paddocks as part of a field system that extends further to the Borough boundary. The Havant Borough Townscape, Landscape and Seascape Character Assessment (Feb 2007) identifies the site as being located within Landscape Character Area 21 'Southleigh Forest' which is defined as 'The open area of farmland to the east, consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division leading to larger open arable fields to the south.' The Lane itself eventually leads beyond the Borough boundary into Chichester District, where it meets North Street, part of the settlement of Westbourne. Along its length, footways are generally absent from the Lane, and street lighting is only provided up to the junction with Redlands Lane. The carriageway width in the vicinity of the site is 4.2m - 4.4m; this typical for this part of the Lane.
- 1.3 The application site lies approximately 650m west of the junction of Long Copse Lane with Hollybank Lane, and at this point is beyond the last of the dwellings in Long Copse Lane which lie within the Borough boundary. The site features an existing graveled access off Long Copse Lane at the south western corner of the site, extending to an area of graveled hardstanding within the southern part of the site which leads to a stable block within the south eastern corner of the land. The site is currently occupied by an authorised mobile home, which was allowed on appeal under application APP/16/00021. This caravan, which is currently occupied by the applicant's son and his partner, is located to the north of the existing stables, and a cesspool has been installed between the mobile home and stable building. The remaining parts of the site are given over to an area of pasture used for horse grazing which is enclosed by post and rail fencing - a belt of well-maintained grass adjoins the pasture on its western and southern sides.
- 1.4 A two-storey dwelling, Hollybank Cottage, adjoins the application site to the west - the western boundary of the site featuring some established hedging and a number of mature Oaks covered by TPO1974. The southern boundary of the site features 1.8m high close boarded fencing on top of a small bank rising up from the carriageway of Long Copse Lane; this bank features some reduced native hedging, with a mature Ash the subject of TPO1974 lying just within the site. The eastern and northern boundaries of the site comprise post and rail fencing as used for the enclosure of the pasture; no natural landscaping is in place.
- 1.5 The site occupies an elevated position relative to the land beyond it to the north, and as such benefits from wide-ranging views to the surrounding landscape and the South Downs National Park beyond.

2.0 **PLANNING HISTORY**

- 2.1 APP/19/00164 - Retention of open sided lean-to located to rear (south) of stable building. Permission 4/4/19.
- 2.2 APP/16/01234 - Change of use from private equestrian yard to a mixed use comprising private equestrian yard and single pitch, private gypsy and traveller site (including amenity block and one touring caravan pitch). This was a revised application from the previously refused application APP/16/00021; the main changes involved the reduction of number of pitches and reduction in size of the amenity block.
- 2.3 Application APP/16/01234 considered additional information provided by the appellant in a bid to overcome the four reasons detailed above, in paragraph 2.3. It was determined by officers that the appellant had overcome the refusal reasons listed, based on one gypsy pitch being provided instead of two. However, at the ensuing Development Management Committee members considered all of the information provided, along with consultation responses received and third-party representations and determined that the development would still remain harmful to the rural character and visual amenity of the area. The decision in effect retaining refusal 1 of application APP/16/00021. For the purposes of clarity, the reason for refusal of APP/16/01234 was:
The site lies within a rural area and the siting of the caravans in the countryside would be detrimental to the rural character and to the visual amenity of the area. The proposal is therefore contrary to policies CS11.1, CS 11.9, CS16, and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, Policy AL2 of the Havant Borough Local Plan (Allocations) 2014, Paragraphs 25 and 26 of the Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework 2012.
- 2.4 Following the refusal of APP/16/01234 the Planning Inspectorate brought the appeal for application APP/16/00021 out of abeyance. The appeal was determined on the basis of one single gypsy pitch, with all of the information considered under application APP/16/01234 being considered by the Inspector. The Local Planning Authority having considered the further information submitted in this application subsequently withdrew reasons for refusal 2 and 3 of application APP/16/00021. The LPA therefore defended the appeal on the basis of the reason for refusal outlined above in paragraph 2.3.
- 2.5 The appeal was heard at an Informal Hearing on 6th February 2018. The appeal decision was issued on 28th February 2018. The Inspector allowed the appeal, and granted planning permission.
- 2.6 APP/16/00021 - Change of use from private equestrian yard to a mixed use comprising private equestrian yard and two pitch, private gypsy and traveller site (including amenity block and two touring caravan pitches) - This application was received on 6/1/16 however was not made a valid planning application until 4/3/16 due to the requirement for further information from the applicant. The application was then refused on 29/04/2016 for the following reasons:
- 1 The application site lies outside of the built up area and its proposed use as a two pitch private gypsy and traveller site with equestrian yard is not considered to represent a form of development which is appropriate in this location having regard to Policy AL2 and the 'Update on Council approach to meeting the accommodation needs of travellers' of the Havant Borough Local Plan (Allocations) 2014, the National Planning Policy Framework 2012 and the Planning Policy for Traveller Sites 2015. Furthermore the form and extent of the development would have a significant and harmful impact upon the character and appearance of the site and the wider landscape, and would thereby conflict with relevant provisions of Policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the National Planning Policy Framework 2012 and the Planning Policy for Traveller Sites 2015.*
- 2 Notwithstanding Reason 1 above, the use of the site as a two pitch private gypsy and traveller site with equestrian yard is not considered to represent a sustainable or suitable form of development by virtue of the remoteness of the site from local facilities and public transport, and the rural character of Long Copse Lane which has an absence of footways and street lighting in the vicinity of the site. The proposed use thereby conflicts with Policy CS10 of the Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.*

3 Having due regard to the information submitted in respect of the intended occupiers of the site, it is considered that the proposed use of the site as a two pitch private gypsy and traveller site and equestrian yard would involve regular towing of small and large caravans into and out of the site along the narrow Long Copse Lane which would cause further deterioration of its verge edges, surface and foundations and would exacerbate the hazards to other road users. The use is therefore not considered appropriate for this location and would thereby conflict with Policies CS10 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011.

4 The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority. These seek to ensure that provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

- 2.7 APP/14/00381 - Extension to existing private stable block to provide feed / cart store for continued private use. Refused 04/06/14 on grounds of intensification of leisure development on the site and impact on the rural character of the area; however subsequently allowed on appeal under reference APP/X1735/A/2220161. The Inspector concluded that in summary, although the Council was correct to observe that an equine use does change the character of a rural area, he did not consider that the proposed extension would increase that change from the extent accepted by the Council in its original decision to approve the stables. The proposal would therefore have no adverse effect on the character and appearance of the area and there would be no conflict with Policies CS11 & CS17 of the Core Strategy or with the National Planning Policy Framework 2012. This development has now been implemented.
- 2.8 10/74070/00- Change of use of land and erection of stable block with tack room, entrance gate, landscaping and associated access/ground works (Part Retrospective). - Permitted 21/07/10

3.0 THE APPEAL

- 3.1 This appeal relates to the siting of an additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller use; this being in addition to the private equestrian yard which would be retained. To support the further mobile home use there would be provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space. In terms of the nature of the mobile home, the proposal is to have a further static home sited on the site which has similar dimensions to the existing static home, with dimensions of 13.2m x 3.8m, and 2.8m in height.
- 3.2 The additional static home is proposed to be located approximately 4 metres from the southern boundary of the site, immediately west of the stable block within a gravelled area serving two parking spaces, accessed off the gravelled hardstanding serving the existing stable block. The existing static home is located to the north east of the gravelled track, and the overall layout would therefore take the form of a complex of buildings located in the south-eastern corner of the site.

4.0 SITE PLANNING POLICIES

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, in determination of planning applications decisions are made in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development. The National Planning Policy Framework begins by identifying that:

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) 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;

b) 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

c) 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 9, NPPF).

4.3 Furthermore the NPPF at paragraph 170 outlines that “Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.4 **Havant Borough Local Plan (Core Strategy) 2011**

The following policies of the Havant Borough Local Plan (Core Strategy) 2011 are considered relevant to this appeal.

4.5 Policy CS11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough
The development is considered to conflict with points 1. 2. 3. 4. 8. 9 and 11.

4.6 Policy CS16 High Quality Design
The development is considered to conflict with Part 1 points (a), (b) and (c).

4.7 Policy CS17 Concentration and Distribution of Development within the Urban Areas
The development is considered to conflict with Parts 1 and 2.

4.8 **Havant Borough Local Plan (Allocations) 2014**

Policy AL2 Urban Area Boundaries and Undeveloped Gaps between Settlements.

4.9 Policy DM24 Recreational Disturbance to Special Protected Areas (SPA's) from Residential Development.

4.10 **Pre-submission Havant Borough Local Plan 2036**

The Pre-submission Havant Borough Local Plan 2036 was approved by the Council on 30 January 2019 and was subsequently published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for public consultation between 4 February 2019 to 18 March 2019. After this period, the next stage in the plan preparation will be the submission of the Local Plan for independent examination and thereafter adoption. Until this

time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 48 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. The draft plan includes a proposed allocation on land abutting the present appeal site, Policy H8 identifies the site for up to for 260 dwellings and a convenience store. Whilst it is noted that this would change the character of the appeal site's surroundings, and the overall landscape context. However, in view of its early stage, and the level of objection the draft plan carries limited weight.

4.11 **Emsworth Neighbourhood Plan**

The Neighbourhood plan was subject to a 6-week consultation under Regulation 16 of the Neighbourhood Planning Regulations this ran from 26 April to 7 June 2019. The council, in consultation with the forum, has now appointed an independent examiner to review whether the plan meets the basic conditions. The Plan is currently under consideration by the examiner who will report back to the LPA in due course. The plan seeks to maintain the current gaps between settlements. Again, in view of its stage, the Neighbourhood Plan carries limited weight.

4.12 **Planning Policy for Traveller Sites (August 2015) (PPTS)**

The Government's original PPTS came into effect on the same day as the NPPF and should be read in conjunction with the NPPF – it was subsequently updated in 2015.

4.13 The Government's overarching aim in the above planning policy documents *"...is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community." To achieve this aim, Local Planning Authorities should make their own assessment of need for such sites within their area for the purposes of planning and "...should set pitch targets for gypsies and travellers and plot targets for travelling showpeople which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities."*

4.14 The Government guidance provides advice with regard to decision-taking for gypsy and traveller applications. Policy H advises that Local Planning Authorities should consider the following matters in determining applications of this nature:

- The existing level of local provision and need for sites
- The availability (or lack) of alternative accommodation for the applicants
- Other personal circumstances of the applicant
- That applications should be determined for sites for any travellers and not just those with local connections.
- Effective use of previously developed (brownfield), untidy or derelict land.
- Sites are well planned that positively enhance the environment and increase its openness
- Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

5.0 **THE COUNCIL'S APPEAL CONSIDERATIONS**

5.1 Planning permission was refused for the proposed development by the Local Planning Authority's (LPA) Development Management Committee contrary to the officer's recommendation. Whilst noting the applicant's frustration that members did not accept the officer's recommendation, nevertheless, the Committee is entitled to go against the advice of its officers and reach its own judgement in relation to planning considerations based on the evidence of the case and making the decision on sound planning judgements. The reason for refusal is:

The site lies within a rural area where the stationing and use of additional individual caravans for residential purposes is contrary to the policies of the Local Planning Authority and represents a form of development which is likely to be detrimental to the rural character and to the visual amenity of the area and the amenities of conventional residential properties in the vicinity. The proposal is therefore contrary to policies CS11, CS16 and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Local Plan (Allocations) 2014, Paragraph 26 of the Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework 2018.

5.2 Principle of Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan (the Core Strategy and the Allocations Plan), unless material considerations indicate otherwise. The appeal site lies outside of the built-up area as defined by the Allocations Plan, and as such is in an area where new development would normally be restricted in line with the criteria of Policy AL2. The site is currently located between the nearby communities of Emsworth and Westbourne (in Chichester District). The NPPF confirms that Local Planning Authorities (LPA's) should avoid new isolated homes in the countryside unless there are special circumstances.

5.3

The appeal submission indicates that this proposal would make an effective use of brownfield land. However, it is not considered that it can reasonably be argued that the site is either untidy or derelict, and the principal area of land affected by the development proposed is not considered to constitute brownfield or previously developed land. The former paddock area which is proposed to be used for the siting of the additional static home and amenity block exhibits a very different character from the

stable yard itself and is not considered to lie within its curtilage for the purposes of identifying what area of the site is suitable for development in principle. The wider paddock area instead reads as part of the wider rural landscape that extends beyond the site to the fields beyond. Furthermore, the Inspector in the previous appeal on this site outlined in paragraph 46 of the decision notice that "I have taken note of the submissions made by various parties as to whether the appeal site constitutes previously developed land (PDL). However, the provisions relating to PDL in Policy CS17 seem to me to apply only within the urban areas. The issue therefore has no bearing on the present appeal."

As such the site is not considered to be brownfield or previously developed land and no weight has been afforded to this matter in the overall planning balance of this appeal.

5.4

The site lies on the north side of Long Copse Lane along which are a number of individual dwellings on large plots together with open fields generally in equestrian use for grazing. The site lies outside of and is not adjacent to the existing settlement boundary area; instead it is adjacent to a single dwelling and otherwise surrounded by open fields to the north and east with the large area of public open space (protected under Policy AL8 as a designated Local Green Space) associated with the

Hampshire Farm development lying to the south. The existing built form (stable block) and permitted use of the site which includes one mobile home, private stable block with tack room, feed and cart store is complementary to the rural surroundings of the site. This section of Long Copse Lane is rural in character, narrow, lacking pavements and street lighting.

5.5 Character

One of the core planning principles set out in the NPPF is to take account of the different roles and character of different areas by, amongst other matters, recognising the intrinsic character and beauty of the countryside. Policies CS11 and CS16 of the Core Strategy set out a range of criteria that new development should be able to demonstrate in order to protect the environment and heritage of the Borough and secure high quality and appropriate developments - chief amongst these is that new development should ensure that the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected, and to respond to and respect local context. Policy CS11 also expressly seeks to maintain the undeveloped gap between Emsworth and Westbourne.

5.6

The appeal site comprises part of a paddock, situated in a part of Long Copse Lane which lies beyond the settlement boundary. Whilst an isolated dwelling lies adjacent to the site to the west, on all other sides the site adjoins open fields which are used for a variety of grazing and equestrian uses. Where buildings and structures appear in this landscape, these are related to these rural uses. Furthermore, the existing mobile home on the site is set back from the front boundary which enables this limited level of development to fit within the immediate landscape context. The appeal site is located within Landscape Character Area 21 'Southleigh Forest' of the Havant Borough Townscape, Landscape and Seascape Character Assessment (appendix 9) which describes the landscape as *".....an open area of farmland.....consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division...."*. In terms of openness/enclosure, prominence and visibility there is a particular reference to *"Views from the road out towards Westbourne across the open agricultural plain"* and the *"encroachment of urban character into adjacent rural areas"* is regarded as a key local

issue for the landscape character area, where the strategy is to conserve and enhance local character.

- 5.7 Whilst the appeal site is screened from Long Copse Lane to some extent by the existing close boarded fencing on the southern boundary of the site, open views exist northwards from the site to the wider landscape of Southleigh Forest, Monks Farm and beyond to the South Downs National Park. The topography of the site is such that it lies at the top of a gentle rise from the landscape to the north, and thus any development on the site will be clearly discernible from these longer distance views, as well as by users of Long Copse Lane and, at closer quarters, the occupiers of the adjacent neighbouring residential property.
- 5.8 It is considered that the proposed intensification of this site with further caravan pitches will have a significantly harmful impact upon the character of the appeal site and its surroundings. The proposed additional gypsy pitch/mobile home would sit directly behind the close boarded fence on the boundary with Long Copse Land, and would be glimpsed in views above the boundary fence. There would, because of the additional mobile home, touring caravan, and the subsequent requirements for further parking would result in a significant additional increase in paraphernalia associated with a domestic environment, including, refuse bins, washing lines, likely additional internal boundary treatments comprising close-boarded fencing and further car parking spaces. The character and appearance of this area would change from the generally open and low-key gypsy/traveller site at present to a character that was essentially sub- urban, in which the static and touring caravans would be closely spaced and with the attendant paraphernalia resulting in a domestic cluttered environment.
- 5.9 Whilst only glimpsed views are possible from the road, by virtue of the boundary treatment, comprising close-boarded fence in front of the site. Nevertheless, even in these glimpsed views the generally open character is readily apparent. The transition between rural and built form when approaching from the east or west along Long Copse Lane would be apparent. This would be significantly harmful to the generally low-key open character of the countryside. Moreover, should the line any proposed landscaping die or be removed on the southern boundary, the change in the character of the area would be even more apparent. The Local Planning Authority considered whether this could be mitigated by additional landscaping, but it would not be appropriate to rely on landscaping to screen a development that would itself be intrinsically harmful to the character of the area, as outlined above.
- 5.10 On the above basis it is considered that the proposed development would result in the significant intensification of residential paraphernalia, in the form of a domestic environment and associated human activity including vehicle movements. It is therefore considered that the proposal by virtue of its size, scale, layout and associated residential paraphernalia would have a significant adverse impact on the appearance and landscape characteristics, within this open rural landscape. The harm that would be caused to the character and appearance of the area would outweigh the benefits of providing a further pitch. In conclusion on this issue the proposal would unacceptably harm the character and appearance of the area.
- 5.11 **Amenity**
The proposal would utilise the existing access drive which is located adjacent to the western boundary with Hollybank Cottage, the internal access drive is located adjacent to the private amenity areas of this neighbouring property. The intensification of the use of this site, through the introduction of an additional static caravan, touring caravan, further associated vehicular movements and more regular use of this area as future residents and visitors access the property, would result in noise and disturbance. This would occur both from the vehicle movements themselves. From car doors slamming, as well as pedestrian, and works undertaken by the appellant as part of associated activities of their nomadic lifestyle. The associated noise and disturbance would be taking place adjacent the existing habitable, quiet amenity areas of the neighbouring property. Furthermore, there would be potential light pollution from headlights and additional security lighting shining into the neighbour's property. As such it is considered the introduction of such additional activity and noise, where this neighbour should be able to expect to enjoy their quiet residential amenity in this rural area, is unacceptable and contrary to policy CS16 clause 1. e).

5.12 **Ecology**

The Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this includes an Appropriate Assessment under Regulation 63. This is attached for the Inspectors consideration at appendix 4. The screening under Regulation 63(1)(a) found that there was likely to be a significant effect on Chichester and Langstone Harbours Special Protection Area due to the increase in recreation as a result of the development. The planning application was then subject to an Appropriate Assessment under Regulation 63. This assessment included a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy and the applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package. The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment.

5.13 The principle of securing developer contributions is set by policy CS21 of the Local Plan (Core Strategy) 2011 which states that:

“Development will be permitted if on-site and/or off-site infrastructure requirements are met. Where new or improved infrastructure is essential for planning permission to be granted the council will require the on-site or off site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for off-site provision. The need for contributions will depend on information and advice from infrastructure providers on the expected impacts of the development on all the infrastructure types.”

5.14 Policy DM24 of the Local Plan (Allocations) 2014 states that:

Planning permission will be granted for residential developments that avoid or mitigate a likely significant effect on the SPAs, caused by recreational disturbance through the in-combination effect of net additional dwellings. This mitigation can be provided through:

- A financial contribution...

Where these measures cannot be provided development proposals will be refused, unless the applicant can show, subject to meeting the tests of the Habitats Regulations, that there would not be an adverse effect on the integrity of the SPAs.

5.15 The appellant has made the necessary planning obligation and paid the appropriate fee and returned the associated paperwork. As such the appropriate financial contribution has been secured and the development complies with the mitigation requirements as set out in the Solent Recreation Mitigation Strategy.

5.16 **Water Quality**

As advised in correspondence on 17th October 2019, the LPA updated PINS on Havant Borough Council's approach to the issue of nutrient neutrality, which has arisen as a new material consideration in determining planning applications since the Council made its decision on the application the subject of this appeal.

5.17 The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. This is generally referred to as The Dutch Case (Full reference is Cooperative Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>

The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture.

5.18 Natural England began to issue revised advice regarding planning applications to Local Planning Authorities on 1 April 2019, subsequently revised by guidance issued in June 2019 (attached appendix 5), as a result of the Dutch Case. Considering this advice and the implications of the case law, it can only be concluded that some forms of new development could increase nitrogen and phosphate deposition into the protected harbours above consented levels. This results in increased nutrients in the harbour which cause a dense growth in certain plants. This in turn leads to harm to the species which use them – a likely significant effect. The only way that a new scheme could prevent this likely significant effect is for there to be no increase in nutrients into

the harbour, i.e. for it to be 'nutrient neutral'.

- 5.19 Havant Borough Council is committed to achieving sustainable development, including the relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality of any European Designated Nature Conservation Sites.
- 5.20 On Wednesday 26 June, Havant Borough Council's Cabinet approved a 'Position Statement on Nutrient Neutral Development' (please see appendix 6). This puts in place mechanisms for development to achieve nutrient neutrality. For development on sites currently used for agricultural purposes, there must be an aim to achieve nutrient neutrality on-site. However, for development on non-agricultural sites, particularly brownfield sites, this is not possible. The Position Statement sets out how development proposals should consider the issue, and in terms of the implications for the development the subject of this appeal in particular, Paragraphs 53-54 set out that a range of development other than C3 dwellings which provides overnight accommodation would be likely to cause a significant effect. The Council would contend that the development the subject of the appeal, which will provide further overnight accommodation, falls into such a category. The Position Statement then goes on to suggest the use of a planning condition to secure an appropriate avoidance and mitigation package – Paragraphs 57-67 refer.
- 5.21 The LPA understand that the current mobile home is drained via a cess pool, and the proposed additional mobile home, subject of this appeal, proposes to utilise this existing facility. However, the LPA would like to now bring to the Inspector's attention a recent appeal decision, for overnight tourist accommodation, which proposed to utilise existing drainage measures. The appeal reference is: APP/X1735/W/18/3214079, and the appeal decision is attached for the Inspectors attention (at appendix 7). Paragraphs 8-15 of the decision refer directly to the impact on the Solent SPA's which is relevant in this case. In addition, we have attached a further consultation response received from Natural England (attached appendix 8), which has been copied to PINS raising this issue.
- 5.22 The nature of the proposed development would result in additional waste water as a result of the proposed intensification of use of the site, with guidance recommending that they should be emptied on a monthly basis, depending on size and intensity of use. As has been outlined by the appellants drainage consultant "subject to where the controlled wastewater from the cesspool is sent for further processing". However, no details have been provided regarding which Waste Water Treatment Works (WWTW) the waste water is being processed at, with both local WWTW's draining directly into SPA's. As a result of the additional nitrogen and phosphorous from additional waste water generated by the proposed intensification of the existing use, the proposal will likely have adverse effects on the integrity of the Solent SPAs, either alone or in combination with other plans and projects, as a result of additional nitrogen and phosphorous from additional waste water generated by the proposed use. The proposal would therefore conflict with Habitats Regulations and Policy CS11 of the Havant Borough Core Strategy – March 2011 (CS) which, amongst other things, seek to protect habitats through appropriate adaptation and mitigation measures.
- 5.23 As the Planning Inspectorate is now the Competent Authority under Regulation 63 of the Habitats Regulations, we trust this update will be of assistance to the Inspector when making their deliberations on this case.

6.0 CONCLUSIONS

- 6.1 Having regard to the above information it is maintained that the provision of an additional gypsy pitch, with mobile home, touring caravan, associated hardstanding and domestic paraphernalia would result in an unacceptable visual intrusion to the landscape of this part of the Borough.
- 6.2 The development would see an unacceptable intrusion to the landscape character of the site and wider views afforded to important landscape features. It is maintained that this significant visual harm could not be discounted or mitigated by landscaping as collectively it would further diminish the wider landscape setting of the site.
- 6.3 It is therefore considered that notwithstanding the need for a single gypsy pitch and the evidence put forward to support such a provision that the resultant harm to the landscape character and setting is not outweighed by this need.

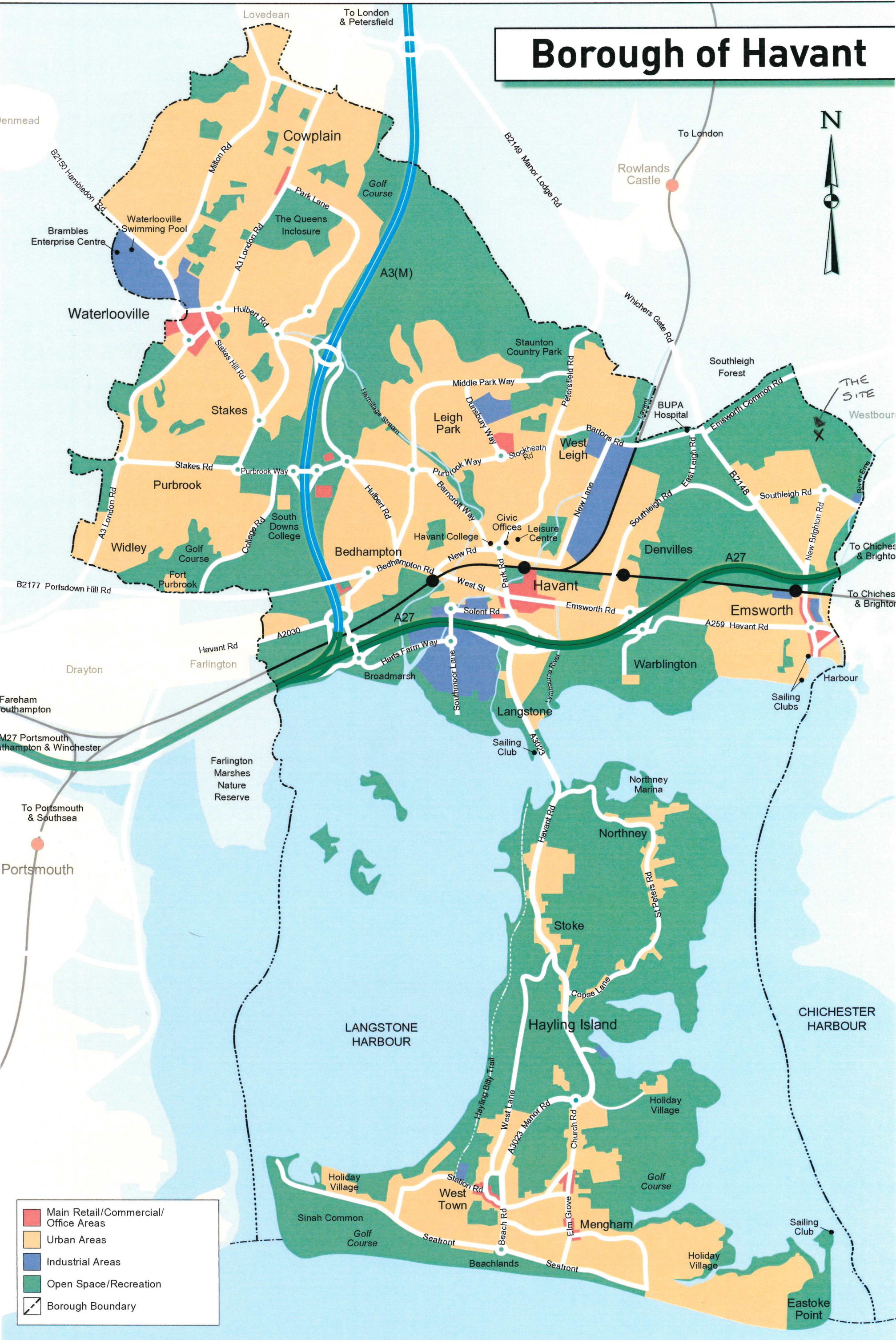
- 6.4 Furthermore, the intensification of the use of this site, through the introduction of an additional static caravan, touring caravan, further associated vehicular movements and regular use of this area as future residents and visitors access the property would result in an unacceptable level of noise and disturbance. This would occur both from the vehicle movements themselves and car doors slamming, as well pedestrian, and works undertaken by the appellant as part of associated activities of their nomadic lifestyle. The noise and disturbance would take place adjacent the existing habitable quiet, amenity areas of the neighbouring property. Furthermore, there would be potential light pollution from headlights and additional security lighting shining into the neighbour's property. As such it is considered the introduction of such additional activity and noise, where this neighbour should be able to expect to enjoy their quiet residential amenity in this rural area, is unacceptable and contrary to policy CS16 clause 1. e).
- 6.5 The Inspector is respectfully requested to uphold the Council's decision to refuse planning permission for this site. However, notwithstanding the Council's position a list of conditions are appended to this document should planning permission be granted at appeal, in order to ensure the development is more acceptable in planning terms.

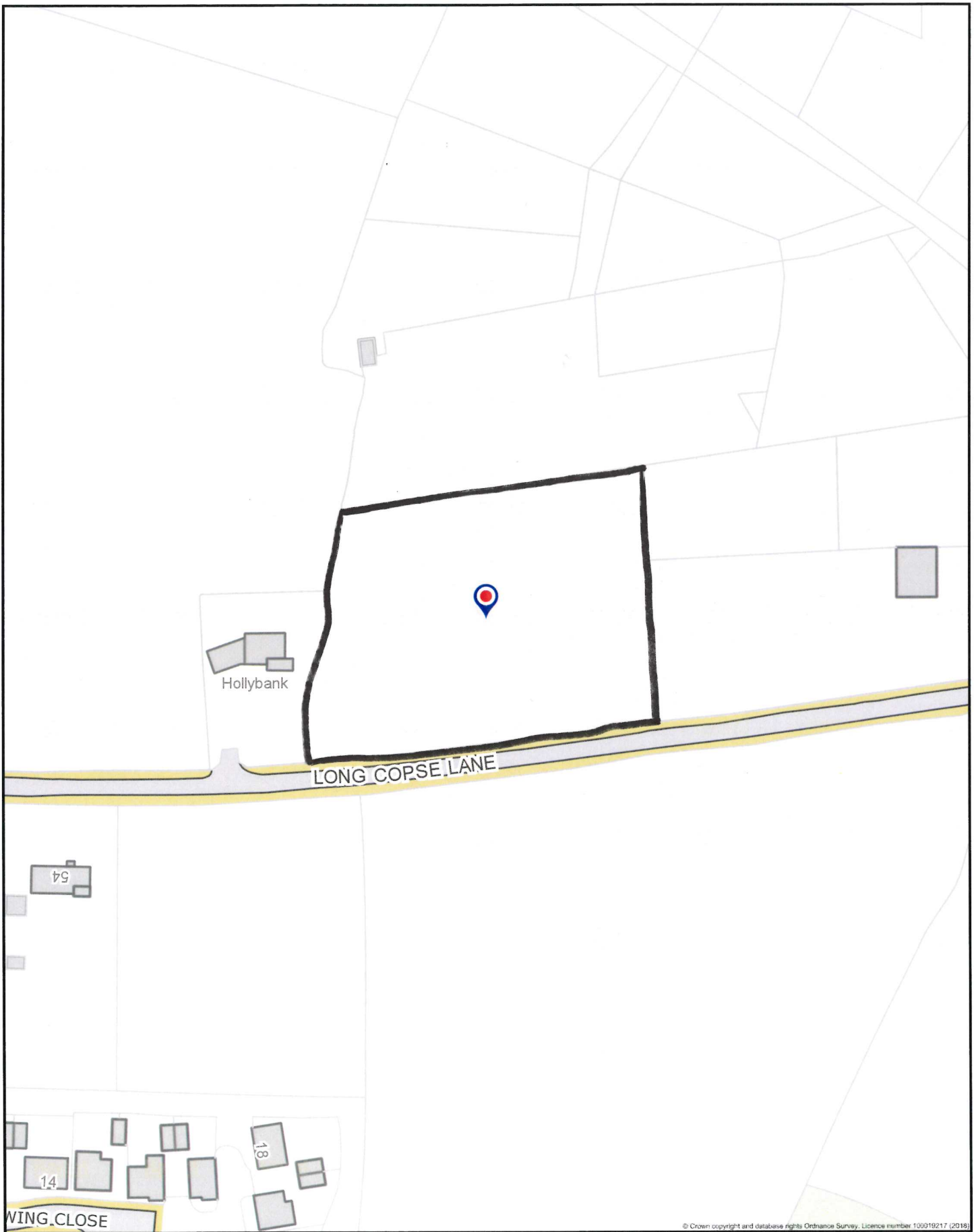
7.0 LIST OF APPENDICES

- 7.1 Appendix 1 - Borough Map and Location Plan
- 7.2 Appendix 2 – Officer Report and Addendum for application APP/18/00929
- 7.3 Appendix 3 –Decision Notice for Application APP/18/00929
- 7.4 Appendix 4 – LPA'S Appropriate Assessment
- 7.5 Appendix 5 - Natural England's advice to LPA's – issued June 2019
- 7.6 Appendix 6 - Position Statement on Nutrient Neutral Development
- 7.7 Appendix 7 – Appeal decision for APP/X1735/W/18/3214079 – Land adjacent to Mandai
- 7.8 Appendix 8 - Natural England's further appeal consultation response
- 7.9 Appendix 9 - Landscape Character Area 21 'Southleigh Forest' of the Havant Borough Townscape, Landscape and Seascape Character Assessment

Appendix 1

Borough of Havant





© Crown copyright and database rights Ordnance Survey. Licence number 100019217 (2018).

Southdown View

Havant
BOROUGH COUNCIL

N Scale: 1:1250

Printed on: 2019-10-29 11:07:17

© Havant Borough Council

Appendix 2

the landscape, or of the area generally. In this respect the scheme would not conflict with Policies CS11 or CS16.

The application the subject of this report proposes a further gypsy and traveller pitch outside the current settlement boundary in the countryside - which is contrary to the National Planning Policy Framework 2018 (paragraph 79) and Local Plan (Allocations) Policy AL2. However, as set out above, the Planning Inspectorate have previously allowed an appeal against the refusal of permission for a single gypsy and traveller pitch on this site, and as such the site is now an established site for 1 pitch. The appeal is a material consideration in this planning application. In addition, the Local Plan Housing Statement proposes to accommodate some 260 new dwellings on Land North of Long Copse Lane. This is in close proximity to the application site, and therefore is a material consideration to the current application in terms of the sustainability of this site and its impact on the character and appearance of the area.

The applicants are of traditional gypsy descent and meet the criteria of gypsy and traveller status as set out in Annex 1 of the Planning Policy for Traveller Sites (PPTS). The PPTS requires that local planning authorities "identify and update annually, a supply of specific deliverable sites against their locally set targets". While the policy approach through the adopted Local Plan (2011) has previously been found sound and justified with no allocations for Gypsy, Traveller and Travelling Showpeople, the position changed following the publication of the 2017 Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-3036 (May 2017) (GTAA), in that there was now a need to be addressed which represented a local 'target', which comprises the provision of 1 pitch in the borough. That need was met through the approval of APP/16/01234. However, 2017 Assessment must be regarded as a 'snapshot in time', and the PPTS also advises that the LPA needs to identify and update annually a supply of deliverable sites. Given that this applicant is a gypsy by definition and has local connections, this creates a further need for provision of 1 pitch within the borough. Granting permanent permission on this established gypsy/traveller site would meet the need for the required site and would negate the requirement for other sites to be considered, which could have a more significant adverse impact on the landscape in other parts of the borough.

Information has been provided by the applicant and the Gypsy Liaison Officer that the need for accommodation could not be met elsewhere. If planning permission were to be refused, there are no alternative pitches currently available in the area.

This application has been considered against both the criteria set out in policy CS10 of the Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015 and found to meet the criteria. The Highway Authority has raised no objection to the scheme. Furthermore, the development is not considered to have a significant adverse impact on the amenities of neighbouring properties. In addition, the appropriate financial contribution towards the Solent Recreation Mitigation Strategy has been secured. The development is acknowledged to affect, to some degree, the character and setting of this part of the area in terms of impact on its current rural appearance and tranquillity. However, it is also acknowledged that whilst this development is in a rural location, this must be balanced against the need for an additional gypsy and traveller pitch on this established gypsy/traveller site; and the design, layout and appearance of the development. As such this proposal is considered acceptable and is recommended for permission.

1 Site Description

- 1.1 The application site comprises an area of land of 0.5ha, lying on the northern side of Long Copse Lane, in the northern part of Emsworth. Long Copse Lane is a road of mixed character - at its western end, where it links with Hollybank Lane, the southern frontage of the road forms part of an established suburban area featuring a mix of dwellings with a

density of approximately 18 dwellings per hectare, with open fields to the north. Approximately 300m east of the junction with Hollybank Lane, and beyond the junction with Redlands Lane, the character of the road changes on its southern frontage to feature a row of individual dwellings in larger plots, with a density of approximately 5.6 dwellings per hectare, before this gives way to open fields.

- 1.2 To the north, the land features a number of isolated dwellings and a sequence of stables/paddocks as part of a field system that extends further to the Borough boundary. The Havant Borough Townscape, Landscape and Seascape Character Assessment (Feb 2007) identifies the site as being located within Landscape Character Area 21 '*Southleigh Forest*' which is defined as '*The open area of farmland to the east, consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division leading to larger open arable fields to the south.*' The Lane itself eventually leads beyond the Borough boundary into Chichester District, where it meets North Street, part of the settlement of Westbourne. Along its length, footways are generally absent from the Lane, and street lighting is only provided up to the junction with Redlands Lane. The carriageway width in the vicinity of the site is 4.2m - 4.4m; this typical for this part of the Lane.
- 1.3 The application site lies approximately 650m west of the junction of Long Copse Lane with Hollybank Lane, and at this point is beyond the last of the dwellings in Long Copse Lane which lie within the Borough boundary. The site features an existing graveled access off Long Copse Lane at the south western corner of the site, extending to an area of graveled hardstanding within the southern part of the site which leads to a stable block within the south eastern corner of the land. The site is currently occupied by an authorised mobile home, which was allowed on appeal under application APP/16/00021. This caravan, which is currently occupied by the applicant's son and his partner, is located to the north of the existing stables, and a cesspool has been installed between the mobile home and stable building. The remaining parts of the site are given over to an area of pasture used for horse grazing which is enclosed by post and rail fencing - a belt of well-maintained grass adjoins the pasture on its western and southern sides.
- 1.4 A two-storey dwelling, Hollybank Cottage, adjoins the application site to the west - the western boundary of the site featuring some established hedging and a number of mature Oaks covered by TPO1974. The southern boundary of the site features 1.8m high close boarded fencing on top of a small bank rising up from the carriageway of Long Copse Lane; this bank features some reduced native hedging, with a mature Ash the subject of TPO1974 lying just within the site. The eastern and northern boundaries of the site comprise post and rail fencing as used for the enclosure of the pasture; no natural landscaping is in place.
- 1.5 The site occupies an elevated position relative to the land beyond it to the north, and as such benefits from wide-ranging views to the surrounding landscape and the South Downs National Park beyond.

2 Planning History

- 2.1 10/74070/00- Change of use of land and erection of stable block with tack room, entrance gate, landscaping and associated access/ground works (Part Retrospective). - Permitted 21/07/10
- 2.2 APP/14/00381 - Extension to existing private stable block to provide feed / cart store for continued private use. Refused 04/06/14 on grounds of intensification of leisure development on the site and impact on the rural character of the area; however subsequently allowed on appeal under reference APP/X1735/A/2220161. The Inspector concluded that in summary, although the Council was correct to observe that an equine use does change the character of a rural area, he did not consider that the proposed

extension would increase that change from the extent accepted by the Council in its original decision to approve the stables. The proposal would therefore have no adverse effect on the character and appearance of the area and there would be no conflict with Policies CS11 & CS17 of the Core Strategy or with the National Planning Policy Framework 2012. This development has now been implemented.

- 2.3 APP/16/00021 - Change of use from private equestrian yard to a mixed use comprising private equestrian yard and two pitch, private gypsy and traveller site (including amenity block and two touring caravan pitches) - This application was received on 6/1/16 however was not made a valid planning application until 4/3/16 due to the requirement for further information from the applicant. The application was then refused on 29/04/2016 for the following reasons:

1 The application site lies outside of the built up area and its proposed use as a two pitch private gypsy and traveller site with equestrian yard is not considered to represent a form of development which is appropriate in this location having regard to Policy AL2 and the 'Update on Council approach to meeting the accommodation needs of travellers' of the Havant Borough Local Plan (Allocations) 2014, the National Planning Policy Framework 2012 and the Planning Policy for Traveller Sites 2015. Furthermore the form and extent of the development would have a significant and harmful impact upon the character and appearance of the site and the wider landscape, and would thereby conflict with relevant provisions of Policies CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011, the National Planning Policy Framework 2012 and the Planning Policy for Traveller Sites 2015.

2 Notwithstanding Reason 1 above, the use of the site as a two pitch private gypsy and traveller site with equestrian yard is not considered to represent a sustainable or suitable form of development by virtue of the remoteness of the site from local facilities and public transport, and the rural character of Long Copse Lane which has an absence of footways and street lighting in the vicinity of the site. The proposed use thereby conflicts with Policy CS10 of the Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.

3 Having due regard to the information submitted in respect of the intended occupiers of the site, it is considered that the proposed use of the site as a two pitch private gypsy and traveller site and equestrian yard would involve regular towing of small and large caravans into and out of the site along the narrow Long Copse Lane which would cause further deterioration of its verge edges, surface and foundations and would exacerbate the hazards to other road users. The use is therefore not considered appropriate for this location and would thereby conflict with Policies CS10 and CS20 of the Havant Borough Local Plan (Core Strategy) 2011.

4 The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority. These seek to ensure that provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. The development is therefore contrary to policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.

- 2.4 An appeal was lodged on 7/11/16 with the Planning Inspectorate, this appeal was placed in abeyance on 1/2/17 pending the outcome of a subsequent revised planning application APP/16/01234.
- 2.5 APP/16/01234 - Change of use from private equestrian yard to a mixed use comprising private equestrian yard and single pitch, private gypsy and traveller site (including

amenity block and one touring caravan pitch). This was a revised application from the previously refused application APP/16/00021; the main changes involved the reduction of number of pitches and reduction in size of the amenity block.

- 2.6 Application APP/16/01234 considered additional information provided by the appellant in a bid to overcome the four reasons detailed above, in paragraph 2.3. It was determined by officers that the appellant had overcome the refusal reasons listed, based on one gypsy pitch being provided instead of two. However, at the ensuing Development Management Committee members considered all of the information provided, along with consultation responses received and third-party representations and determined that the development would still remain harmful to the rural character and visual amenity of the area. The decision in effect retaining refusal 1 of application APP/16/00021. For the purposes of clarity, the reason for refusal of APP/16/01234 was:
The site lies within a rural area and the siting of the caravans in the countryside would be detrimental to the rural character and to the visual amenity of the area. The proposal is therefore contrary to policies CS11.1, CS 11.9, CS16, and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, Policy AL2 of the Havant Borough Local Plan (Allocations) 2014, Paragraphs 25 and 26 of the Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework 2012.
- 2.7 Following the refusal of APP/16/01234 the Planning Inspectorate brought the appeal for application APP/16/00021 out of abeyance. The appeal was determined on the basis of one single gypsy pitch, with all of the information considered under application APP/16/01234 being considered by the Inspector. The Local Planning Authority having considered the further information submitted in this application subsequently withdrew reasons for refusal 2 and 3 of application APP/16/00021. The LPA therefore defended the appeal on the basis of the reason for refusal outlined above in paragraph 2.6.
- 2.8 The appeal was heard at an Informal Hearing on 6th February 2018. The appeal decision was issued on 28th February 2018. The Inspector allowed the appeal, and granted planning permission. The full appeal decision is attached at Appendix E. Regarding the impact of the proposal on the character and appearance of the area, the Inspector considered this in detail in paragraphs 27-31. The Inspectors summary of this consideration was:
I therefore conclude that the proposed development could be carried out with no more than a limited visual impact on views from public vantage points. As such, it would not materially affect the character or appearance of the landscape, or of the area generally. In this respect the scheme would not conflict with Policies CS11 or CS16.

3 Proposal

- 3.1 This application is for the siting of an additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller use; this being in addition to the private equestrian yard which would be retained. To support the further mobile home use there would be provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space. In terms of the nature of the mobile home, the proposal is to have a further static home sited on the site which has similar dimensions to the existing static home, with dimensions of 13.2m x 3.8m, and 2.8m in height.
- 3.2 The additional static home is proposed to be located approximately 4 metres from the southern boundary of the site, immediately west of the stable block within a gravelled area serving two parking spaces, accessed off the gravelled hardstanding serving the existing stable block. The existing static home is located to the north east of the gravelled track, and the overall layout would therefore take the form of a complex of buildings located in the south-eastern corner of the site.

- 3.3 The application is supported with a Design and Access Statement advising that the applicant and wife are Gypsy and Travellers within the meaning of Government policy in that they are a person of a nomadic habit of life, and also an ethnic Romany Gypsy; and also a Tree Survey, Arboricultural Impact Assessment and Tree Method Statement. As outlined above, the previous applications were accompanied by a wide range of information, which was also submitted as part of the appeal documentation, this consisted of a Transport statement, and other examples of appeal decisions relating to gypsy and traveller applications.

4 Policy Considerations

National Planning Policy Framework (NPPF) 2018

Planning Policy for Traveller Sites (August 2015) (PPTS)

The Government's original PPTS came into effect in 2012 – it was subsequently updated in 2015.

The Government's overarching aim in the above planning policy documents *"...is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community."* To achieve this aim, Local Planning Authorities should make their own assessment of need for such sites within their area for the purposes of planning and *"...should set pitch targets for gypsies and travellers and plot targets for travelling showpeople which address the likely permanent and transit site accommodation needs of travellers in their area, working collaboratively with neighbouring local planning authorities."*

The Government guidance provides advice with regard to decision-taking for gypsy and traveller applications. Policy H advises that Local Planning Authorities should consider the following matters in determining applications of this nature:

- The existing level of local provision and need for sites
- The availability (or lack) of alternative accommodation for the applicants
- Other personal circumstances of the applicant
- That applications should be determined for sites for any travellers and not just those with local connections.
- Effective use of previously developed (brownfield), untidy or derelict land.
- Sites are well planned that positively enhance the environment and increase its openness
- Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children

Havant Borough Local Plan (Core Strategy) March 2011

CS10	(Gypsies, Travellers and Travelling Showpeople)
CS11	(Protecting and Enhancing the Special Environment and Heritage of Havant Borough)
CS13	(Green Infrastructure)
CS15	(Flood and Coastal Erosion)
CS16	(High Quality Design)
CS17	(Concentration and Distribution of Development within the Urban Areas)
CS19	(Effective Provision of Infrastructure)
CS20	(Transport and Access Strategy)
CS21	(Developer Requirements)
DM10	(Pollution)
DM11	(Planning for More Sustainable Travel)
DM12	(Mitigating the Impacts of Travel)
DM13	(Car and Cycle Parking on Residential Development)
DM14	(Car and Cycle Parking on Development (excluding residential))
DM8	(Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

DM17	(Contaminated Land)
AL1	(Presumption in Favour of Sustainable Development)
DM18	(Protecting New Development from Pollution)
DM24	(Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development)
AL2	(Urban Area Boundaries and Undeveloped Gaps between Settlements)

Local Plan Housing Statement 2016 & Draft Havant Borough Local Plan 2036

The Council adopted the Havant Borough Local Plan Housing Statement (LPHS) on 7th December 2016 as the first stage in the development of the Havant Borough Local Plan 2036. This document is a clear position statement as to which sites the Council considers could deliver sustainable development to address the identified housing need up to 2036. The LPHS has identified a site immediately to the west and north of the neighbouring property of Hollybank Cottage, and to the north of the site itself, known as site UE76 Land North of Long Copse Lane, which is identified to provide approximately 260 dwellings. The Housing Statement makes clear that development, even on these sites, can only be considered sustainable under the NPPF if it provides the necessary infrastructure alongside new housing to fully mitigate its impact on the infrastructure network. The LPHS relates specifically to sites which are not allocated in the Adopted Local Plan. The site is referred to as site H6 in the ensuing Draft Local Plan which was published for consultation in January 2018.

The Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-2036 (May 2017)

This Assessment sets out the level of need and requirements for gypsy and traveller pitches in the borough.

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Arboriculturalist

No Objection subject to condition

Chichester District Council

No Comment

Natural England

No Objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. Provided the applicant is fully compliant with the Solent Recreation Mitigation Partnership Definitive Strategy and an appropriate planning condition or obligation is attached to any planning

permission to secure the contributions towards this mitigation measure, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of recreational disturbance on the integrity of the European site(s).

Hampshire County Council - Gypsy Liaison Officer

Officer note: Hampshire County Council's Gypsy and Traveller Service was commissioned by the Local Planning Authority to analyse the planning application and assess whether it demonstrated (a) whether the applicants met the statutory definition of gypsies and travellers; and (b) whether the applicants had a need for accommodation. The Gypsy Liaison Officer's findings are as follows:

1. I am the Gypsy Liaison Officer (GLO) for Hampshire County Council.
2. I have been asked by Havant Borough Council planning department to make enquiries relating to the above planning application with a view to establishing the current planning status of the applicant Mr Les Madgwick.
3. In March 2017 I made extensive enquiries at the site regarding the previous application; Stables Adjacent to Hollybank Cottage, LongCopse Lane, Emsworth PO107UR – APP/16/01234 – when I interviewed Mr James Madgwick and his father Les Madgwick. As a result of these enquiries Gypsy ethnicity was established for both and there is no reason to doubt that this still stands today.
4. At 11.40 hours on Tuesday 20th November 2018, I met with Mr James Madgwick (27 years of age) and his father Les (53 years of age) on the land I now know as Southdown View, LongCopse Lane, Emsworth.
5. In addition to discussing at length the planning application submitted to Havant Borough Council I also verified that the land in question is owned by Mr James Madgwick but the land is viewed as in Madgwick family ownership.
6. I informed Mr Les Madgwick that I had a number of queries that I wished to address from Havant BC planning and for clarity I would replicate the queries in my report and address matters raised accordingly;
 - (a) Do the applicants meet the definition of gypsy/traveller? With regard to this point, the LPA are aware that it is likely that the applicant likely owns a house in Portsmouth. Therefore, the LPA would need to understand whether this constitutes that they are now 'settled', and therefore whether the applicants comply with the definition of gypsy/traveller. Also, we are aware from your previous correspondence, that the house in Portsmouth has a household containing Les and Tina Madgwick's daughters, we would need to understand the context of this.

Mr Madgwick informed me that he does still own a house in the Portsmouth area and explained that this was a family home for eighteen to nineteen years during the time that his children were growing up. All his children have now left the family home and he now has a wish to revert to his ethnic roots and traditions by living in a caravan together with his wife and intends to sell the house for use by another family. (Note: during my years as a GLO I have know numerous Gypsy and Traveller housed families who have reverted to their traditional lifestyles and moved back into caravans / mobile homes after their offspring have grown up and left home)

- (b) Do they have a need for accommodation within the Borough?

The applicant advised that he does have a need for future accommodation in the Havant BC area because when the house is sold he will not have access to any alternative suitable accommodation and would have to revert to living at the roadside.

- (c) Are you able to verify if there is no other suitable accommodation in terms of available gypsy/traveller pitches in Portsmouth, the New Forest (where they state they have family connections) or West Sussex, including any private sites in Westbourne? Our members referred to these sites during the Planning Committee.

I can confirm from my enquiries that there is no suitable accommodation available in the Portsmouth and New Forest area's and would comment that it would be most unusual after so many years for a Gypsy to move from his own private accommodation onto a 'Council' run site. I have made enquiries of West Sussex relating to the Westbourne Site and whilst there is currently one pitch available on that site, I am advised that this particular site is historically very settled and there are twenty applicants currently being considered for the pitch in question. Mr Madgwick is not on the waiting list and it is considered highly unlikely that he would be considered for this pitch.

I had a discussion with Mr Madgwick regarding the Westbourne site and if he had considered living in that local area on any private land / pitch and he informed me that it was now far too expensive and why when the family already owns land in the Borough of Havant and he wishes to be with his own family.

The applicant informed me that the family does not own any other land other than that at Long Copse Lane and whilst they have family links and connections in the Portsmouth and New Forest area, they also have family living in the Havant area and in particular on the land subject of the application.

7. I discussed at length with Mr Madgwick what he has planned for the future and he informed me that now that all his children had left home he needed to revert to living in a caravan as he was suffering from depressive periods from his continuing to living in bricks and mortar accommodation.

He also felt strongly that living with his son would ensure that there would be someone to assist him as he gets older and to ensure that his future health and welfare would be taken care. I would comment that Mr Les Madgwick's lifestyle is somewhat physically arduous and as he gets older he will more and more need the assistance of his son to continue the family trade. The applicant informed me that currently he continues to visit countless horse fairs in the UK and Ireland in company with his son Jimmy and whilst they are away travelling his wife would be on site to ensure the security of the land and also to keep Jimmy's partner company.

8. The Madgwick family continue to be predominantly horse dealers and traders as was evidenced by the stables on site being fully occupied during my visit. I established that the family have historically and still do visit most of the horse fairs in the country through out the year, not just as a family holiday but to conduct business buying and selling horses and ponies together with tack and equipment.
9. I clarified again where they stayed when travelling and did they have any documents to prove where they had travelled to and was informed that when

travelling they stayed with friends and relatives on private land. However, historically they would have stayed at the side of the road but in keeping and in common with this community the retention of any records and official notices to quit is not very common.

10. I asked if it was possible to obtain written letters to prove where they had been and who they had stayed with over the years and was informed that this could be done if required.
11. Like most families of the Gypsy and Travelling community in this day and age they live in mobile homes when on their own land and take a mobile tourer (caravan) with them to live in whilst they are away on business and / or holidays.
12. I was informed that during his life the applicant together with his family have travelled the Country widely for business / economic purpose and he is still away working for at least 4 to 5 months of the year. His home base would not solely be used as a place to commute to work and return home daily but would be somewhere for his family to establish a settled lifestyle whilst he is away as opposed to living at the side of the road due to the lack of local, regional and national pitch and transit site availability.
13. I am not by any means and do not profess to be an expert in planning and case law but I do have a limited knowledge of these matters and also practical expertise attained having dealt with matters and issues relating to the Gypsy and Traveller community over the last sixteen years.
14. The applicant currently has permanent bricks and mortar accommodation but also has a cultural lifestyle of living in a traditional caravan and a history of travelling for economic purpose. He has a strong desire to settle down for the stability, health and future of his family unit. I conclude that after consideration of all the facts, my balanced view is that Mr Les Madgwick is of Gypsy and Traveller status as required for planning purposes.

Development Engineer - Highways

The Highway Authority advice is that this application cannot be refused on highway grounds because the cumulative harm on the highway network can not be identified. as required by National Planning Policy Framework (NPPF) Guidance.

Environmental Health

No Objection

Landscape Team

No Objection subject to conditions to secure:

- Additional planting on the boundaries.
- Submission of the details of the proposed cladding materials and colours of the new mobile home.

Officer comment: The applicant has agreed to a pre-commencement condition with regard to the submission of materials.

Planning Policy

Principle of Development:

The site lies on the north side of Long Copse Lane between the communities of Emsworth and Westbourne (the latter of which lies within Chichester District). The site is outside of the urban area and, the proposal is, therefore, contrary to Policies CS17

and AL2 which seek to concentrate new development within the five-urban areas of Havant Borough. In addition, paragraph 25 of the PPTS (August 2015) states that: *"Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan"*

Despite the above, planning permission for a single gypsy and traveller pitch on the proposed site was allowed at appeal in February 2018¹. The S78 appeal Inspector commented:

"Policy CS10.... Does not exclude locations in the countryside or Gaps, and given that these two designations cover the whole of the Borough outside the urban areas, it seems unlikely that suitable sites could be found anywhere else than within them" (see paragraph 22)

As such, the use of the site as a gypsy and traveller pitch has been established in principle.

Gypsies, Travellers and Travelling Showpeople:

The Council, along with six other local authorities in Hampshire, commissioned the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA). The GTAA was published in May 2017 and stated in paragraph 1.19 (page 8) that: *"There is a need for 1 additional pitch in Havant as a result of the occupied pitch being unauthorised. There is no other current or future need"* (emphasis added)

The granting of planning permission APP/X1735/W/3156978 in February 2018 means that Havant Borough's need for one additional pitch has now been met. Therefore, in this instance, paragraph 11 of the PPTS is of relevance. This states that: *"Where there is no identified need, criteria-based policies should be included to provide a basis for decisions in case applications nevertheless come forward"*

Paragraph 24 e) of the PPTS goes on to confirm that local planning authorities should determine applications for sites from any travellers and not just those with local connections.

Policy CS10 of the adopted Local Plan (Core Strategy) is a criteria-based policy. As the use of the site for gypsies and travellers has been established in principle through APP/X1735/W/3156978, criteria 1) - 3), along with the nature conservation interest element of criterion 5), will be appropriate in determining this proposal.

Emerging Policy H5 in the HBLP 2036 sets out a similar criteria-based policy. Please note, it is the Council's intention to remove criterion a) which requires proposals to demonstrate they meet an identified need in the forthcoming Pre-Submission HBLP 2036. This is so the policy is compliant with paragraph 24e of the PPTS.

As the Borough's need for one pitch has been met, it will be material to consider whether the applicant(s) meets the planning definition for gypsies and travellers as set out in Annex 1 of the PPTS. Paragraphs 24, 26 and 28 of the PPTS will also be of relevance. The Hampshire County Council Gypsy Liaison Officer will be able to provide further advice on these matters.

Providing that the applicant(s) meets the definition of the gypsies and traveller (see above), the proposal will need to comply with the following:

- Policy H (PPTS: Determining planning applications for traveller sites)
- Policy CS10 (Local Plan [Core Strategy]); and
- Policy H5 (Draft HBLP 2036).

Recommendation:

No objection in principle providing that:

- The applicant meets the planning definition for gypsies and travellers as set out in Annex 1 of the PPTS;
- The requirements of Policies CS10 and CS16 are met;
- The TPO onsite is retained and protected;
- The provision of two cycle spaces is sought; and
- The SRMS financial contribution is paid to the Council.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 3

Number of site notices: 7

Statutory advertisement: 31/10/2018

Objections: 8, including Emsworth Residents Association and Westbourne Parish Council

Summary of planning issues raised (with officer comments where issues are not addressed in Section 7 below):

- 6.1 Local Plan documents state that there is no assessed need for gypsy and traveller sites to come forward in the period up to 2027 and no explanation has been provided as to why the site should come forward.
- 6.2 The development will introduce an alien form of structures onto the site, visible from the nearby vicinity and wider viewpoints. It would be a further encroachment into the gap between Emsworth and Westbourne and be detrimental to the rural nature of Long Copse Lane.
- 6.3 The Allocations Plan defines the area within which the site lies as being an undeveloped gap - the proposed development does not accord with the exceptions allowed for under planning policy for development within such locations, and no justification has been provided.
- 6.4 The noise nuisance experienced by the immediate neighbours to the site from the current use of the site will be exacerbated and affect other users of the Lane and other land in the vicinity; both as a result of more intensive occupation and the increased amount of traffic visiting the site.
- 6.5 The adjacent residential property would be subject to a degree of overlooking and loss of amenity as a result of the development.
- 6.6 A grant of planning permission would result in an unjustified interference with the human rights of the occupiers of the adjacent residential property.
- 6.7 The availability of facilities in Westbourne relies on access from Long Copse Lane which is narrow and without pavements - as such the development will increase reliance on the private car which is contrary to the National Planning Policy Framework and the criteria of Policy CS10 of the Core Strategy.
- 6.8 The existing use of the site should not be regarded as a 'brownfield site' or 'previously

developed land' due to the location of the stable buildings being significantly at variance from the plans approved under 10/74070/000 and APP/14/00381. Furthermore it should not be assumed that the whole of the site constitutes a curtilage suitable for development.

- 6.9 The loss of further pasture land will adversely affect equine welfare on the site.
Officer comment: *The availability of pasture land was discussed in the APP/14/00381 appeal, with the Inspector reporting "I am also satisfied with the explanation of the relatively high horse density on the site compared with the guidance of the British Horse Association, which essentially is one of the horses living mainly in the stables rather than permanently outside". In this case the siting of the additional mobile home will not result in the loss of any land currently used for pasture.*
- 6.10 Inappropriate development which would have a significant adverse impact on the Green belt.
Officer comment: *The site is not within the Green Belt. Furthermore, no designated green belt exists within the borough.*
- 6.11 As a residential development in open countryside the proposal fails to meet the test of the meaning of sustainable development.
- 6.12 Long Copse Lane is not a suitable location to accommodate the type and volume of traffic associated with the use, which includes large caravans and associated vehicles for towing. With no pavements in place the use will pose a danger to pedestrians and other road users - including horse riders and cyclists - as well as damaging the road and verges/ditches.
- 6.13 There are already a number of gypsy/traveller sites within the Westbourne area - further provision in the area would dominate the existing settled community leading to social tensions. It is not clear whether there is a need for further pitches - if so, these other sites might be capable of expansion. In addition, an approved, but not implemented gypsy site is up for sale in Cemetery Lane, Westbourne. The applicant should buy one of these plots, which are currently up for sale.
- 6.14 The site will cause severe environmental damage to an area of outstanding natural beauty on the edge of South Downs National Park (SDNP), and will involve the loss of wildlife habitat.
Officer comment: *The site does not lie within an AONB or the SDNP; the land principally the subject of the application lies adjacent to an intensively used paddock area and is not considered to involve the loss of wildlife habitat.*
- 6.15 Insufficient infrastructure (both physical and social) is in place to support the site.
- 6.16 Concern regarding generation and disposal of waste from the site.
- 6.17 Concern regarding management of the site.
- 6.18 Application may set precedent for further caravans to be proposed for the site.
Officer comment: *The current application is for one additional pitch only; any further pitches would require a separate planning permission.*
- 6.19 Proposals to deal with waste water and surface water run off are inadequate - risks of flooding of Long Copse Lane and contamination.
- 6.20 The Westbourne Neighbourhood Plan should be taken into consideration with the community Balance Policy, The Plan has gone through the Examination stage and therefore carries weight. The examiner looked at all available evidence and agreed that the number of GTTS pitches were becoming an issue and that development in and

around Westbourne should stop. (This policy is OA4 in the Westbourne Neighbourhood Plan) The Parish Council are awaiting it going before Full Council to gain approval before going on to referendum, this has been delayed due to CDC having to re-assess Habitat Regulations.

Officer comment: *The site is not within the Parish of Westbourne, or Chichester District Council. Furthermore, this is not adopted policy. As such it cannot be considered in this application.*

- 6.21 Approval of this application to extend the use of the site should not be countenanced when there is doubt over the lawfulness of the current uses and buildings on the site.
- 6.22 Character of buildings proposed is out of keeping with the majority of existing properties in Long Copse Lane.
- 6.23 The site is located within the 'zone of influence' of the Chichester and Langstone Harbours SPA where it has been identified that any net increase in residential development results in significant harm to the SPA due to increased recreational disturbance. The applicant has not made sufficient mitigation against such an impact.
Officer comment: *See Section 7(xii) below.*
- 6.24 Traveller status of applicants disputed.
Officer comment: *See Section 7(i) below*
- 6.25 The number of vehicles proposed to be associated with the development appears excessive when compared to normal parking standards.

7 Planning Considerations

- 7.1 In weighing the planning considerations arising from the proposal, and having regard to the relevant policies of the development plan and all other material considerations it is considered that the main issues arising from this application are:
- (i) Principle of development - including whether the resident of the site is a gypsy for the purposes of planning policy
 - (ii) What is the existing level of local provision for Gypsies and travellers and the identified need for permanent sites
 - (iii) Whether there is alternative accommodation available
 - (iv) The personal circumstances of the applicant but not whether they have local connections
 - (v) Whether this is an effective use of previously developed (brownfield), untidy or derelict land
 - (vi) Whether the site is suitable for the proposed use by virtue of any previous contamination
 - (vii) Impact upon the character and appearance of the area
 - (viii) Effect on the existing settled communities
 - (ix) Sustainability
 - (x) Impact upon residential amenity
 - (xi) Highway considerations
 - (xii) Ecological considerations
 - (xiii) Drainage
 - (xiv) Other matters
 - (xv) Human rights
- (i) Principle of development - including whether the resident of the site is a gypsy for the purposes of planning policy

- 7.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan (the Core Strategy and the Allocations Plan), unless material considerations indicate otherwise. The application site lies outside of the built-up area as defined by the Allocations Plan, and as such is in an area where new development would normally be restricted in line with the criteria of Policy AL2. The site is currently isolated from the nearby communities of Emsworth and Westbourne (in Chichester District), lying in the area between these two settlements. The NPPF confirms that Local Planning Authorities (LPA's) should avoid new isolated homes in the countryside unless there are special circumstances; these are considered in detail below.
- 7.3 'Gypsies and travellers' are defined in Annex 1 Planning Policy for Traveller Sites (PPTS). This sets out that the question to be asked when considering the 'nomadic habit of life' is not one of ethnicity but the activity of the persons claiming to be gypsies. It does not suffice to merely prove that a person is of gypsy stock; they must retain the nomadic habit of life; unless that person has ceased to travel for any of the reasons set out in Annex 1 of the PPTS.
- 7.4 The applicant has submitted with the application details of their personal circumstances and details of their gypsy/traveller status together with independent documentary evidence of the families travelling for work. The Gypsy Liaison Officer (GLO) has examined this information and interviewed the applicant. The information included that during his life the applicant, together with his family, has travelled widely for business / economic purposes. Evidence was also shown through historic film footage showing Mr Les Madgwick, the applicant, attending Appleby horse fair years ago with the wider family, this film footage showed the applicant living the traditional lifestyle in caravans and trailers. The applicant has advised that they still work away from home, with the work comprising a traditional Gypsy and Traveller horse trading lifestyle.
- 7.5 Further investigations by the GLO included making enquiries of the Traveller Liaison Officer in West Sussex who confirmed that the Madgwick family are well known in the West Sussex area and across the south east of the country as being of the Gypsy and Traveller community. The applicant also advised that the proposed site would be his home base, which would not solely be used as a place to commute to work and return home daily, but would be somewhere for his family to establish a settled lifestyle, whilst he is away.
- 7.6 In addition the Local Planning Authority have also taken into account that the applicant owns a property in Portsmouth. The GLO undertook an interview in order to understand the circumstances of this matter. The applicant advised that he currently owns and lives in a bricks and mortar property in the Portsmouth area together with his wife. However, it has been asserted by the applicant that over the last few years, they have had a growing aversion to bricks and mortar accommodation and wish to continue their traditional family and cultural lifestyles of living in a caravan / mobile home accommodation, and the associated nomadic lifestyle. Furthermore, the applicant has outlined that they wish to live on the same site as his family, so that they can be a family unit and provide mutual support for each other. The GLO has highlighted that he is aware of numerous Gypsy and Traveller housed families who have reverted to their traditional lifestyles and moved back into caravans / mobile homes after their offspring have grown up and left home. Evidence relating to the occupation of houses can have a bearing in terms of reaching a view on whether the applicant was practising a nomadic habit of life. However, even if the applicant has lived in a house for a period of time that alone would not fall foul of the definition of 'gypsies and travellers' as set out in the PPTS.
- 7.7 Determining this issue is a question of looking broadly at the life being led, and the applicant's background, based on the evidence available in order to reach a conclusion. Travelling does not have to be on a permanent or regular basis but needs to be of some substance, taking place in order to contribute to livelihood rather than for personal

enjoyment or socialising. Based on the evidence provided it is considered that the applicant has continued to travel for work and sets out that it is the intention to continue to do so. Therefore, on the evidence before the Local Planning Authority, the applicant has continued to travel for work and has not given up a nomadic habit of life. It is therefore considered that as a matter of fact and degree, that the applicant has not 'settled' in the sense of ceasing to travel and has a nomadic habit of life. As such it is considered that the applicant is a gypsy by definition as defined in Annex 1 of the PPTS (2015). Consequently, the policy regime applying to gypsies and travellers is engaged, which comprises the PPTS and policy CS10 of the Core Strategy, which are therefore material considerations in this application, and are considered below.

(ii) What is the existing level of local provision for Gypsies and travellers and the identified need for permanent sites

- 7.8 The PPTS expects that Local Planning Authorities when carrying out their plan making duties will set pitch targets for gypsies and travellers which address the likely permanent and transit accommodation needs in their area. As the evidence indicated at that time, based on the Travellers Accommodation Assessment for Hampshire 2013 which showed zero need in Havant Borough for gypsies and travellers, no site allocations specifically for gypsies or travellers were made in the Council's adopted Local Plan (Allocations) 2014. This is the basis on which the initial application APP/16/00021 was determined, and given that there was zero requirement at that time, it was refused partly on grounds that there was no identified need for gypsy and traveller sites within the borough at that time.
- 7.9 Since that time, with the change in the definition of gypsies and travellers made by the PPTS 2015 and the need to update the evidence base for the new Local Plan to 2036, a revised accommodation assessment was commissioned jointly with a number of other Hampshire local planning authorities. The Hampshire Consortium Gypsy, Traveller and Travelling Showpeople Accommodation Assessment 2016-2036 (May 2017) for Havant Borough references an interview conducted by the GLO in March 2017, which identified that the household living on the application site, considered under the previous planning applications, did meet the planning definitions for gypsy and travellers as set out in Annex 1 of the PPTS. It also identified that the household had links to the area and had no alternative accommodation. The outcome of this was that there was a need for 1 pitch – that need was met through the granting of planning permission in appeal under APP/16/01234.
- 7.10 The PPTS requires that local planning authorities "*identify and update annually, a supply of specific deliverable sites against their locally set targets*". While the policy approach through the adopted Local Plan (2011 & 2014) has previously been sound and justified with no allocation, the position changed following the publication of the 2017 GTAA, in that there was now a need to be addressed which represented a local 'target', which comprised the provision of 1 pitch in the borough. Whilst that need was met, the 2017 GTAA can only represent a 'snapshot in time' regarding need - as outlined above, the PPTS advises that the LPA needs to identify and update annually a supply of deliverable sites. Given that this applicant is a gypsy by definition and has local connections, this creates a further current need for provision of 1 pitch within the borough. Given that the Draft Local Plan 2036 is at an early stage and the lack of any other deliverable identified sites within the borough as a whole, consideration should be given to an appropriate site being granted permission. This would reduce the need for other sites, which could have a significant adverse impact on the landscape of the area. Given the available advice and evidence, it is considered that the granting of permission for a further pitch on this established gypsy/traveller site would address the current need for gypsy and traveller sites within the Borough. The combination of these factors weighs significantly in favour of the development.

(iii) Whether there is alternative accommodation available

- 7.11 The GLO has undertaken a site search and enquiries to other gypsy and traveller sites within this part of Hampshire and over the county boundary in West Sussex. The two former Hampshire County Council sites, which are now run privately in the south of the county have no vacant pitches. In terms of the sites in West Sussex, contact has been made with West Sussex County Council who now manage all the sites in the area, and it has been confirmed that there is currently one vacant pitch. However, there is a waiting list of 20 applicants for this one pitch, furthermore the applicant is not on the waiting list and it is considered highly unlikely that he would be eligible for this pitch.
- 7.12 It is noted that some representations to this application refer to other sites in Westbourne Parish being available and that these should be used first, before accepting the principle of an additional pitch on this site. These identified sites are private gypsy pitches, and some of these permissions remain to be implemented or completed. It is noted that a private site, containing 5 pitches is currently for sale in Cemetery Lane, on a plot by plot basis. The applicant has advised that the cost of these pitches, which varies from £250k - £300k, are cost prohibitive, and he would not be able to afford a plot in this location. In addition, the applicant has outlined that they wish to live on the same site as his family, so that they can be a family unit and provide mutual support for each other. Furthermore, as has been identified above, the need for an additional gypsy pitch is within the Borough of Havant. As such the Local Planning Authority needs to address meeting its own needs first, through identifying suitable site(s) for the gypsy/traveller community. It is only if it has been concluded after a robust assessment of sites in the Borough that there are no suitable sites for this community that the Duty to Cooperate is engaged. The assessment in this report considers if an additional pitch on this established gypsy/traveller site is acceptable in this location.

(iv) The personal circumstances of the applicant but not whether they have local connections

- 7.13 It is evident that the applicant has had some health issues and states that he is seeking to settle down with his wife together as a family unit with his son on the site. However, he remains able to work and does so. There is nothing before the Local Planning Authority to suggest that his medical condition is such that it requires ongoing medical attention or that he must live in special circumstances for his health. As such based on this evidence it is considered that the applicant's personal circumstances are not out of the ordinary. Therefore, they do not present any special or compelling needs at this time and as such no weight has been afforded to this matter in the overall planning balance of this application.

(v) Effective use of brownfield land

- 7.14 The application submission indicates that this proposal would make an effective use of brownfield land. However, it is not considered that it can reasonably be argued that the site is either untidy or derelict, and the principal area of land affected by the development proposed is not considered to constitute brownfield or previously developed land. Furthermore, the Inspector in the latest appeal on this site considered this issue, regarding Previously Development Land (PDL), and outlined *"that the provisions relating to PDL in Policy CS17 seem to me to apply only within the urban areas. The issue therefore has no bearing on the present appeal"*. As such the site is not considered to be brownfield or previously developed land and no weight has been afforded to this matter in the overall planning balance of this application.

(vi) Whether the site is suitable for the proposed use by virtue of any previous contamination

- 7.15 The site has been marked as greenfield land on mapping back to the earliest available

issue (1867). The land use proposed is equivalent in terms of sensitivity to a residential development with private garden area(s). The risk of a significant contamination source being present at this site is relatively low, but is not negligible. Agricultural land can be affected by contamination through import of construction and demolition wastes for stabilising access tracks etc., informal storage of agricultural vehicles and machinery, and informal disposal of waste by burning or burial (whether by landowner, or others by means of fly-tipping).

- 7.16 The contamination risks are considered to be sufficiently low that there is no requirement for intrusive site investigation to be required by condition. No objection has been raised to the application from the Council's Environmental Health team in this regard. An informative would be added to any approval to advise that if any contamination is found that the applicants would need to advise the Council's Environmental Health team.

(vii) Impact upon the character and appearance of the area

- 7.17 One of the core planning principles set out in the NPPF is to take account of the different roles and character of different areas by, amongst other matters, recognising the intrinsic character and beauty of the countryside. Policies CS11 and CS16 of the Core Strategy set out a range of criteria that new development should be able to demonstrate in order to protect the environment and heritage of the Borough and secure high quality and appropriate developments - chief amongst these is that new development should ensure that the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected, and to respond to and respect local context. Policy CS11 also expressly seeks to maintain the undeveloped gap between Emsworth and Westbourne.
- 7.18 The application site comprises part of a paddock, situated in a part of Long Copse Lane which lies beyond the settlement boundary. The current mobile home, allowed on appeal, is currently located just to the north of the existing stable block. Whilst an isolated dwelling lies adjacent to the site to the west, on all other sides the site adjoins open fields which are used for a variety of grazing and equestrian uses. Where buildings and structures appear in this landscape, these are related to these rural uses. The application site is located within Landscape Character Area 21 'Southleigh Forest' of the Havant Borough Townscape, Landscape and Seascape Character Assessment which describes the landscape as "*.....an open area of farmland.....consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division....*" In terms of openness/enclosure, prominence and visibility there is a particular reference to "*Views from the road out towards Westbourne across the open agricultural plain*" and the "*encroachment of urban character into adjacent rural areas*" is regarded as a key local issue for the landscape character area, where the strategy is to conserve and enhance local character.
- 7.19 In considering the impact of the site being used as a gypsy and traveller site, the Inspector in the previous appeal APP/16/00021 concluded that "*I accept that these structures are not likely to be reflective of nearby permanent dwellings, but the site's local context also includes agricultural buildings in a variety of materials, and to my mind the development would not be out of keeping with structures of this kind. I note that the existing stables development at the site has been carried out and maintained to a high standard, and there seems no reason why the same quality should not be achievable in the present proposal.*" The Inspector then concluded "*that the proposed development could be carried out with no more than a limited visual impact on views from public vantage points. As such, it would not materially affect the character or appearance of the landscape, or of the area generally. In this respect the scheme would not conflict with Policies CS11 or CS16.*" This appeal decision is a material consideration in determination of this application and case law requires that like cases should be considered in a like manner to allow for consistency in decision making.

- 7.20 The 'Planning Policy for Traveller Sites' (DCLG, August 2015) (PPTS) in paragraph 25 confirms that LPAs should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. However it must be recognised that the Local Plan Housing Statement (adopted in December 2016) and Draft Local Plan 2036 (published in January 2018) propose an area of development to the north of Long Copse Lane that will extend the settlement of Emsworth to the north and west of the application site. The identification of this neighbouring site for substantial residential development is a significant and material change since the determination of application APP/16/00021, which was originally for 2 pitches. It is considered that there is a difference in impact depending on whether a proposed site is in open countryside as opposed to being immediately adjacent to an existing built-up/urban area. While the development proposed in the Local Plan Housing Statement will take some time to bring forward, and there are uncertainties as to how it will affect Long Copse Lane for means of access, it is clear that it would reduce the openness of the countryside around the application site.
- 7.21 In its current context, it is accepted that the introduction of a further mobile home in combination with the existing would have some impact upon the character and appearance of the locality. It is also reasonable to assume that once an additional residence is established that more domestic paraphernalia would accumulate on the site, potentially further detracting from the openness of the location. To that end, however, views through to the existing static home from the main road are largely screened and have to be actively sought; it is not directly evident to users of the road, or passers by, that the site is being used as a gypsy site. Furthermore, the static home is of limited height, and from going along Long Copse Lane beyond the site entrance, the visible built form on the site would be to the west of the existing stables, which are set back approximately 4.5m from the southern boundary. From this viewpoint the top of the additional static home would be visible, however it would be largely screened by a combination of being set approximately 4 metres into the site, in combination with the existing boundary fencing, and the hedging located to the south of the fence. It is therefore considered that the views of the development that would be gained from Long Copse Lane would not be unduly intrusive or harmful. Furthermore, no public views of the site are available from the north or other directions.
- 7.22 It is also noted that the layout of the proposed development, in combination with the existing static home and stables, would ensure that all the built form is contained within one area of the overall site. It would relate reasonably well to this existing pattern of development and would not add to it significantly. As such, the proposed development would not encroach into the more sensitive landscape beyond the road frontage. In addition, it would not materially erode the gap between settlements or threaten coalescence.
- 7.23 Therefore, whilst it is accepted that the proposed additional static home would lead to some further harm to the openness of this countryside location, it is relatively well screened and is not out of keeping. In reaching this conclusion, account has been taken of the opportunity to introduce additional landscaping within and around the site, which is proposed to be secured by condition. Whilst native species are likely to take some time to establish, these would, in time, reinforce the well-established screening which already exists immediately outside the site, particularly on the southern boundary with Long Copse Lane. Much of the site would remain open and does not jar against the wider area. Furthermore, the site is not so enclosed that it gives the impression that it is deliberately isolated from the rest of the community; this is a matter that weighs in favour of the development as set out in paragraph 24 of the PPTS.

(viii) Effect on the existing settled communities

- 7.24 Westbourne Parish Council, the neighbouring parish council located within Chichester District Council area, has raised concerns about tensions between the travelling and settled communities, and maintaining a proper balance between them, given the increase in pitches of the last recent few years. It is acknowledged that it appears that the number of gypsy and traveller pitches and showmen's plots within this neighbouring parish has increased due to several applications for gypsy/traveller pitches, which have been allowed on appeal. As such a concentration of gypsy and traveller pitches is located around Cemetery Lane, which is located to the east of the village and approximately 1.6km from the application site.
- 7.25 It is acknowledged that these concerns have a basis within the national Planning Policy for Traveller Sites (the PPTS), which seeks amongst other things to reduce such tensions, and to ensure that sites within rural or semi-rural settings do not dominate nearby settled communities due to their scale. However, this site is located on the edge of Emsworth, which has many residential properties located along Long Copse Lane and with residential development continuing further to the south and west. This present proposal is for only one additional new pitch on this established site, and it must be considered on its merits. It is considered that, based on the evidence, the proposed development by itself or cumulatively would not dominate the existing nearby settled communities by reason of scale or in any other way so as to significantly harm social cohesion. As such it is considered that there would be no conflict with PPTS paragraph 25.

(xi) Sustainability

- 7.26 Regarding the sustainability and accessibility of the site, Long Copse Lane is a narrow rural lane with no footways or street lighting present in the vicinity of the site. To the south, the site lies over 1km from the nearest local shop and over 800m from the nearest bus service (this assuming the use of the unmade Redlands Lane). To the east the site lies approximately 700m from the nearest local shop and almost 600m from the nearest bus stop in Westbourne - this relying on a journey of almost 0.5km along Long Copse Lane before reaching the outskirts of that settlement. Notwithstanding these distances, in assessing the current application due regard has been given to the previous appeal decision where the Inspector commented on this issue that *"Local shops, schools and health facilities are available in Emsworth and Westbourne, and given the site's proximity to both of these settlements, I consider it well located in this respect. Other properties in Long Copse Lane are apparently served by refuse and recycling collections, and there is no reason why these could not also serve the appeal site."*
- 7.27 Furthermore it must be recognised that the Local Plan Housing Statement (adopted in December 2016) and Draft Local Plan 2036 (published in January 2018) propose an area of development to the north of Long Copse Lane that will extend the settlement of Emsworth to the north and west of the application site. As such given this change in context to the surrounding area, in combination with the previous appeal decision it would be difficult to justify a reason for refusal based on the site being unsustainable.

(x) Impact upon residential amenity

- 7.28 As discussed above, the application site currently lies in a largely rural setting, with only one isolated residential property, Hollybank Cottage, adjoining the site to the west. Thus, in terms of residential amenity it is only this property which is likely to be directly affected by the combined equestrian/two pitch gypsy and traveller site use applied for.
- 7.29 Hollybank Cottage is a two storey dwelling with a number of windows in its eastern elevation offering views over the application site. As such the further change in the character of the site described above will be fully appreciable to the occupiers of this property. At a more direct level, however, it must be acknowledged that the additional

static home would lie over 32m from the boundary with Hollybank Cottage and would be of a limited height (4m) in relation to this property. The curtilage of the static home is also separated from the boundary of Hollybank Cottage by an area of grassland, and the internal gravelled driveway. It is therefore not considered that there would be a harmful impact on Hollybank Cottage in terms of loss of privacy, overbearing impact or loss of light; nor need there be a significant loss of amenity through noise and disturbance arising from the residential occupation of the site given the separation distances and the fact that no business use is proposed relating to the pitches.

- 7.30 In addition the Inspector in the previous appeal concluded that *“Hollybank Cottage enjoys panoramic and attractive views from its side windows, over the appeal site, and across it to the countryside beyond. From this direction, the proposed development would be clearly visible. But, assuming the mobile home and caravan space were located roughly as now shown, these items would be over 30m away from the shared boundary, and nearer 40m from the house itself. As such, they would occupy only a small part of the overall view, alongside the existing stables and driveway. The existing wider views of the countryside would still remain.”* Overall on this point it is considered that the additional mobile home, in combination with the existing development on the site, would not appear unduly dominant when seen from Hollybank Cottage.

(xi) Highway considerations

- 7.31 In considering the highway issues arising from the application it is considered that two aspects need to be considered - firstly the ability of the site to accommodate the parking and turning movements associated with the proposed uses; and secondly the appropriateness of the site's location in terms of the access to it from the wider highway network when having regard to the ongoing intention of the applicants to continue to travel.
- 7.32 On the first issue it is considered that the submitted site layout plan satisfactorily demonstrates that the car parking, touring van storage and turning requirements associated with the combined equestrian/gypsy and traveller pitch use of the site can be accommodated on the site without prejudicing highway safety.
- 7.33 The submissions made on behalf of the applicant sets out the family's travelling background and reaffirms that it is their intention to continue to travel, and to that end provision is made in the application for one touring caravan to be stored within the site, which will have to be taken into and out of the site as the travelling lifestyle of the site's occupiers requires. Given the number of units, with regards to the number of pitches and touring caravans, the Development Engineer has reviewed the application and has noted the numbers of trips to be generated by an additional pitch. Guidance in the National Planning Policy Framework, outlines that proposals would have to have proven severe cumulative harm on the highway network, for applications to be refused. In addition, the Inspector in the previous appeal outlined on this matter that *“I saw on my visit that the appeal site has a safe access to the highway and ample parking and turning space. The traffic generated by one pitch would be well within the capacity of the local road network, and Long Copse Lane is more than adequate for that purpose.”* It is not considered that a further additional pitch, with the associated highway movements along Long Copse Lane, would have a severe adverse impact on the safety or free flow of the highway network, and as such it would be unreasonable to refuse the application on this matter.

(xii) Ecological considerations

- 7.34 The Council has conducted a Habitats Regulations Assessment (HRA) of the proposed development under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, this includes an Appropriate Assessment under Regulation 63. This is included in the case file. The screening under Regulation 63(1)(a) found that there was

likely to be a significant effect on Chichester and Langstone Harbours Special Protection Area due to the increase in recreation as a result of the development. The planning application was then subject to an Appropriate Assessment under Regulation 63. This assessment included a package of measures based on the suggested scale of mitigation in the Solent Recreation Mitigation Strategy and the applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package. The Appropriate Assessment concluded that this is sufficient to remove the significant effect on the SPAs which would otherwise have been likely to occur. The HRA was subject to consultation with Natural England as the appropriate nature conservation body under Regulation 63(3) who have confirmed that they agree with the findings of the assessment. The applicant has indicated a willingness to enter into a legal agreement to secure the mitigation package.

- 7.35 The applicants have made the necessary planning obligation and returned the associated paperwork. As such the appropriate financial contribution has been secured and the development complies with the mitigation requirements as set out in the Solent Recreation Mitigation Strategy.
- 7.36 With respect to other ecological matters, the application is supported by a Tree Survey, Arboricultural Impact Assessment and Tree Method Statement in light of the proximity of the development to TPO trees on the site. Having visited the site, the Arboriculturalist is satisfied that the development can be carried out without detriment to the health of the TPO trees.

(xiii) Drainage

- 7.37 A number of representations cite concerns that the development would have an adverse impact on the foul sewage network. The application proposes to utilise the existing cesspool, which was considered acceptable for the previous application and has sufficient capacity for an additional static home. As such it is considered that it has been demonstrated that the site can be suitably drained.

(xiv) Other matters

- 7.38 The objections raised by local residents and others concern various matters, including harm to outlook, reduction in privacy, potential noise disturbance, future use of the site, highway safety, sustainability and impact on local services.
- 7.39 It is acknowledged that the establishment of an additional gypsy pitch on the application site will affect those living nearby to some degree. However, it is considered that there is sufficient distance and vegetation between the nearest residential properties and the appeal site such that nearby residents will retain a reasonable outlook and level of privacy, and are not subject to undue noise disturbance.
- 7.40 Furthermore a planning condition restricting the use of the site to no more than four caravans, comprising two static mobile homes and two touring caravans, and restricting any commercial activities would ensure the use remains at the proposed low level of activity. There is no evidence to substantiate the concerns that the development has led to flooding in the locality and or that the development has compromised highway safety.
- 7.41 Representations received also refer to concerns that allowing the proposed development would set a precedent for similar development to take place on the adjoining land. However there is no substantiated evidence that any such development is proposed. Moreover any such proposals would have to be considered on their own merits having regard to adopted policy at the time and all other material considerations. This is not a reason to refuse permission for this scheme.

(xv) Human rights

7.42 In considering this application for a mixed use comprising equestrian yard and one pitch gypsy and traveller site, Human Rights considerations must be taken into account; in particular:

(a) Article 8 - right to respect for private and family life

8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.

8.2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

(b) Article 14 - prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

7.43 The Council must also have regard to Section 149 of the Equality Act 2010: 149 - Public sector equality duty, which states that:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.44 It is accepted that refusal of the planning application would constitute an interference with the applicant's rights under Article 8(1) and any decision should take into account the effects of that upon the applicant.

7.45 The refusal of this application would involve direct interference in his rights and the fact that there is little credible prospect of any further private gypsy site being permitted in the near future is also a consideration under Article 8. However, as the application is recommended for permission, there would be no interference with the statutory rights.

7.46 Article 14 concerns the prohibition of discrimination. The Council has worked in a proactive way to engage with the applicants in order to understand the personal circumstances. As such it is considered that the Council has had due regard to the duties concerning matters of equality. Thus, there is no infringement of the rights conveyed by Article 14.

7.47 Concern has been raised that by permitting this application it would be contrary to existing residents' human rights with particular reference to allowing a form of development which is contrary to policy, where general housing is restricted and with regard to the impact on the amenities of neighbouring properties. It is considered that given the safeguards provided by planning conditions and other legislation, no material interference with the residents' human rights has been established and there is no need to consider the matter further.

8 Conclusion - Overall planning balance

- 8.1 The development lies outside of the built up area and is not provided for in current adopted Local Plan policy - as a result the proposal is contrary to development plan policy. Although some weight must be attached to this start point for considering the proposal, it is tempered by the findings that any harmful impact is fairly localised, and the development would not unduly affect the character and appearance of the wider area.
- 8.2 Furthermore it has been identified that a number of material considerations weigh in favour of recommending permission, for which considerable weight should be attached. There is a current unmet need for one additional gypsy and traveller pitch in the Borough and it is unclear how other alternative sites would be identified and brought forward at this time. There are no alternative realistic sites currently available. This scheme would therefore meet the unmet need for gypsy and traveller sites within the Borough. With Policy CS10 of the Local Plan engaged, detailed assessment of the criteria listed in the Policy would indicate that residential amenity will not be unacceptably affected by the development; that the site has an adequate access and parking/turning arrangements; that traffic generation will not be at a scale which will appear inappropriate to the locality or cause a hazard; that the site is considered sustainable; and technical drainage requirements can be met by the existing infrastructure on site.
- 8.3 It is considered that these material considerations in favour of the scheme outweigh any harm identified and justify a permanent planning permission. Consideration has been given to whether a personal permission is necessary, as the applicant has outlined that they are willing to accept such a condition. However, in allowing the appeal under APP/16/00021 the Inspector concluded on this matter that: *"However, in the light of this condition, and given that on this basis I have found the development to accord with the relevant provisions of the development plan, there is no need for a further condition restricting the occupation to any specific individuals."* As such the existing pitch on the site is not restricted to any named individuals. It is therefore considered that it would not be reasonable to apply a personal condition on an additional pitch, giving the findings of the previous appeal.
- 8.4 In coming to this conclusion consideration has been given to the matter of a temporary planning permission which may be acceptable where there is an unmet need, no alternative provision, and a reasonable expectation that new sites are likely to become available at the end of the temporary period. However, given current uncertainties about the timetable for progression of the new Local Plan 2036 there remains considerable doubt as to when additional sites will be identified and made available. Given the lack of a clear timetable or reasonable expectation of a change in circumstances within a definite and foreseeable period, a temporary permission would not be justified in this case. Furthermore, this additional pitch would make efficient use of the land, for what is already an existing established gypsy pitch.
- 8.5 In overall conclusion, it is considered that there are compelling grounds for granting permanent planning permission subject to various conditions. Having considered all other matters raised by objectors, it is considered that these are not of sufficient weight to lead to a different conclusion on this application and the application is therefore recommended for permission.

Conditions

- 8.6 The need for conditions has been considered in the light of the advice contained in Planning Practice Guidance. Occupation of the site is to be restricted to gypsies and travellers, in accordance with the definition given in PPTS, based on identified need sufficient to clearly outweigh other considerations. Furthermore, the previous appeal decision on this site, has been considered and this recommendation utilises the relevant conditions from this decision.

- 8.7 In addition, the permission will be limited to two pitches with no more than two static mobile home/caravans and two touring caravans to limit the impact of the development. Commercial activities and the parking of larger commercial type vehicles will not be permitted so as to safeguard the character and appearance of the area and the amenities of neighbouring properties.
- 8.8 Details of the proposed static home would be necessary given glimpses of it would be seen above the front boundary fencing of the site and the opportunity to secure additional planting.
- 8.9 A condition is required regarding removing permitted development rights for any building, structures, boundary treatment and any hardstanding. Any future suburban style walls, fences and hardstanding could harm the character and appearance of this site, which could serve to highlight its built-up nature in this countryside location. Given permanent planning permission is recommended it is considered reasonable for the Local Planning Authority to retain control over the site in this respect.
- 8.10 Additional landscaping is required and would be secured through an appropriate condition, to also include revised details of tree protection. Furthermore control on external lighting is required, as there is no significant street lighting in the locality and areas of darkness at night is part of the rural character of the area and, given its proximity to the South Downs National Park, is required to protect the rural appearance of the area.
-

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/18/00929 subject to the following conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of 'Planning policy for traveller sites'.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.
- 3 There shall be no more than 2 pitches on the site and no more than 4 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 2 shall be static caravans.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect

the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.

- 4 No commercial activities shall take place on the site, including the storage of materials.
Reason: To protect the amenities of neighbouring residential properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 5 No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
Reason: To protect the amenities of neighbouring residential properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure or areas of hardstanding other than those shown on the approved site development scheme shall be erected on the site.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.
- 7 No above ground construction works shall take place until a Site Development Scheme has been submitted to and approved in writing by the Local Planning Authority. The Site Development Scheme shall include details of:
 - (a) full details of hard and soft landscape works including planting plans; written specifications (stating cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities,
 - (b) all boundary treatments;
 - (c) all parking and hardstanding areas;
 - (d) all external lighting;
 - (e) cladding materials for the mobile home, such details shall include the type, colour and texture of the materials.

The approved Scheme shall be carried out in full, and completed prior to the occupation of the development hereby approved. Following the implementation of the approved Site Development Scheme, the works thus carried out shall thereafter be retained and maintained, and shall remain in use throughout the lifetime of the development.

Reason: To ensure the development does not have a significant adverse impact on the character and setting of the area in accordance with policies CS10, CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 8 The development hereby permitted shall be carried out in accordance with the

following approved plans:

LOCATION PLAN Drawing No. 000

01297/2C REV FEB 17 PROPOSED SITE PLAN

MOBILE HOME ELEVATIONS AND FLOOR PLAN Drawing No. 200

PROPOSED UTILITY BUILDING PLANS AND ELEVATIONS.

01297-5 REV1 EXISTING STABLES

Arboricultural Report Prepared by Jonathan Rodwell Date October 2018 –

Beechdown ref: B/0202/18

Reason: - To ensure provision of a satisfactory development.

Appendices:

- (A) Location Plan
- (B) Approved block plan pursuant to APP/16/00021
- (C) Proposed block plan
- (D) Mobile home floor plan and elevations
- (E) Appeal Decision for application APP/16/00021

Supplementary Planning Information

**HAVANT BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE
13 December 2018**

I am now able to enclose, for consideration by the Development Management Committee on 13 December 2018, the following supplementary planning information that was unavailable when the agenda was printed.

Agenda No Item

4	Site Viewing Working Party Minutes	1 - 2
----------	---	--------------

To receive the minutes of the Site Viewing Working Party held on 6 December 2018

9(1)	APP/18/00929 - Southdown View, Long Copse Lane, Emsworth	3 - 8
-------------	---	--------------

Proposal: Change of use of the site to a mixed use comprising private equestrian yard and siting of additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller site. Provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space.

Associated Documents - <https://tinyurl.com/y6v88lop>.

This page is intentionally left blank

HAVANT BOROUGH COUNCIL

At a meeting of the Site Viewing Working Party held on 6 December 2018

Present

Councillor: Buckley (Chairman)

Councillors: Keast, Lloyd and Patrick

Officers: Nicholas Rogers, Democratic Services Officer
Steve Weaver, Development Management Team Leader

70 Apologies

Apologies for absence were received from Councillors Satchwell, Howard, Crellin and Lowe.

71 Minutes

The minutes of the meeting of the Site Viewing Working Party held on 11 October 2018 were agreed as a correct record.

72 Declarations of Interests

There were no declarations of interest.

73 APP/18/00929 - Southdown View, Long Copse Lane, Emsworth

Proposal: Change of use of the site to a mixed use comprising private equestrian yard and siting of additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller site. Provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space.

The site was viewed as the application was contrary to the provisions of the adopted development plan. In addition, this application had been referred to the Development Management Committee by a Ward Councillor.

The Working Party received a written report by the Head of Planning, which identified the following key considerations:

- (i) Principle of development – including whether the resident of the site is a gypsy for the purposes of planning policy;
- (ii) What is the existing level of local provision for gypsies and travellers and the identified need for permanent sites;
- (iii) Whether there is alternative accommodation available;

- (iv) The personal circumstances of the applicant but not whether they have local connections;
- (v) Whether this is an effective use of previously developed (brownfield), untidy or derelict land;
- (vi) Whether the site is suitable for the proposed use by virtue of any previous contamination;
- (vii) Impact upon the character and appearance of the area;
- (viii) Effect on the existing settled communities;
- (ix) Sustainability;
- (x) Impact upon residential amenity;
- (xi) Highway considerations;
- (xii) Ecological considerations;
- (xiii) Drainage;
- (xiv) Other matters; and
- (xv) Human rights.

The Working Party viewed the site, the subject of the application, to assess whether there were any additional matters that should be considered by the Development Management Committee.

RESOLVED that, based on the site inspection and information available at the time, the following additional information be provided to the Development Management Committee:

- a) Confirmation on the ownership of the grass verge on Long Copse Lane to the south of the application site, and therefore where any landscaping may be placed.

The meeting commenced at 1.30 pm and concluded at 2.30 pm

.....
Chairman

ADDENDUM

DEVELOPMENT MANAGEMENT COMMITTEE
DATE 13th December 2018

Item 9 (1)

Southdown View, Long Copse Lane, Emsworth

Updated 10th December 2018.

Updates

Following the Site Viewing Working Party amended plans have been received which have revised the red edge of the application site, to ensure that it is constant with the previous applications and contains land within the ownership of the applicant. The amended plans are attached to this update and consist of:

Location Plan - Drawing No.000 Revision 1 dated 06.12.2018

Proposed Block Plan - Drawing No.002 Revision 1 dated 06.12.2018

As set out in the Site Viewing working party minutes, the members requested that the following additional information be provided to the Development Management Committee:

- a) Confirmation on the ownership of the grass verge on Long Copse Lane to the south of the application site, and therefore where any landscaping may be placed.

The grass verge on Long Copse Lane to the south of the application site is not within the ownership of the applicant. Therefore, landscaping can be placed inside the fence line adjacent to the southern boundary, this is likely to consist of the planting of trees, which will aim to filter the views of the development.

9. RECOMMENDATION

As per the recommendation on page 37-39 of the agenda report, with the following variation to conditions 8 plans, to take into account the amendments outlined above:

- 8 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing No.000 Revision 1 dated 06.12.2018

Proposed Block Plan - Drawing No.002 Revision 1 dated 06.12.2018

MOBILE HOME ELEVATIONS AND FLOOR PLAN Drawing No. 200

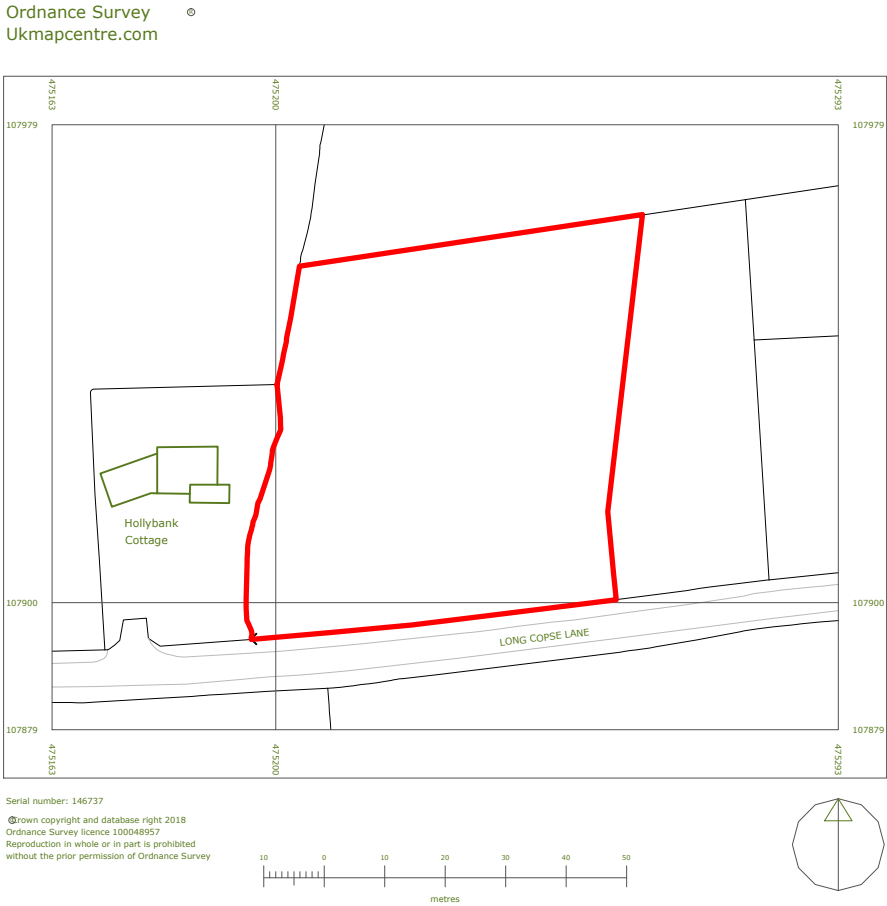
PROPOSED UTILITY BUILDING PLANS AND ELEVATIONS.

Arboricultural Report Prepared by Jonathan Rodwell Date October 2018 –

Beechdown ref: B/0202/18

Reason: - To ensure provision of a satisfactory development.

This page is intentionally left blank



Location Plan

1:1250

Address

Land To The Rear Of
Hollybank Cottage, Long
Copse Lane, Emsworth
PO10 7UR

Drawing

Location Plan

Scale @ A3

1:1250

Date

06.12.2018

Issue Date

06.12.2018

Drawn By

MD

Checked By

BK

Job No.

180912

Drawing No.

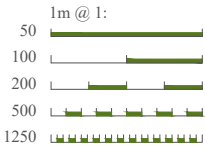
000

Revision

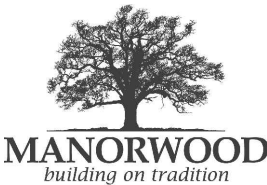
1

Status

PLANNING

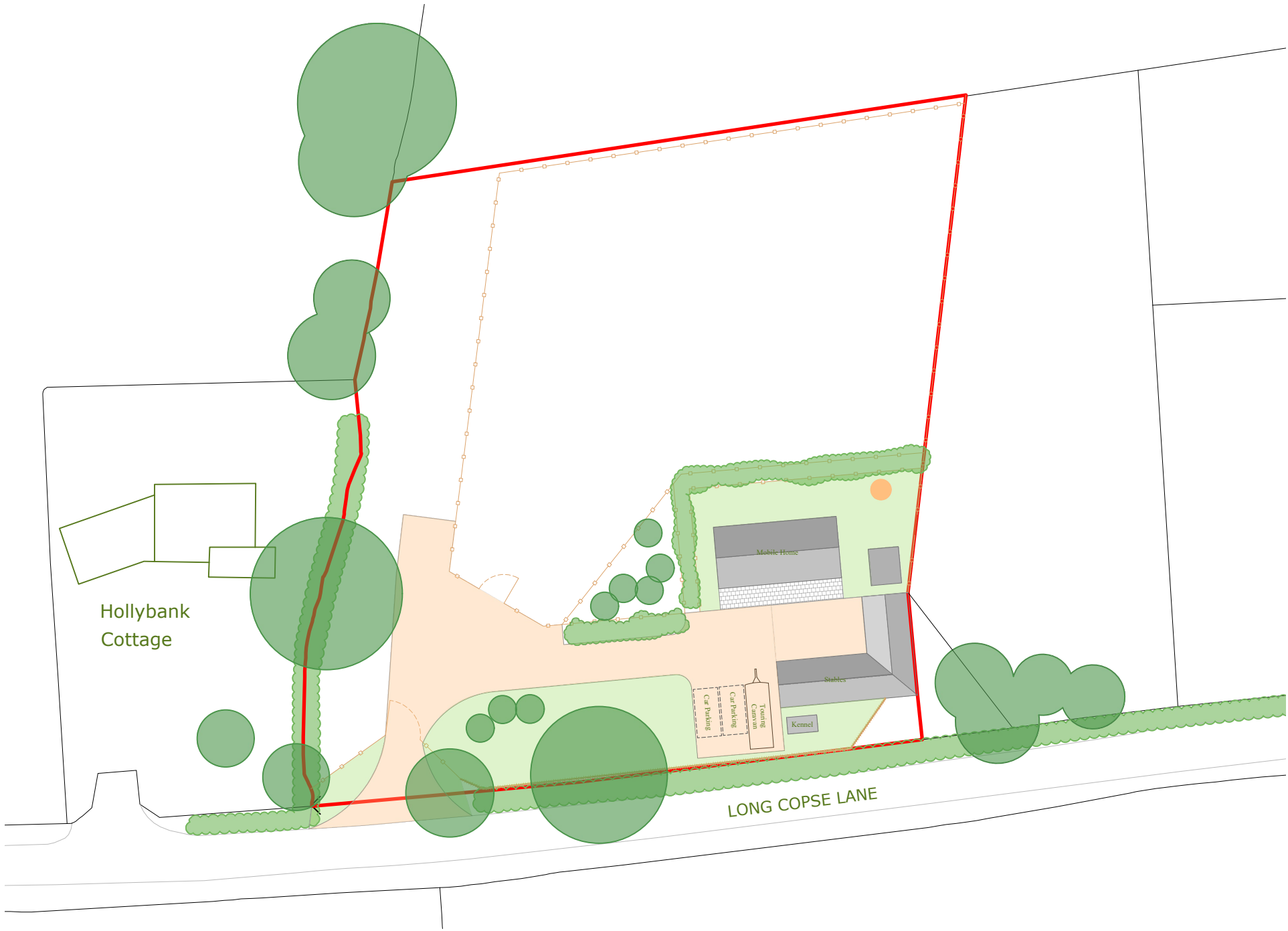


tel: 01243 201 102
email: enquiries@manorwood.co.uk
web: www.manorwood.co.uk



Studio 5
Chilgrove Business Centre
Chilgrove
Nr Chichester
West Sussex
PO18 9HU

This drawing is the copyright of Manorwood Construction Ltd.
Do not scale from this drawing except for Local Authority planning purposes
All dimensions must be checked on site prior to commencement of works



Approved Block Plan
1:500

Address
Land To The Rear Of
Hollybank Cottage, Long
Copse Lane, Emsworth
PO10 7UR

Drawing
Approved Block Plan

Scale @ A3
1:500

Date
06.12.2018

Issue Date
06.12.2018

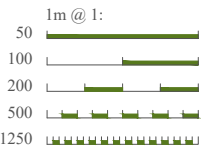
Drawn By MD	Checked By BK
----------------	------------------

Job No.
180912

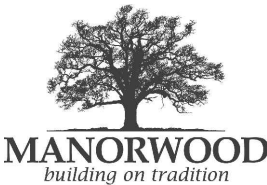
Drawing No.
001

Revision
1

Status
PLANNING

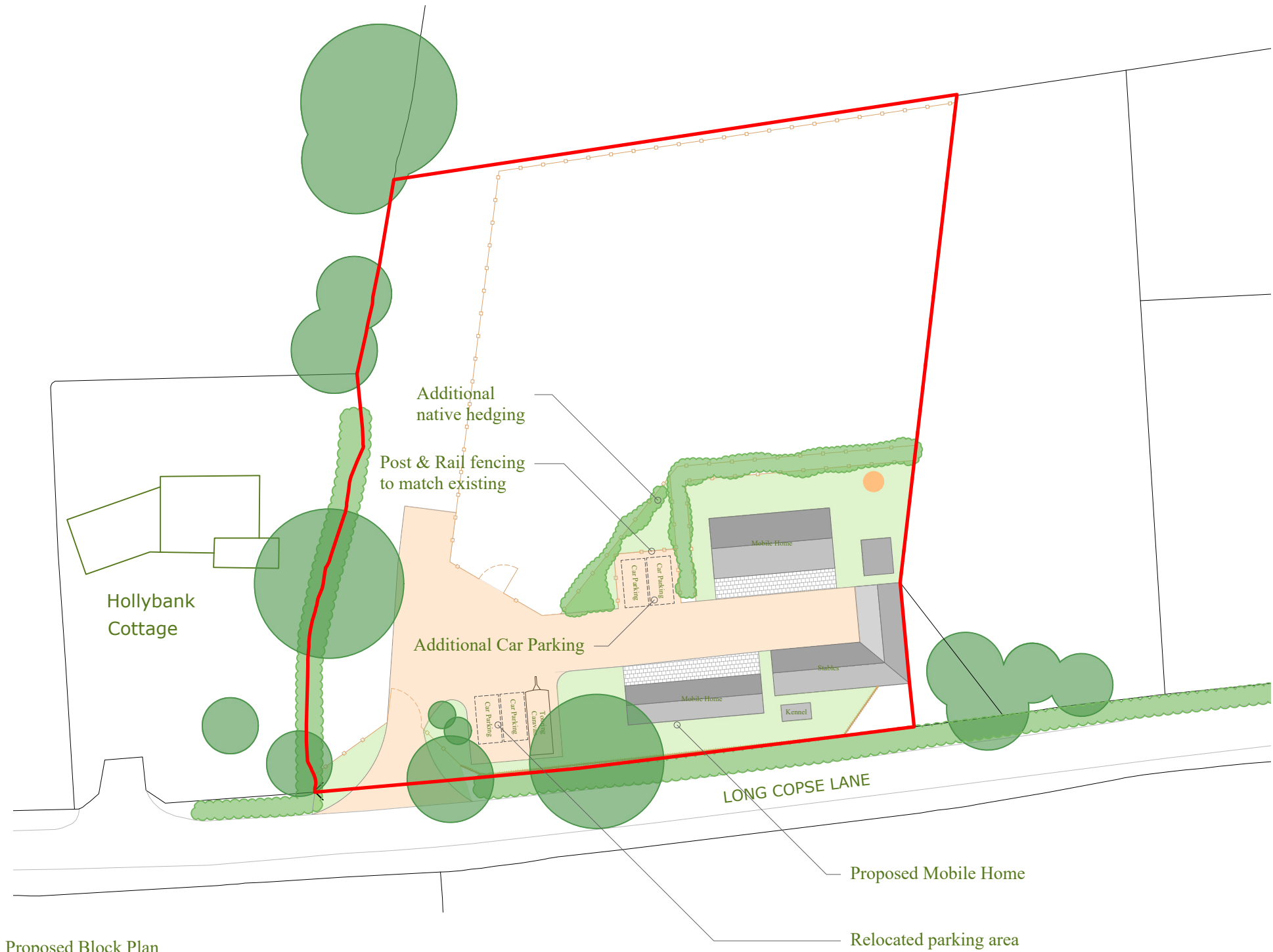


tel: 01243 201 102
email: enquiries@manorwood.co.uk
web: www.manorwood.co.uk



Studio 5
Chilgrove Business Centre
Chilgrove
Nr Chichester
West Sussex
PO18 9HU

This drawing is the copyright of Manorwood Construction Ltd.
Do not scale from this drawing except for Local Authority planning purposes
All dimensions must be checked on site prior to commencement of works



Proposed Block Plan
1:500

Address
Land To The Rear Of
Hollybank Cottage, Long
Copse Lane, Emsworth
PO10 7UR

Drawing
Proposed Block Plan

Scale @ A3
1:500

Date
06.12.2018

Issue Date
06.12.2018

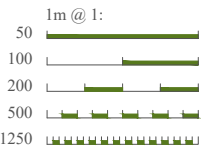
Drawn By MD	Checked By BK
----------------	------------------

Job No.
180912

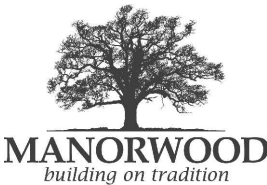
Drawing No.
002

Revision
1

Status
PLANNING



tel: 01243 201 102
email: enquiries@manorwood.co.uk
web: www.manorwood.co.uk



Studio 5
Chilgrove Business Centre
Chilgrove
Nr Chichester
West Sussex
PO18 9HU

This drawing is the copyright of Manorwood Construction Ltd.
Do not scale from this drawing except for Local Authority planning purposes
All dimensions must be checked on site prior to commencement of works

This page is intentionally left blank

Appendix 3



Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

T 023 9247 4174
F 023 9248 0263

www.havant.gov.uk

To:
Mr Kirk
Manorwood
Unit 5
Chilgrove Business Centre
Chilgrove
Chichester
PO18 9HU

For: Mr Madgewick

**The Town and Country Planning (Development Management Procedure) (England)
Order 2015
Refusal of Planning Permission**

Application Number: APP/18/00929

Site Address: Southdown View, Long Copse Lane, Emsworth

Proposal: Change of use of the site to a mixed use comprising private equestrian yard and Siting of additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller site. Provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space.

Further to your application received on 14 September 2018, which was valid from 26 October 2018, Havant Borough Council, as Local Planning Authority, **Refuses Planning Permission** for the above proposal.

The reason for the Council's decision to refuse planning permission is:

- 1 The site lies within a rural area where the stationing and use of additional individual caravans for residential purposes is contrary to the policies of the Local Planning Authority and represents a form of development which is likely to be detrimental to the rural character and to the visual amenity of the area and the amenities of conventional residential properties in the vicinity. The proposal is therefore contrary to policies CS11, CS16 and CS17 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Local Plan (Allocations) 2014, Paragraph 26 of the Planning Policy for Traveller Sites 2015 and the National Planning Policy Framework 2018.

In coming to its decision the Council considered plans and other documents submitted with regard to your application and the relevant policies of the Havant Borough Local Plan and other planning policy documents including the National Planning Policy Framework 2018.

Our Ref: APP/18/00929

Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Planning Inspectorate, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council. See www.planningportal.gov.uk/pes

Simon Jenkins

Simon Jenkins
Head of Planning (East Hampshire and Havant)

18 December 2018

Appendix 4

Habitat Regulation Assessment (HRA) Screening Matrix and Appropriate Assessment Statement

PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations. However, it is the responsibility of the applicant to provide the Competent Authority with the information that they require for this purpose.

HRA drafting date:	1/11/18
HRA completion date:	15/11/18
Application reference:	APP/18/00929
Application address:	Southdown View, Long Copse Lane, Emsworth
Application description:	Siting of additional 1No mobile home to enable a total of 2No mobile homes on site for private gypsy and traveller site. Provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site and retention of touring caravan space.
Lead Planning Officer:	Lewis Oliver
Please note that all references in this assessment to the 'Habitats Regulations' refer to The Conservation of Habitats and Species Regulations 2017.	

Stage 1 - details of the plan or project

European site potentially impacted by planning application, plan or project:	Chichester & Langstone Harbours Special Protection Area (SPA) and Ramsar site.
Is the planning application directly connected with or necessary to the management of the site (if yes, Applicant should have provided details)?	No. The development consists of an increase in residential dwellings, which is neither connected to nor necessary to the management of any European site.
Are there any other projects or plans that together with the planning application being assessed could affect the site?	Yes. All new housing development within 5.6km of the Solent SPAs is considered to contribute towards an impact on site integrity as a result of increased recreational disturbance in combination with other development in the Solent area. The PUSH Spatial Position Statement (https://www.push.gov.uk/work/planning-and-infrastructure/push-position-statement/) sets out the scale and distribution of housebuilding which is being planned for across South Hampshire up to 2034.

Stage 2 - HRA screening assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/SAC/Ramsar.

The proposed development is within 5.6km of Chichester & Langstone Harbours SPA/Ramsar. In accordance with advice from Natural England and as detailed in Policy DM24 of the adopted Havant Borough Local Plan (Allocations), Policy E16 of the Draft Havant Borough Local Plan 2036 and the Solent Recreation Mitigation Strategy, a net increase in housing development within 5.6km of the Solent SPAs is likely to result in impacts to the integrity of those sites through a consequent increase in recreational disturbance.

Development within the 5.6km zone will increase the human population at the coast and thus increase the level of recreation and disturbance of bird species. The impacts of recreational disturbance (both at the site-scale and in combination with other development in the Solent area) are analogous to impacts from direct habitat loss as recreation can cause important habitat to be unavailable for use (the habitat is functionally lost, either permanently or for a defined period). Birds can be displaced by human recreational activities (terrestrial and water-based) and use valuable resources in finding suitable areas in which to rest and feed undisturbed. Ultimately, the impacts of recreational disturbance can be such that they affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

Would the proposal lead to a likely significant effect on European site integrity? YES

(If yes, continue to Stage 3).

Stage 3 - Appropriate Assessment

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

The project being assessed would result in a net increase of dwellings within 5.6km of the Solent SPAs. In line with Policy DM24 of adopted Havant Borough Local Plan (Allocations), Policy E16 of the Draft Havant Borough Local Plan 2036 and the Solent Recreation Mitigation Strategy, a permanent significant effect on the Solent SPAs due to increase in recreational disturbance as a result of the new development, is likely. As such, in order to lawfully be permitted, the development will need to include a package of avoidance and mitigation measures.

Havant Borough Council formally adopted the Solent Recreation Mitigation Strategy in February 2018. The SRMP provides a strategic solution to ensure the requirements of the Habitats Regulations are met with regard to the in-combination effects of increased recreational pressure on the Solent SPAs arising from new residential development. This strategy represents a partnership approach to the issue which has been endorsed by Natural England.

As set out in the Solent Recreation Mitigation Strategy, an appropriate scale of mitigation for this scheme would be:

Size of units	Scale of mitigation per unit	Amount proposed in this scheme	Cost
1 bedroom	£337.00	0	£0.00
2 bedroom	£487.00	1	£487.00
3 bedroom	£637.00	0	£0.00
4 bedroom	£749.00	0	£0.00
5 bedroom	£880.00	0	£0.00

Monitoring fee¹ for this scheme: £24.35

Administration fee² for this scheme: £20.00

TOTAL AVOIDANCE AND MITIGATION PACKAGE: £531.35

¹Monitoring fee is 5% of total mitigation cost

²Administration fee is £20 per application

Policy E16 of the Havant Borough Draft Local Plan 2016 sets out HBC's approach to securing the appropriate mitigation measures to address the in-combination impact of increased recreational disturbance arising from increased housing development. It states:

"Planning permission will be granted for residential development resulting in a net increase in population that mitigates a likely significant effect on the Solent SPAs"

A legal agreement will be necessary to secure the mitigation package. Without the security of the mitigation being provide through a legal agreement, a significant effect would remain likely. As long as such a legal agreement is secured through the planning process, the proposed development will not affect the status and distribution of key bird species and therefore act against the stated conservation objectives of the European sites.

Stage 4 – Summary of the Appropriate Assessment (To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Having concluded that the application will have a likely significant effect in the absence of avoidance and mitigation measures on the above European and Internationally protected sites, this represents the authorities Appropriate Assessment as Competent Authority in accordance with requirements under Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the NERC Act 2006 to the purpose of conserving biodiversity. Consideration of the Ramsar site/s is a matter of government policy set out in the National Planning Policy Framework 2012.

The authority has concluded that the adverse effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the Solent Recreation Mitigation Strategy. The authority's assessment is that the application complies with this strategy and that it can therefore be concluded that there will be no adverse effect on the integrity of the designated sites identified above.

Natural England Officer: Rachel Clemson

Summary of Natural England's comments:

No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. Provided the applicant is fully compliant with the Solent Recreation Mitigation Partnership Definitive Strategy and an appropriate planning condition or obligation is attached to any planning permission to secure the contributions towards this mitigation measure, Natural England is satisfied that the applicant has mitigated against the potential adverse effects of recreational disturbance on the integrity of the European site(s).

Appendix 5

ADVICE ON ACHIEVING NUTRIENT NEUTRALITY FOR NEW DEVELOPMENT IN THE SOLENT REGION

for Local Planning Authorities

SECTION 1 INTRODUCTION

- 1.1 The water environment within the Solent region is one of the most important for wildlife in the United Kingdom. The Solent water environment is internationally important for its wildlife and is protected under the Water Environment Regulations¹ and the Conservation of Habitats and Species Regulations² as well as national protection for many parts of the coastline and their sea.³ There are high levels of nitrogen and phosphorus input to this water environment with sound evidence that these nutrients are causing eutrophication at these designated sites. These nutrient inputs are currently caused mostly by wastewater from existing housing and agricultural sources. The resulting dense mats of green algae are impacting on the Solent's protected habitats and bird species.
- 1.2 There is uncertainty as to whether new growth will further deteriorate designated sites. This issue has been subject to detailed work commissioned by local planning authorities (LPAs) in association with Natural England, Environment Agency and water companies. This strategic work, which updates early studies, is on-going. Until this work is complete, the uncertainty remains and the potential for future housing developments across the Solent region to exacerbate these impacts creates a risk to their potential future conservation status.
- 1.3 One way to address this uncertainty is for new development to achieve nutrient neutrality. Nutrient neutrality is a means of ensuring that development does not add to existing nutrient burdens and this provides certainty that the whole of the scheme is deliverable in line with the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended).
- 1.4 This report sets out the planning and environmental context for this nutrient neutral approach as well as a practical methodology to calculating how nutrient neutrality can be achieved. This methodology is based on best available scientific knowledge, and will be subject to revision as further evidence is obtained.
- 1.5 It is Natural England's advice to local planning authorities and applicants to be as precautionary as possible when addressing uncertainty and calculating nutrient budgets. Using a precautionary approach to the calculations and solutions gives the local planning authority and applicants the certainty needed for their assessments.

¹ The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

² Conservation of Habitats and Species Regulations (England and Wales) Regulations 2017 (as amended)

³ Including Wildlife and Countryside Act 1981 as amended, Countryside and Rights of Way Act 2000, Marine and Coastal Access Act 2009, Natural Environment and Rural Communities Act 2006

SECTION 2 PLANNING CONTEXT

Integrated Water Management Studies

- 2.1 In 2016, an Integrated Water Management Study (IWMS) for South Hampshire was commissioned by the Partnership for Urban South Hampshire (PUSH) Authorities, with the Environment Agency and Natural England. This examined the delivery of development growth in relation to legislative and government policy requirements for designated sites and wider biodiversity. It updated an earlier study in 2008. Similar studies have also been undertaken for Chichester Harbour and growth in Sussex (2018) though this study was largely for Water Framework Directive assessments.
- 2.2 The IWMS for South Hampshire was completed in March 2018 and identified that there is currently uncertainty as to whether new housing growth can be accommodated without having a detrimental effect upon the water environment.
- 2.3 The updated IWMS report in March 2018 concluded that there is uncertainty about the impact of local plan growth on the designated sites, especially after 2020. There was uncertainty about the efficacy of catchment measures to deliver the required reductions in nitrogen levels, and/or whether the upgrades to wastewater treatment works will be sufficient to accommodate the quantity of new housing proposed.
- 2.4 To examine this issue further, local planning authorities set up a Water Quality Working Group in South Hampshire to add to the one already in existence for Chichester with the Environment Agency, Natural England and water companies. The objectives of these groups include identifying and analysing the existing evidence gaps and evaluating the need for strategic mitigation measures. The primary focus of this work is to address the uncertainty associated with strategic local plan growth.

Natural England's position

- 2.5 Following completion of the IWMS in March 2018, Natural England has been advising that larger development (in excess of 200-300 houses), including all EIA development, should calculate a nutrient budget and achieve nutrient neutrality. As larger schemes are phased over many years, there was a risk that mitigation would be required in the later stages of the project after 2020. Early consideration of the issues ensures that any potential risks are addressed at the outset and provides the applicant with confidence that the development is deliverable.
- 2.6 During the summer of 2018, a detailed review of the condition of designated sites in the Solent harbours was undertaken (see next section). The best available up-to-date evidence has identified that some designated sites are in unfavourable condition due to existing levels of nutrients and unfavourable conservation status. These sites are therefore at risk from additional nutrient inputs.
- 2.7 It is Natural England's view that there is a likely significant effect on the internationally designated sites (Special Protection Areas, Special Areas of Conservation, potential Special Protection Areas) due to the increase in wastewater from the new developments coming forward.
- 2.8 The uncertainty about the impact of new development on designated sites needs to be recognised for all development proposals that are subject to new planning

permissions and have inevitable wastewater implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

- 2.9 Where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an “appropriate assessment”) the implications of the proposal in view of the conservation objectives for the European site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites.
- 2.10 Natural England advises that the wastewater issue is examined within appropriate assessments and that the existing nutrient and conservation status of the receiving waters be taken into account.
- 2.11 LPAs and applicants will be aware of recent CJEU decisions regarding the assessment of elements of a proposal aimed toward mitigating adverse effects on designated sites and the need for certainty that mitigating measures will achieve their aims. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens.

Joint working

- 2.12 The Water Quality Working Groups draw together expertise from local planning authorities, Environment Agency, Natural England and the water companies to examine this uncertainty further and progress an approach that ensures that development can progress in a timely manner whilst ensuring the requirements of the Habitats Regulations are met.
- 2.13 The Habitats Regulations require any uncertainty to be appropriately recognised and addressed. It is the Local Planning Authority, as competent authority under the provisions of the Habitats Regulations, which requires the evidence and certainty to undertake the appropriate assessment in order to fully assess the implications of the proposal in view of the conservation objectives for the international site in question.
- 2.14 Natural England is working closely with local planning authorities to progress options that achieve nutrient neutrality. It is appreciated that this may be difficult for smaller developments, developments on brownfield land or developments that are well-progressed in the planning system.
- 2.15 Natural England has advised affected local planning authorities to set up Borough-wide or strategic approaches that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications and is working closely with affected local planning authorities to help address this issue.

SECTION 3 ENVIRONMENTAL CONTEXT

Designated sites review

- 3.1 During 2018, Natural England assessed designated site condition in the Solent harbours to evaluate the levels of nitrogen within the water environment and the associated impact on designated sites. Detailed assessments are available on Defra's [Magic Map](#). An updated review is complete for designated sites in Hampshire and Chichester Harbour. The review of the estuaries on the Isle of Wight is on-going.
- 3.2 This assessment revised and updated the condition assessment for estuarine water quality in relation to the interest features of the designated sites. It examined the recorded levels of nitrogen in the harbours and compared this with evidence of phytoplankton and macroalgae, specifically the percentage cover of dense opportunistic green macroalgae. A brief summary of the condition classes follows.

Unfavourable no change

- 3.3 This work identified that there are sections of the designated sites in the Solent that are unfavourable for the interest features on the weight of evidence of elevated levels of inorganic nitrogen and biological indication of eutrophication shown by the abundance of macroalgae. Where sites are recorded as unfavourable, the percentage cover of opportunistic green macroalgae is greater than 75%. There is also poor evidence of a reducing nutrient status that would be adequate to substantially prevent the growth of dense macroalgae mats.
- 3.4 There are unfavourable (no change) units within the following harbours: Solent and Southampton Water, Portsmouth Harbour, Chichester Harbour. In addition there is a more detailed, follow-on assessment, to review trends in the interest features of Chichester Harbour that is ongoing. This study is determining if there is evidence of improving trends, of no change or if the Harbour condition is declining.

Unfavourable recovering

- 3.5 The review identified that there are parts of Langstone Harbour where the water environment of the unit is assessed as unfavourable for the interest features on the weight of evidence on inorganic nitrogen and biological indication of eutrophication shown by the abundance of macroalgae (>75% cover density), but recovering on the basis of a large reduction in nutrient inputs through diversion of wastewater. The unit is considered 'at risk' of not recovering to a favourable situation on the water environment as it is unclear whether the nutrient status will become adequate to substantially prevent the growth of dense macroalgae mats in parts of the harbour.
- 3.6 There are unfavourable (recovering) units within the following harbours: Langstone Harbour.

Favourable – high risk

- 3.7 Some sections of the designated sites in the Solent are in favourable condition but this is borderline and these areas are at high risk. At these sites, there is not generally a dense cover of opportunistic green macroalgae (>75% cover density) but dense mats occur elsewhere and the harbour overall fails to achieve WFD Good status on macroalgae. There is elevated levels of inorganic nitrogen at these locations and there is a future risk of failing a favourable situation on the water environment. This is because it is unclear whether the nutrient status is adequate to substantially prevent the growth of dense macroalgae mats in parts of these harbours if there is change in environmental conditions.
- 3.8 There are favourable (high risk) units within the following harbours: Solent and Southampton Water, Portsmouth Harbour, Chichester Harbour, Langstone Harbour.

Catchment work

- 3.9 The high levels of nitrogen and phosphorus input to the water environment is currently caused by wastewater from existing housing and agricultural sources. There are a number of mechanisms already in place to reduce the amount of nutrient inputs within our rivers and coastal waterbodies.
- 3.10 Within the river catchments; Defra's Catchment Sensitive Farming (CSF) programme works with agriculture to reduce diffuse sources of pollution such as fertiliser and slurry run-off. One of the aims of this work is to deliver environmental benefits from reducing diffuse water pollution. To achieve these goals CSF delivers practical solutions and targeted support which should enable farmers and land managers to take voluntary action to reduce diffuse water pollution from agriculture to protect water bodies and the environment.
- 3.11 In addition, Southern Water is upgrading their wastewater treatment works to reduce the amount of phosphorus inputs from human sewage. There are agreed improvements to phosphorus permits on four Southern Water Services on the River Test and phosphorus upgrades at two wastewater treatment works on the River Itchen.
- 3.12 Work is currently on-going to evaluate the effectiveness of this catchment work in reducing existing inputs into the Solent's water environment.

Type of nutrient inputs to designated sites

- 3.13 There is evidence that inputs of both phosphorus and nitrogen influence eutrophication of the water environment. However, the principal nutrient that tends to drive eutrophication in the marine environment is nitrogen and this is supported by modelling and evidence.

- 3.14 Research has been undertaken by the Environment Agency to understand the relative importance of nitrogen and phosphorus in causing the growth of macroalgae and phytoplankton within estuaries in the Solent. This work used the Combined Phytoplankton and Macroalgae model developed by Cefas. The results of the assessment which was undertaken at a water body level identified that strong phosphorus limitation was only found in relation to the Medina estuary (e.g. Rees-Jones *et al* 2014 and Udal *et al* 2014⁴).
- 3.15 The best available evidence is for focus in the Solent harbours to be on nitrogen reduction, and reduction in both nitrogen and phosphorus in the Medina catchment. However, this approach may be refined if greater understanding of the eutrophication issue is gained such as thorough new research or updated modelling.
- 3.16 The nutrient budget in this report calculates levels of Nitrogen (N) from development. However, N comes in different forms and measured N concentrations vary as to exactly what is measured. These differences need to be recognised when calculating nutrient budgets. The key measurement is Total Nitrogen (TN), ie both organic and inorganic forms of nitrogen, because this is what is available for plant growth. TN is the sum of the inorganic forms - nitrate-nitrogen (NO₃-N), nitrite-nitrogen (NO₂-N), ammonia - and organically bonded nitrogen.
- 3.17 Total Nitrogen is measured by WwTW where there is a permit with a TN limit consent. However, for WwTWs without permits, measurements could be inorganic nitrogen (nitrate + nitrite + ammoniacal N) or TN or a mix. Most river quality monitoring by EA only records the inorganic N forms. The Farmscoper report measures nitrate-nitrogen not TN. Nitrate is normally the largest component of TN but quantities of organic N are significant. In the Test catchment dissolved organic nitrogen has been found to comprise 7% of the potential biologically available nitrogen in the river and 13% of that in the estuary (Purdie, 2005⁵). Thus, the land use change element of this methodology will underestimate TN leaching. We therefore advise that this uncertainty is recognised and the recommended precautionary buffer approach is adopted.

⁴ Udal I., Rees-Jones S. and Robinson K., (2014) Chichester Harbour Water Framework Directive DIN and Ecological Impact Investigations 2007 to 2012. Environment Agency.

Rees-Jones S., Robinson K. and Udal I. (2014) Medina Water Framework Directive DIN and Ecological Impact Investigations 2007 to 2012. Environment Agency

⁵ Purdie, D., Shaw, P., Gooday, A. and Homewood, J. (2005) Dissolved Organic Nitrogen in the River Test and Estuary, University of Southampton

- 3.18 For developments on the Isle of Wight that are impacting on the Medina estuary, both a phosphorus and nitrogen budget may be required. Natural England will work closely with the Isle of Wight Council and applicants to provide advice on a bespoke case-by-case basis.
- 3.19 This approach is also supported by scientific literature which confirms that whilst both nitrogen and phosphorus should be reduced to tackle estuarine eutrophication, primarily the focus should be on nitrogen⁶. Phosphorus reduction alone does not address the mechanisms caused by elevated nitrogen that affect sea-grass health and the structural stability, extent and plant species diversity of saltmarsh. In addition, most land use measures to reduce nitrogen are also likely to reduce phosphorus concurrently.

SECTION 4 NUTRIENT NEUTRALITY APPROACH FOR NEW DEVELOPMENT

Introduction

- 4.1 Achieving nutrient neutrality is one way to address the existing uncertainty surrounding the impact of new development on designated sites. Natural England advises that a nitrogen budget is calculated for new developments. This will show that development either avoids harm to protected sites or provides the level of mitigation required to ensure that there is no adverse effect. Natural England recommends that the proposals achieve nitrogen neutrality by securing the required mitigation in compliance with the Habitats Regulations.
- 4.2 The nutrient neutrality calculation includes key inputs and assumptions that are based on the best-available scientific evidence and research. It has been developed as a pragmatic tool. However, for each input there is a degree of uncertainty. For example, there is uncertainty associated with predicting occupancy levels and water use for each household in perpetuity. Also, identifying current land / farm types and the associated nutrient inputs is based on best-available evidence, research and professional judgement and is subject to a degree of uncertainty.
- 4.3 It is our advice to local planning authorities to be as precautionary as possible when addressing uncertainty and calculating nutrient budgets. This is achieved by choosing the most precautionary option in all cases and building in an appropriate precautionary delivery buffer. Further details of this approach are included in the following stages of the calculation. Using this precautionary approach to the

⁶ E.g. Jones B.L and Unsworth R..F. (2016) The perilous state of seagrass in the British Isles. *R. Soc. open sci.* **3**: 150596.

Turner R.E. Beneath the saltmarsh canopy: Loss of soil strength with increasing nutrient loads. *Estuaries and Coasts* (2011) 34:1084

Cole S., Codling I.D., Parr W. and Zabel T. 1999 Guidelines for managing water quality impacts within UK European marine sites. UK Marine SAC Project

Scott C.R, K. L. Hemingway, Elliot. M, de Honge V.N, Pentthick J.S., Malcolm S. and Wilkinson M. Impact of Nutrients in Estuaries – Phase 2 Environment Agency 1999

calculations and solutions gives the local planning authority and applicants the certainty needed for their assessments.

Type of development

- 4.4 This methodology is for all types of development that would result in a net increase in population served by a wastewater system, including new homes, student accommodation, tourism attractions and tourist accommodation. This development will have inevitable wastewater implications.
- 4.5 Other commercial development not involving overnight accommodation will generally not be included. It is assumed that anyone living in the catchment also works and uses facilities in the catchment, and therefore wastewater generated by that person can be calculated using the population increase from new homes and other accommodation. This removes the potential for double counting of human wastewater arising from different planning uses.
- 4.6 Tourism attractions and tourism accommodation are exceptions as these land uses as they attract people into the catchment and generate additional wastewater and consequential nitrogen loading on the Solent. This includes self-service and serviced tourist accommodation such as hotels, guest houses, bed and breakfasts and self-catering holiday chalets and static caravan sites. Other applications will be considered on their individual merits, for example new cruise ship facilities etc.
- 4.7 There may be cases where planning applications for new commercial or industrial development or changes in agricultural practices could result in the release of additional nitrogen into the system. In these situations, a case-by-case approach will be adopted. Early discussions with Natural England via our chargeable services (DAS) are recommended.

Methodology

Stage 1 Calculate Total Nitrogen (TN) in kilograms per annum derived from the development that would exit the Wastewater Treatment Works (WwTW) after treatment

Stage1 Step 1 Calculate additional population

- 4.8 To determine the additional population that would use the proposed development, it is recommended that well evidenced occupancy rates are used. Natural England recommends that an occupancy rate of 2.4 is used in the calculation. This is based on the latest [Office for National Statistics figure](#) that can be applied across all affected local authority areas.
- 4.9 In order to be appropriately precautionary, the calculation needs to be based on values that take account of long term trends to address the impacts of the development in perpetuity rather than just over a local plan period.

- 4.10 All types of new housing (market and affordable) and overnight accommodation will increase the housing stock within the catchment, which will result in an associated increase in population levels, leading to inevitable wastewater implications.
- 4.11 It is Natural England's view that using the latest Office for National Statistics figure is suitably precautionary and based on best available evidence. Local planning authorities, as competent authorities, may choose to use alternative occupancy rates in their assessments, when these are supported by evidence.
- 4.12 Competent authorities may also choose to adopt bespoke calculations for detailed planning applications. For example, it may be possible to evidence alternative figures for flats or in relation to the number of bedrooms of each household.
- 4.13 These are matters for each competent authority. Natural England's advice is to take a precautionary approach that recognises the uncertainty.

Stage 1 Step 2 Confirm water use

- 4.14 Determine the water use / efficiency standard for the proposed development to be defined in the planning application and, where relevant, the Environmental Statement. The nitrogen load is calculated from the scale of water use and thus the highest water efficiency standards under the building regulations will minimise the increase in nitrogen from the development.
- 4.15 It is recommended that each Local Planning Authority impose a planning condition on all planning permissions for one or more net additional new dwellings requiring construction to the optional requirement⁷ under G2 of the Building Regulations 2010.
- 4.16 A model condition is set out below:

"The dwellings shall not be occupied until the Building Regulations Optional requirement of a maximum water use of 110 litres per person per day has been complied with."
- 4.17 The water use figure is a proxy for the amount of wastewater that is generated by a household. New residential development may be able to achieve tighter water use figures, with or without grey water recycling systems, and this approach is supported from a water resource perspective (for example in support of Southern Water's Target 100 litres per person per day). However, the key measurement is the amount of wastewater generated by the development that flows to the wastewater treatment works.
- 4.18 If tighter water use restrictions are used in the nutrient calculation – with or without grey water recycling systems – these restrictions must reflect the wastewater

⁷ The optional requirement referred to in G2 requires installation and fittings and fixed appliances for the consumption of water at 110 litres per person per day.

generated for the lifetime of the development. There is a risk that when kitchen and bathroom fittings are changed by occupants over the years, less water-efficient models could be installed. It is Natural England's view that it would be difficult to evidence and secure delivery of tighter restrictions at this time, to provide certainty for the lifetime of the development. However, if sound evidence can be provided, this will be considered on a case-by-case basis.

- 4.19 It is Natural England's view that it is reasonable for the authorities to assume that households will achieve the 110 litres per person per day target in perpetuity and this precautionary approach should be adopted in the calculation.

Stage 1 Step 3 Confirm WwTW and permit level

- 4.20 Identify the Wastewater treatment works (WwTW) that the development will use and identify the permit concentration limit for Total Nitrogen at the WwTW. If the WwTW will have a tightened permit concentration limit for Total Nitrogen under the company's Water Industry Asset Management Plan by 2024 then use this tightened value. If a new WwTW is proposed, obtain a determination from the Environment Agency on the permit limit for Total Nitrogen that would apply to the works and when they are likely to be built. Where the WwTW has no consent limit on Total Nitrogen derive a value for nitrogen in the wastewater stream based on the type of wastewater treatment at the works.
- 4.21 Where there is a permit limit for Total Nitrogen, the load calculation will use a worst case scenario that the WwTW operates at 90% of its permitted limit. A water company has the option of operating the works as close to the consent limit as practicable without breaching the consent limit. Natural England and the Environment Agency have agreed to take 90% of the consent value as the closest the water company can reasonably operate works without breaching the consent limit.
- 4.22 For most planning applications, the WwTW provider is not confirmed until after planning permission is granted. The nutrient calculation should be based on the permit levels of the most likely WwTW. In any cases where the WwTW changes, a reassessment of the nutrient calculation will be required to ensure the development is nutrient neutral.
- 4.23 For developments that discharge to WwTWs with no Total Nitrogen permit level, best available evidence must be used for the calculation. In the first instance, Southern Water or other wastewater provider should be contacted for details of the nitrogen effluent levels for the specific WwTW.
- 4.24 However, if this data is not available, an average figure of 27 mg/l can be used. This figure has been derived by Southern Water from nitrogen effluent levels at two WwTWs in the Solent area. Please note this average figure may change if new evidence becomes available.

Stage 1 Step 4 Calculate Total Nitrogen (TN) in Kg per annum that would exit the WwTW after treatment derived from the proposed development

- 4.25 The Total Nitrogen load is calculated by multiplying the water use of the proposed development by the appropriate concentration of Total Nitrogen after treatment at the WwTW.
- 4.26 The following worked example calculates the Total Nitrogen load of a development of 1000 dwellings based on a WwTW with a consent limit for Total Nitrogen of 9 mg/l.
- 4.27 Where residential developments also include other overnight accommodation such as tourist accommodation and attractions, the associated water use from these additional land uses will need to be included in the calculation. This should be based on the water use associated with these facilities.

STAGE 1 - WORKED EXAMPLE TO CALCULATE TOTAL NITROGEN (TN) LOAD FROM DEVELOPMENT WASTEWATER				
Step	Measurement	Value	Unit	Explanation
Development proposal	Development types that would increase the population served by a wastewater system	1000	Residential dwellings	
Step 1	Additional population	2400	Persons	Uses an average household size of 2.4 x 1000 dwgs (greenfield site).
Step 2	Wastewater volume generated by development	264,000	litres/day	2400 persons x 110 litres Where relevant, deduct wastewater volume of population displaced by the proposed development
Step 3	Receiving WwTW environmental permit limit for TN	9.0	mg/l TN	

Step 4	TN discharged after WwTW treatment	2,138,400	mg/TN/day	90% of the consent limit = 8.1 mg/l TN. 264000 x 8.1
	Convert mg/TN to kg/TN per day	2.1384	Kg/TN/day	Divide by 1,000,000
	Convert kg/TN per day to kg/TN per year	781	Kg/TN/yr	X 365 days
Wastewater total nitrogen load	781 kg/TN/yr			

Table 1 – Calculating wastewater Total Nitrogen load from proposed development

Stage 2 *Adjust Nitrogen load to offset existing nitrogen from current land use*

- 4.28 This next stage is to calculate the existing nitrogen losses from the current land use. The nitrogen loss from the current land use will be removed and replaced by that from the proposed development land use. The net change in land use will need to be subtracted from or added to the wastewater Total Nitrogen load.
- 4.29 Nitrogen–nitrate loss from agricultural land can be modelled using the Farmscoper model. A study commissioned by Natural England from ADAS modelled this loss for different farm types across the river catchments that drain to the Solent (ADAS UK Ltd. 2015. Solent Harbours Nitrogen Management Investigation).
- 4.30 If the development area covers agricultural land that clearly falls within a particular farm type used by the Farmscoper model then the modelled average nitrate-nitrogen loss from this farm type should be used. The farm types used in the ADAS model are set out in Table 2, with the nitrate-nitrogen loss. Further details on farm classification are included in Appendix 1.

AVERAGE NITRATE-NITROGEN LOSS PER FARM TYPE IN THE SOLENT CATCHMENT AREA (kg/ha)	
Cereals	31.2
Dairy	36.2
General Cropping	25.4
Horticulture	29.2
Pig	70.4
Lowland Grazing	13.0
Mixed	28.3
Poultry	70.7
Average for catchment area	26.9

Table 2 Farm types and average nitrogen-nitrate loss

- 4.31 If the proposed development area covers several or indeterminate farm types then the average nitrate-nitrogen loss across all farmland may be more appropriate to use. The average figure is also included in Table 2.
- 4.32 The figures in the ADAS report are based on 2010 land use data and may be updated from time-to-time as land use and agricultural practice to control nitrate loss changes.
- 4.33 For sites that are in use as allotments, it is recommended that the most appropriate farm type for allotments is the average rate of 26.9 kg/ha/yr. If evidence can be provided to support an alternative figure, then this information will be reviewed by the local planning authority and Natural England.
- 4.34 For sites that are currently in use as horse paddocks, it is recommended that the lowland grazing figure should be used in the calculation. If evidence can be provided to support an alternative figure, then this information will be reviewed by the local planning authority and Natural England.
- 4.35 It is important that farm type classification is appropriately precautionary. It is recommended that evidence is provided of the farm type for the last 10 years and professional judgement is used as to what the land would revert to in the absence of a planning application. In many cases, the local planning authority, as competent authority, will have appropriate knowledge of existing land uses to help inform this process.
- 4.36 There may be areas of a greenfield development site that are not currently in agricultural use and have not been used as such for the last 10 years. There is no agricultural nitrogen input onto this land and these areas should not be included in Stage 2 of the calculation.
- 4.37 Where development sites include wildlife areas, woodlands, hedgerows, ponds and lakes, these areas should also be excluded from the calculation as there is no existing agricultural nitrogen input onto this land.
- 4.38 For sites, where existing land use is not confirmed, it is Natural England's advice to local planning authorities and applicants to be as precautionary as possible. A worked example to calculate the nitrogen load from existing land use is set out in Table 3.

STAGE 2 - WORKED EXAMPLE TO CALCULATE NITROGEN LOAD FROM CURRENT LAND USE				
Step	Measurement	Value	Unit	Explanation
1	Total area of existing agricultural land	40	Hectares	This is the area of agricultural land that will be lost due to development

2	Identify farm type and confirm nitrate loss.	26.9	Kg/ha/yr	The developable area covers several farm types therefore an average has been used. Reference Appendix 1 and Table 2
3	Multiply area by nitrate loss	1,076	Kg/N/yr	40 ha x 26.9 kg/N/yr
Nitrogen load - current land use	1,076 Kg/N/yr			

Table 3 Calculating nitrogen load from current land use

Stage 3 ***Adjust nitrogen load to account for land uses with the proposed development***

- 4.39 The last stage is to add in the nitrogen load that will result from the new development that is not received by a WWTW. This includes the nitrogen load from the new urban development and from the new open space including any Suitable Alternative Natural Greenspace (SANG), Nature Reserves or Bird Refuge Areas.
- 4.40 The calculation only includes the areas of the site where there will be a change in land use, for example from agricultural land to new urban development or agricultural land to Suitable Alternative Natural Greenspace (SANG) / open space. Where there is no proposed change to land use, this land should be excluded from the nitrogen budget as there will be no change to the nitrogen load from this area.

Urban development

- 4.41 The nitrogen load from the new urban development results from sewer overflows and from drainage that picks up nitrogen sources on the urban land. Urban development includes the built form, gardens, road verges and small areas of open space within the urban fabric. These nitrogen sources include atmospheric deposition, pet waste, fertilisation of lawns and gardens and inputs to surface water sewers. The nitrogen leaching from urban land equates to 14.3 kg/ha/yr⁸. Appendix 2 sets out the scientific research and literature in relation to this figure.

Open Space and Green Infrastructure

- 4.42 Nitrogen loss draining from new designated open space or Suitable Alternative Natural Greenspace (SANG) should also be included. The nitrogen leaching from this land is likely to equate to 5 kg/ha/yr. Appendix 3 sets out the scientific research and

⁸ Supplementary Planning Document – Achieving Nitrogen Neutrality in Poole Harbour

literature in relation to this figure. This figure can also be used where new nature reserves or bird refuge areas are created.

- 4.43 The competent authority will need to be assured for perpetuity that this open space will be managed as such and there will be no additional inputs of nutrients or fertilisers onto this land. Appropriate planning and legal measures will be necessary to ensure it will not revert back to agricultural use, or change to alternative uses that affect nutrient inputs on the long term. It is therefore recommended that the 5 kg/ha/yr rate applies to areas of designated open space on-site of around 0.5 hectares and above. These sites will also need long term management to ensure the provision of dog bins and that these are regularly emptied.
- 4.44 Small areas of open space within the urban fabric, such as road verges, gardens, children's play areas and other small amenity areas, should not be included within this category. The urban development figure is appropriate for these land uses.

Community food growing provision

- 4.45 For any areas of the site that are proposed for community food growing provision, it is recommended that the average farm type rate is used (26.9 kg/ha/yr).
- 4.46 A worked example is shown in the table below. This is based on a developable area of 30 hectares covering land in a mix of farm types with the removal of 10 hectares of agricultural land to create SANG.

STAGE 3 - WORKED EXAMPLE TO CALCULATE NITROGEN LOAD FROM FUTURE LAND USES				
Step	Measurement	Value	Unit	Explanation
1	New urban area	30	Hectares	Area of development that will change from agricultural land to urban land use
2	Nitrogen Load from future urban area	429	Kg/N/yr	30 ha x 14.3 Kg/N/yr
3	New SANG / open space	10	Hectares	Area of development that will change from agricultural land to SANG / open space
4	Nitrogen load from SANG / open space	50	Kg/N/yr	10 ha x 5.0 Kg/N/yr
5	Combine Nitrogen load from future land uses	479	Kg/N/yr	429 Kg/N/yr + 50 Kg/N/yr
Nitrogen Load - future land uses	479 Kg/TN/yr			

Table 4 – Adjust Nitrogen Load to account for future land uses

Stage 4 ***Calculate the net change in the Total Nitrogen load that would result from the development***

- 4.47 The last stage is to calculate the net change in the Total Nitrogen load to the Solent catchment with the proposed development. This is derived by calculating the difference between the Total Nitrogen load calculated for the proposed development (wastewater, urban area, open space etc) and that for the existing land uses.
- 4.48 It is necessary to recognise that all the figures used in the calculation are based on scientific research, evidence and modelled catchments. These figures are the best available evidence but it is important that a precautionary buffer is used that recognises the uncertainty with these figures and ensures the approach is precautionary. Natural England therefore recommends that a 20% precautionary buffer is built into the calculation.
- 4.49 There may be instances where it is the view of the competent authority that an alternative precautionary buffer should be used based on a site-specific basis.
- 4.50 Table 5 sets out a worked example.

STAGE 4 - WORKED EXAMPLE TO CALCULATE THE NET CHANGE IN NITROGEN LOAD FROM THE DEVELOPMENT				
Step	Measurement	Value	Unit	Explanation
1	Identify Nitrogen load from wastewater (stage 1)	781	Kg/N/yr	See Table 1
2	Calculate the net change in Nitrogen from land use change - subtract existing land uses Nitrogen load (stage 2) from future land uses Nitrogen load (stage 3)	-597	Kg/N/yr	479 Kg/N/yr - 1076 Kg/N/yr
3	Determine Nitrogen Budget – the Total Nitrogen wastewater load for the proposed development plus the change in Nitrogen load from land use change (the latter figure may be positive ie the change in land	184	Kg/N/yr	781 Kg/N/yr (step 1) + -597 Kg/N/yr (step 2)

	use will generate more nitrogen, or negative ie the change in land use will generate less Nitrogen)			
4	Nitrogen Budget without buffer	184	Kg/N /yr	184 Kg/N /yr x 1.5
5	Divide Nitrogen Budget without buffer by 5.	36.8	Kg/N /yr	184 Kg/N /yr divide by 5 = 36.8.
6	Identify Nitrogen Buffer with 20% buffer	220.8	Kg/N /yr	Add 36.8 to the stage 4 figure
Nitrogen Budget with 20% buffer	221 Kg/N /yr			

Table 5 Nitrogen Load Budget

Need for mitigation

- 4.51 If there is a Nitrogen surplus (a positive figure), then mitigation is required to achieve nitrogen neutrality. If the calculation identifies a deficit (a negative figure), no mitigation is required.
- 4.52 In the worked example above, the Nitrogen Budget with 20% buffer is 221 Kg/TN/yr. Natural England recommends that mitigation is achieved for 221 Kg/TN/yr. Mitigation can be 'direct' through upgrading sewage treatment works and through alternative measures, e.g. interceptor wetlands or 'indirect' by offsetting the nitrogen generated from new development by taking land out of nitrogen intensive uses, e.g. where fertiliser is applied to crops. Mitigation measures will need to be secured for the duration over which the development is causing the effects, generally 80-125 years.
- 4.53 The options for mitigation include a combination of the following:
- (i) Agreement with the wastewater treatment provider that will maintain an increase in nitrogen removal at the WwTW.
 - (ii) Agreement with the wastewater treatment provider or others to provide and maintain an increase in nitrogen offsetting from catchment management measures (this may include mini-farm interceptor wetlands).
 - (iii) Provide measures that will remove nitrogen draining from the development site or discharged by the WwTW (such as wetland or reedbed) (Appendix 4).
 - (iv) Increase the size of the SANGs and Open Space provision for the development on agricultural land that removes more nitrogen loss from this source.
 - (v) Establish changes to agricultural land in the wider landholding in perpetuity that removes more nitrogen loss from this source.
 - (vi) Acquire, or support others in acquiring, agricultural land elsewhere within the river catchment area containing the development site, changing the

land use in perpetuity (e.g. to woodland, heathland, saltmarsh, wetland or conservation grassland) to remove more nitrogen loss from this source and/or, if conditions are suitable, provide measures that will remove nitrogen on drainage pathways from land higher up the catchment (e.g. interception wetland).

- 4.54 Further information on the potential for nitrogen mitigation using wetlands is included in Appendix 4. Detailed information has been provided on stormwater wetlands, constructed wetlands taking discharges from STW and wetlands associated with streams and rivers.
- 4.55 Detailed consideration will need to be given to the location and catchment of the proposed mitigation measures in relation to the impact of the development on the designated sites. We advise that this issue is examined on a case by case basis in consultation with the relevant local planning authority or authorities and Natural England.
- 4.56 Natural England can provide further advice on the methodology and mitigation options through our [chargeable services](#) (DAS).
- 4.57 It is appreciated that achieving nutrient neutrality may be difficult for smaller developments, developments on brownfield land or developments that are well-progressed in the planning system. Natural England is working closely with local planning authorities to progress Borough /District/ City wider and more strategic options that achieve nutrient neutrality and enable this scale of development to come forward.
- 4.58 This work is currently on-going and it is recommended that discussions are held with the relevant local planning authorities with regard to these options.

Appendix 1 – Farm Types

The UK system is based on weighting the contributions of each enterprise in terms of their associated outputs. The weights used (known as ‘Standard Outputs’ or SOs) are calculated per hectare of crops and per head of livestock and used to calculate the total standard output associated with each part of the Farm Business.

Cereals

Holdings on which cereals, combinable crops and set-aside account for more than two thirds of the total SO and (pre-2007) where set-aside alone did not account for more than two thirds of the total SO. (Holdings where set-aside accounted for more than two thirds of total SO were classified as specialist set aside and were included in “other” below.)

General cropping

Holdings on which arable crops (including field scale vegetables) account for more than two thirds of the total SO, excluding holdings classified as *cereals*; holdings on which a mixture of arable and horticultural crops account for more than two thirds of their total SO excluding holdings classified as *horticulture* and holdings on which arable crops account for more than one third of their total SO and no other grouping accounts for more than one third.

Horticulture

Holdings on which fruit (including vineyards), hardy nursery stock, glasshouse flowers and vegetables, market garden scale vegetables, outdoor bulbs and flowers, and mushrooms account for more than two thirds of their total SO.

Specialist Pigs

Holdings on which pigs account for more than two thirds of their total SO.

Specialist Poultry

Holdings on which Poultry account for more than two thirds of their total SO.

Dairy

Holdings on which dairy cows account for more than two thirds of their total SO.

Lowland Grazing Livestock

Holdings on which cattle, sheep and other grazing livestock account for more than two thirds of their total SO except holdings classified as *dairy*. A holding is classified as lowland if less than 50 per cent of its total area is in the Less Favoured Area (LFA).

Mixed

Holdings for which none of the above categories accounts for more than 2/3 of total SO. This category includes mixed pigs and poultry farms as well as farms with a mixture of crops and livestock (where neither accounts for more than 2/3 of SOs).

http://farmbusinesssurvey.co.uk/DataBuilder/UK_Farm_Classification_2014_Final.pdf

Appendix 2 – Leaching of nitrogen from urban areas

The average total nitrogen leaching rate from an urban area (14.3kg/ha/yr) comes from values for hydrologically effective rainfall (478mm - precipitation minus losses from evapo-transpiration) and the nitrogen concentration of leachate (3mg/l) given in Bryan et al (2013) the latter figure derived from an AMEC report. The value for nitrogen concentration is similar to one quoted in House et al (1993) who give a mean event concentration of 3.2mg/l for total nitrogen (with this value derived from other sources) with a range of 0.4-20mg/l. Thus although it is not specified by Bryan et al (2013), it is probably reasonable to take the 3mg/l to be total nitrogen especially since the organic component of N from urban areas is likely to be relatively small.

Mitchell (2001) gives the following event mean concentrations in mg/l total N from urban areas; Urban Open 1.68; Ind/Comm 1.52; Residential 2.85; Main roads 2.37. It is recognised that the datasets that produced these figures are not large (n = 14 in this case), a good deal of uncertainty remains and that further sampling is needed to validate models of pollutant effects from urban runoff (Leverett et al 2013).

Typical nutrient concentrations in urban stormwater runoff in the U.S. are 2.0 mg/l for total N (TN) (Schueler 2003). Population densities seem to be less in the most studied urban catchments (eg Groffman et al 2004 in Baltimore, Hobbie et al 2017 in Minnesota) than those in the UK but this does not necessarily lead to an increase in the rate of nitrogen leaching from the catchment for the factors affecting this value are complex. Thus although there will clearly be variation between different urban areas, there is insufficient knowledge to be able to predict N leaching from the different characteristics of these areas. And for practical purposes an overall N leaching figure is needed; nothing found in the literature indicates that another value would be more representative than 3mg/l.

An N leaching figure can also be derived by using the relationship between mean stream and river flow rate and catchment area. The ratio for the gauging station on the River Meon at Mislingford is 0.014m³/sec/km² and, with a TN concentration of 3mg/l, this equates to a TN leaching rate of 13.2mg/l, similar to the value obtained when hydrologically effective rainfall is used.

Comparison can also be made with direct measurements of TN urban outputs from studies in the USA (Hobbie et al 2017, Groffman 2004). The values in the Hobbie paper for urban catchments in Minnesota varied from 12.5-27.2 kg/ha/yr with a mean of 17.3 kg/ha/yr. The outputs measured by Groffman (2004) were smaller (between 5.5 and 8.6kg/ha/yr) but these were less urbanised catchments, several including areas of old growth forest where nitrogen retention was very high. Thus these values are broadly of the same order as the 14.3 kg/ha/yr leaching figure initially calculated.

Nitrogen inputs in these studies come predominantly from three sources - atmospheric deposition, pet waste and lawn fertilisation. N deposition was slightly lower in both Baltimore and Minnesota than values from APIS in the around the Solent (23.8kg/ha/yr for hedgerows or woodland, 14.7kg/ha/yr for grassland). No UK studies have been found to compare with the US ones for N inputs in urban areas from pet waste or from lawn fertilisation.

References

Bryan, G, Kite, D, Money, R, Jonas, P and Barden R. 2013. Strategy for managing nitrogen in the Poole Harbour catchment to 2035. Environment Agency report.

Ellis JB and Mitchell G. 2006 Urban diffuse pollution: key data information approaches for the Water Framework Directive. *Water and Environment Journal* **20** (2006) 19–26.

Groffman, P.M., Law, N.L., Belt, K.T., Band, L.E., Fisher, G.T., 2004. Nitrogen fluxes and retention in urban watershed ecosystems. *Ecosystems* 7, 393e403.

Hobbie Sarah E, Jacques C. Finlay, Benjamin D. Janke, Daniel A. Nidzgorski, Dylan B. Millet, and Lawrence A. Baker (2017). Contrasting nitrogen and phosphorus budgets in urban watersheds and implications for managing urban water pollution PNAS April 18, 2017 114 (16) 4177-4182.

House, M.A., Ellis, J.B., Herricks, E.E., Hvitved-Jacobsen, T., Seager, J., Lijklema, L., Aalderink, H. and Clifforde, I.T. (1993) Urban Drainage: Impacts on Receiving Water Quality. *Water Sci. Techol.*, 27 (12), 117–158.

Leverett Dean, John Batty, Dawn Maycock (2013) Assessing the scale and impact of urban run-off on water quality. Report to DEFRA from WCA Environment Ltd.

Mitchell G. 2001. The Quality of urban stormwater in Britain & Europe: Database & recommended values for strategic planning models. School of Geography, University of Leeds.

Schueler, T., 2003. Impacts of Impervious Cover on Aquatic Systems. Watershed Protection Research Monograph No 1. Center for Watershed Protection, Ellicott City, MD.

Appendix 3 - Estimating the leaching of total nitrogen (TN) from natural greenspace (SANG).

A number of assumptions must be made about the management of the SANG to allow an estimate of TN leaching to be made. These are as follows:

- The vegetation of the SANG would be predominantly permanent grassland but with an element of tree and scrub cover (this will of course vary for different SANGS but a 20% average figure is used here). The degree of tree and scrub cover will not greatly affect the result as both permanent grassland and woodland/scrub exhibit a high degree of N retention. It matters most because of the differences in the rate of atmospheric N deposition between the two habitats.
- The grassland would be permanent (ploughing will release large amounts of N) and is not fertilised either with artificial fertiliser or manures. It may be ungrazed or grazed very lightly (<0.1LU/ha/yr) with no supplementary feeding (even without supplementary feeding, grazing can increase N leaching because N retention is lower when N is delivered in the form of cattle urine and dung [Wachendorf et al 2005]).
- The grassland may be cut with the cutting regime dependent on other factors. Cuttings may be left or removed from site as the case may be but should not be gathered and composted in heaps on site. Any gorse within the scrub should be controlled so it is no more than rare across the mitigation area since a significant amount of nitrogen fixation occurs within gorse stands.

A generic leaching value for N concentration from AMEC for 'rough grazing', quoted in Bryan et al (2013), is 2mg/l. Using this concentration together with a value of 478mm for the hydrologically effective rainfall (HER) gives a leaching value for N of 9.6 kg/ha/yr. A similar value (8.8kg/ha/yr) is obtained if the relationship between mean stream flow and catchment area (0.014 cumecs/km² which is the ratio for the gauging station on the nearby River Meon at Mislingford) is used instead, keeping the same N concentration of 2mg/l. It is not clear whether these AMEC concentrations are for total nitrogen or for inorganic nitrogen.

The particular grassland management regime for which the 2mg/l N concentration applied is not known. However, even though studies of N leaching from natural unfertilised grasslands are rare in the literature (most are of agricultural grasslands with fertiliser inputs of some sort) it seems likely that this value is higher than might be expected from a natural grassland with no fertiliser inputs such as a SANG. Thus for example TN leachate concentrations were between 0.44 and 0.67 mg/l in an extensively managed montane grassland (that still had one slurry application per year) and the equivalent mean TN loss was 1.0, 2.6 and 3.1 kg/ha/yr for three different areas (Fu et al 2017).

Adjusting for a SANG with 20% woodland/scrub, using the AMEC woodland generic leaching value of 0.5mg/l (Bryan et al 2013) for the woodland/scrub component, results in an N output of 8.1 kg/ha/yr.

The 0.5mg/l value is also much higher than the very low nitrate concentrations in streams from purely forested catchments (Groffman 2004) and from those reported by for a large sample of forested streams by Mulholland et al 2008 where the mean nitrate-N concentrations were <0.1mg/l. All but a few of the samples from an unfertilised suburban

lawn had nitrate-N concentrations below the detectable limit of 0.2mg/l (Gold et al 1990). The same was true for a forest plot and the average nitrate-N losses from both home lawn and the forest plots averaged 1.35 kg/ha/yr over 2 years. These studies of both grassland and woodland nutrient cycling suggest that the AMEC generic leachate concentration of 3mg/l, resulting in an N output of 9.6kg/ha/yr, is too high when applied to a SANG.

Despite there being no direct N fertiliser inputs on a SANG, N inputs will still occur from three main sources. These are atmospheric deposition, pet waste and N fixation from legumes and estimating the contribution of each of these sources, together with the proportion of N retained, is an alternative method of working out the N contribution from a SANG.

N deposition

The following are typical values taken from APIS for TN deposition in the Solent area. .

Improved grassland 14.7 kgN/ha/yr; Arable horticultural 14.7 kgN/ha/yr; Neutral grassland 14.7 kgN/ha/yr

Hedgerows 23.8 Kg N/ha/year; Broadleaved, Mixed and Yew Woodland 23.8 Kg N/ha/year

Using the value for hedgerows and woodland for the 20% scrub component of the hypothetical SANG and the neutral grassland value for the rest results in a deposition rate of $11.76 + 4.76 = 16.5$ kg/ha/yr.

Pet waste

SANGs are specifically designed to attract increased levels of public access particularly dog walkers so the potential inputs of N from dog waste are likely to be significant.

Hobbie et al (2017) give a figures for TN inputs from this source for entire urban areas and these vary between 3.56 and 21.2kg/ha/yr for 7 urban catchments with a median of 6.9kg/ha/yr. A figure of 17kg/ha/yr can be gleaned from Baker 2001 which was worked out using information on pet numbers, nutritional needs, pet weights etc; 76% of this was from dogs.

The heavy use of SANGS by dogs suggests that N inputs would most likely be higher than these figures averaged over the whole urban area. Nevertheless, inputs to the SANG from this waste means that it is not deposited elsewhere in the urban area where N may anyway end up in the same receiving water.

TN retention in grasslands will also be higher than the average over other parts of the urban area but the characteristics of the inputs from dogs is likely to lower the amount of TN retained because the concentrated patchy nature of the input will reduce the proportion of TN retained compared with more evenly spread inputs, as mentioned above.

Picking up dog faeces will obviously reduce the input from but not remove inputs from urine. Dog urine has a high N content.

In these circumstances there is clearly uncertainty about the level of input from this source the highest figure from Hobbie et al (21.2kg/ha/yr) has been used but adjusted downwards because not all of this will be from dogs resulting in an overall value of 16.1 kg/ha/yr.

This has also been done on the basis that funding, together with a binding commitment, is provided for in perpetuity collection of dog waste and enforcement of pick up rather than relying on direct LA resources which could stop at any time.

TN fixation

Hobbie et al (2017) give a value for this of 17.5kg/ha/yr from direct investigation of unfertilised urban parks and this is the value used. Fixation would only be in the grassland part of the SANG which reduces the figure to 14 kg/ha/yr.

TN retention

A number of studies have shown high TN retention in urban areas (eg 80% Hobbie et al 2017) thought to be mainly attributable to TN retention in urban grasslands and lawns which may be in turn related to high carbon within organic matter in the soils. The release of large quantities of N when permanent grassland is ploughed illustrates the capacity of these grassland for N storage (eg Howden et al 2011).

Direct measurements of total N outputs from urban grasslands in the Groffman et al (2009) studies in Baltimore also show high N retention in urban grassland but there are difficulties in applying these results directly to SANGs partly because the plots were either quite heavily fertilised or may have had unmeasured N inputs from neighbouring land. Nitrate-N losses from an unfertilised home lawn averaged 1.35 kg/ha/yr over 2 years (Gold et al 1990). Generally the complex processes and uncertainties about how the management of these grasslands might affect the degree of TN retention and TN output makes estimation of the proportion retained difficult. Nevertheless a value of 90% given in Groffman et al (2009), and supported by a number of references given there, would seem reasonable considering also that overwatering and over fertilising, neither of which would happen on a SANG, seem to be factors that lead to more leaching.

Woodland and scrub. N retention measured in forest plots in Baltimore was very high (95%) Groffman (2004). N percolation losses measured by Gold et al 1990 in forest plots were low and similar to those in unfertilised lawn. However, it is probably not valid to equate a scrub/woodland part of a SANG with the forest plots measured in the Groffman studies in Baltimore for these were old growth well established forests. Nevertheless there is still likely to be high N retention in these areas even if not as much as 95%.

Given all of the above, a 90% TN retention rate over the SANG as a whole has been used in the calculation below

Inputs

N Deposition (APIS) = 16.5 kg/ha/yr
Pet waste 16.1 kg/ha/yr
N fixation 14 kg/ha/yr

Total = 46.6 kg/yr

Watershed retention of TN 90%

Total TN output = 4.66 kgN/ha/yr

Conclusion

The question of estimating TN outputs from a SANG has been approached from different angles. These investigations all indicate that the value used so far – 13 kg/ha/yr is too high. Instead an TN output of 5 kg/ha/yr is considered to be close to the true value but still sufficiently precautionary.

References

- Baker LA, Hope D, Xu Y, Edmonds J, Lauver L. 2001. Nitrogen balance for the central Arizona–Phoenix (CAP) ecosystem. *Ecosystems* 4:582–602.
- Bryan, G, Kite, D, Money, R, Jonas, P and Barden R. 2013. Strategy for managing nitrogen in the Poole Harbour catchment to 2035. Environment Agency report.
- Carey Richard O., George J. Hochmuth, Christopher J. Martinez, Treavor H. Boyer, Michael D. Dukes, Gurpal S. Toor, John L. Cisar (2012) Evaluating nutrient impacts in urban watersheds: Challenges and research opportunities. *Environmental Pollution* 173 (2013) 138-149.
- Fu, Jin, Rainer Gasche, Na Wang, Haiyan Lu, Klaus Butterbach-Bahl, Ralf Kiese (2017) Impacts of climate and management on water balance and nitrogen leaching from montane grassland soils of S-Germany. *Environmental Pollution* 229 (2017) 119-13.
- Gold, A.J., W.R. DeRagon, W.M. Sullivan, and J.L. LeMunyon. 1990. Nitrate nitrogen losses to groundwater from rural and suburban land uses. *J. Soil Water Conserv.* 45:305–310.
- Groffman, P.M., Law, N.L., Belt, K.T., Band, L.E., Fisher, G.T., 2004. Nitrogen fluxes and retention in urban watershed ecosystems. *Ecosystems* 7, 393-403.
- Groffman, P.M., Williams, C.O., Pouyat, R.V., Band, L.E., Yesilonis, I.D., 2009. Nitrate leaching and nitrous oxide flux in urban forests and grasslands. *Journal of Environmental Quality* 38, 1848-1860.

Hobbie Sarah E, Jacques C. Finlay, Benjamin D. Janke, Daniel A. Nidzgorski, Dylan B. Millet, and Lawrence A. Baker (2017). Contrasting nitrogen and phosphorus budgets in urban watersheds and implications for managing urban water pollution PNAS April 18, 2017 114 (16) 4177-4182.

Howden N J K, T.P. Burt, S.A. Mathias, F. Worrall, M.J. Whelan (2011) Modelling long-term diffuse nitrate pollution at the catchment-scale: Data, parameter and epistemic uncertainty. Journal of Hydrology 403 (2011) 337–351

Magesan Guna N., Hailong Wang and Peter W. Clinton 2011 Nitrogen cycling in gorse-dominated ecosystems in New Zealand. New Zealand Journal of Ecology (2012) 36(1): 21-28

Mulholland P J and 30 others (2008) Stream denitrification across biomes and its response to anthropogenic nitrate loading. Nature 452, 202-206

Wachendorf Christine, Friedhelm Taube and Michael Wachendorf (2005) Nitrogen leaching from ¹⁵N labelled cow urine and dung applied to grassland on a sandy soil. Nutrient Cycling in Agroecosystems (2005) 73:89–100

Appendix 4 – Potential for N mitigation using wetlands

Where N budget calculations indicate that N outputs from proposed developments are greater than pre development conditions, the use of new constructed wetlands to retain some of the N output is one mitigation option.

There are a number of possibilities for different types of constructed wetland. Wetlands can be designed as part of a sustainable urban drainage (SUDs) system, taking urban runoff/stormwater; discharges from STWs can be routed through wetlands; or the flow, or part of the flow, of existing streams or rivers can be diverted through wetlands.

Wetlands receiving nitrogen-rich water can remove a proportion of this nitrogen through processes such as denitrification and sedimentation. This has been demonstrated in numerous studies; a recent systematic review of the effectiveness of wetlands for N (and P) removal (Land et al 2016) used data from 203 wetlands worldwide of which the majority were free water surface (FWS) wetlands (similar in appearance and function to natural marshes with areas of open water, floating vegetation and emergent plants). The median removal rate for wetlands that were included in this review was 93g/m²/yr (or just under a tonne/ha/year). The proportion of N removed is termed the efficiency and the median efficiency of wetlands included in the Land review was 37%.

Many factors influence the rate of N removal in a wetland the most important being hydraulic loading (HLR - a function of the inlet flow rate and the wetland size), inlet N concentration and temperature. Together inlet N concentration and flow rate determine the amount of N that flows through the wetland which ultimately limits the amount of N saving that can be achieved.

The rate of removal can also be expressed in terms of the amount of N removed per unit wetland area. This removal rate will typically increase as the inlet N concentration increases, at least within the normal range of inlet N concentrations. Thus wetlands that treat the N rich discharges, for example from STWs, or water in rivers where the N concentrations are high, will remove more N per unit area than say, wetlands treating water in a stream where water quality is very good and the N concentration is low. Thus if space is at a premium, and the goal is to remove as much N as possible, it makes sense to site wetlands where N concentrations are high.

For wetlands to work well, specialist design input based on sound environmental information will be necessary. There will be a need for consultation with relevant statutory bodies. These processes are likely to be easier where wetlands are an integral part of a larger development. Wetlands do offer additional benefits above offsetting but will also require ongoing monitoring, maintenance and adjustments beyond any particular developments completion. Consideration of the long term security of facilities and their adoption at an early stage is advisable.

There are a number of publications which advise about constructed wetlands. For example, Kadlec and Wallace (2009) is a comprehensive source of information covering all stages related to the implementation of different types of constructed wetland. The many papers relating the results from detailed monitoring over many years of the performance of two constructed wetlands in Ohio, USA are also instructive (eg Mitsch et al 2005, 2006, 2014).

Stormwater wetlands

These are what is termed event-driven precipitation wetlands with intermittent flows. There will normally be baseflow and stormwater components to the inputs.

For such wetlands Kadlec and Wallace state that:-

‘A typical configuration consists of a sedimentation basin as a forebay followed by some combination of marshes and deeper pools’

However, ponds are usually less effective at removing N (Newman et al 2015) than shallow FWS wetlands so the emphasis here should be on the latter although a small initial sedimentation basin is desirable since is likely to reduce the maintenance requirement for sediment removal in the FWS wetland. One advantage of this type of wetland is that it can be designed as an integral part of SUDs for the development and therefore is subject to fewer constraints.

Some wetlands with intermittent flows are prone to drying out and may need provisions for a supplemental water source. In some circumstances, this may be possible through positioning the wetland bottom so that there is some connection to groundwater. However many varieties of wetland vegetation can withstand drying out although there may be a small reduction in water quality improvement (Kadlec and Wallace 2009). Nevertheless base and stormwater flows to each wetland should be worked out to ensure that it is viable.

Wetlands need to be appropriately sized taking into account the HLR and N loading rates. To give a general idea of the areas involved, a wetland 1ha in area would serve a development area of about 50ha.

Calculating the potential N retention in such wetlands involves first determining the proportion of the HER that will pass through the wetland because a percentage of the water carrying N will go directly into groundwater, bypassing storm drains and SUDs and the constructed wetlands. This percentage will depend on such factors as the proportion of hard surface within the development and the geology. Then, assuming the inlet TN concentration is 3mg/l, a proportionate reduction of 37% can be used to work out the amount of N retained.

Provision is needed to control tree and scrub invasion, for wetlands with emergent vegetation medium height such as Typha and reed had higher rates of denitrification than those dominated by trees and woody shrubs (Alldred and Baines 2016).

Other critical aspects of design are the water control structures - inflow and outflow arrangements with water level control – and the need or otherwise for a liner. This last issue

is related to soil permeability. A variety of emergent wetland plants, not only reed, can be effective within wetlands. Wetlands with a number of different plant species, rather than monocultures, are desirable both for biodiversity reasons and because they are more resilient against changes in environmental conditions; different species will have different tolerances. Guidance concerning planting can be found in Kadlec and Wallace (2009); allowance should be made in planting ratios and densities for different rates of expansion of different species. Another approach is to use material containing wetland plant seeds from a nearby wetland with a species composition similar to the one preferred. However, unless the donor site is carefully monitored, this would obviously increase the risk of importing unwanted alien plants.

Sedimentation will eventually compromise some aspects of the wetland's function and rejuvenation measures will be necessary (Kadlec and Wallace 2009). The same authors indicate a sediment accretion rate in the order of 1 or 2cm/yr and give examples of rejuvenation after 15 and 18 years but other wetlands have not needed any significant restoration in similar timespans. Various different options for the management of sediment accumulation are given by Qualls and Heyvaert (2017). There of course needs to be provisions to ensure that appropriate maintenance and restoration measures, guided by monitoring, are periodically carried out.

Other sources of information about stormwater wetlands include Wong et al (1999, available on line). The papers about a stormwater wetland in the Lake Tahoe Basin in California are also useful (Heyvaert et al 2006, Qualls and Heyvaert 2017).

Constructed wetlands taking discharges from STW

Many of the considerations discussed above for stormwater wetlands apply equally here. There will obviously be constraints on the location and size of such a wetland because of land availability in the area of the STW. The flow from the STW together with the N concentration in the discharge are needed to determine the approximate size of a wetland. We would recommend a wetland area that gives an N loading of about 500 g/m²/yr or lower. Because many of the discharges from STW have a high N concentration the potential for N retention in such wetlands is also high. The concentration of N in the outflow will be variable but the purpose of such wetlands is to retain N overall rather than to provide a specific constant standard of water quality in the outflow.

Wetlands associated with streams and rivers

Diverting part of the flow of a stream or river through a wetland, with the outflow returning to the watercourse, provides another opportunity for N saving. For obvious reasons such wetlands would mostly need to be located on the river floodplain. The inlet flow rate can be controlled so it is appropriate for the size of the wetland created and so that the ecology of the watercourse is not compromised in the section affected.

There can be other concerns in relation to the potential effects on the stream or river. An abstraction licence will almost certainly be required.

References

Aldred, M and Baines, S B (2016). Effects of wetland plants on denitrification rates: a met-analysis. *Ecological Applications* 26(3) 2016, 676-685.

Heyvaert, Alan C., John E. Reuter, Charles R. Goldman (2006). Subalpine, Cold Climate, Stormwater Treatment with a Constructed Surface Flow Wetland. *Journal American Water Resources Association* 42:1 45-54

Kadlec R H, and S D Wallace (2009). *Treatment Wetlands*. 2nd ed. CRC press, Taylor & Francis Group.

Land M, Graneli W, Grimvall A, Hoffmann CC, Mitsch WJ, Tonderski KS, Verhoeven JTA (2016) How effective are created or restored freshwater wetlands for nitrogen and phosphorus removal? A systematic review. *Environmental Evidence* 5:9

Mitsch, William J., Li Zhang, Christopher J. Anderson, Anne E. Altor, Maria E. Hernandez (2005). Creating riverine wetlands: Ecological succession, nutrient retention, and pulsing effects. *Ecological Engineering* 25 (2005) 510–527.

Mitsch, William J., John W. Day Jr (2006) Restoration of wetlands in the Mississippi–Ohio–Missouri (MOM) River Basin: Experience and needed research. *Ecological Engineering* 26 (2006) 55–69

Mitsch, William J., Li Zhang, Evan Waletzko, Blanca Bernal (2014) Validation of the ecosystem services of created wetlands: Two decades of plant succession, nutrient retention, and carbon sequestration in experimental riverine marshes. *Ecological Engineering* 72 (2014) 11–24

Newman, Jonathan R., Manuel A Duenas-Lopez, Mike C. Acreman, Elizabeth J. Palmer-Felgate, Jos T. A. Verhoeven, Miklas Scholz, Edward Maltby (2015) Do on-farm natural, restored, managed and constructed wetlands mitigate agricultural pollution in Great Britain and Ireland? A Systematic Review. CEH report to DEFRA.

Qualls, Robert G. and Alan C. Heyvaert, (2017). Accretion of Nutrients and Sediment by a Constructed Stormwater Treatment Wetland in the Lake Tahoe Basin. *Journal of the American Water Resources Association (JAWRA)* 1-18. <https://doi.org/10.1111/1752-1688.12595>

Wong Tony H F, Peter F Breen, Nicholas L G Somes and Sara D Lloyd (1999). *Managing Urban Stormwater Using Constructed Wetlands*. Cooperative Research Centre (CRC) for Catchment Hydrology and Department of Civil Engineering, Monash University: Clayton, Victoria, Australia.

Appendix 6

Position statement on nutrient neutral development

Introduction

1. Havant Borough benefits from its position on the Solent coast which is internationally designated for its wildfowl and wading species. This creates a high quality natural environment highly worthy of protection for both its intrinsic value as well as its value in making Havant Borough an attractive place to live, work and study. The Council also takes seriously the requirement under the National Planning Policy Framework *“to support the Government’s objective of significantly boosting the supply of homes”*. The Council is in the process of updating its Local Plan with a view to not only meeting but exceeding the Government’s identified housing need for the authority, in large part through an ambitious regeneration agenda.
2. In looking to marry together these two agendas, an issue has arisen out of recent case law. This relates specifically to the impact from development on the natural environment due to a decrease in water quality.
3. The Council is already committed to development only taking place if it is sustainable development that includes relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality on any European Designated Nature Conservation Sites. However, it should be noted the contribution from urban areas to this is relatively small and from new development extremely small. The majority of nitrogen deposition into the harbour is from agricultural practices or background deposition, the source of which is not known.

Context

The Habitats Regulations

4. The Conservation of Habitats and Species Regulations (2017 as amended), hereafter referred to as the Habitats Regulations are the UK’s transposition of European Union Directive 92/43/EEC on the ‘Conservation of natural habitats and of wild fauna and flora’ (the Habitats Directive). There are significant responsibilities conferred on the Council as a ‘competent authority’ under The Habitats Regulations. Chiefly, it requires the Council to only approve plans or projects (such as planning applications or a local plan) if there is no likelihood of a significant effect on any European designated nature conservation site.

5. A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water pollution, increase in recreation, light pollution, tall buildings or construction activity.
6. In order to assess whether there is a 'likely significant effect' a Habitats Regulations Assessment (HRA) is carried out. This generally includes an Appropriate Assessment (AA), which is the second more detailed stage¹ of an HRA. Natural England must be consulted on the findings of an HRA and there is a duty to consider their response.
7. An HRA is necessary for any local plan produced for the Borough as well as a proportion of planning applications. An HRA aims to assess the potential effects of a land use plan or policy against the conservation objectives of any European sites designated for their nature conservation importance under the Habitats Directive and Birds Directive (Directive 2009/147/EC on the 'conservation of wild birds'). Such sites are known collectively as the Natura 2000 network of European sites.
8. An established principle under law is that appropriate assessments must use the 'precautionary principle'. An appropriate assessment must enable the local planning authority to apply the regulation 63(5) "integrity test" on a "precautionary basis". Authorisation may only be given if the competent authority have made certain there will be no adverse effect on the integrity of the site and where no reasonable scientific doubt remains. Conversely, that means where doubt remains as to the absence of an adverse effect on the integrity of the site linked to the plan or project being considered, the competent authority would have to refuse authorisation. It is also necessary to consider not only the impact of a single plan or project in isolation but where there is any likelihood of a significant effect in combination with other plans and projects as well.
9. The need for Habitats Regulations Assessments has existed since 2004 when the original regulations came into force. It has been known for many years that new development does lead to an increase in recreation at the coast and that this has an impact on the birds which use the coastal mud flats to feed and roost (this is a 'likely significant effect'). As a result, mitigation is required from all new development which is then used to fund the Bird Aware Partnership, of which the Council is a member. The partnership implements the mitigation scheme, largely consisting of a ranger patrols along the coast. This is an established part of the development process at the Solent.

Pressures

10. New development necessitates the provision of connections to the foul water drainage network. This could increase nutrient load at the Solent European Sites. Nutrient enrichment, can arise from wastewater treatment required in support of new development, even if it is a proportionately small contribution.
11. An increase in nutrients in the marine environment can cause a process called eutrophication. Increases in nutrients cause this process which are found in effluent, fertilisers used in arable agriculture and faeces from animals.

¹ This is set out in Regulation 63 of The Regulations.

Eutrophication

12. Eutrophication occurs when an excessive amount of nutrients within a water body are present. It causes increased plant growth which reduces the oxygen content in water. This process makes it difficult for aquatic insects or fish to survive, in turn removing a food source from the food cycle.
13. Addressing the sources of eutrophication reduces the input of nutrients into the internationally designated marine environment. However if the issue of eutrophication is not addressed, it could have a negative impact on the marine environment and the conservation objectives of the European designated nature conservation sites (see below).
14. Water quality can be measured by chemically testing water samples. Chemical testing can test for parameters such as nitrogen and phosphates which are indicators of poor water quality.

Recent case law

15. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. This generally referred to as The Dutch Case².
16. The judgement in this case refines the definition of plans and projects and effectively includes significantly more operations within the definition which have an impact on water quality, most notably runoff from agriculture.
17. As a result, using this changed approach, it can only be concluded that new development could increase nitrogen and phosphate deposition into the protected harbours above consented levels. This results in increased nutrients in the harbour which cause a dense growth in certain plants. This harbours which in turn leads to harm to the species which use them. This is the likely significant effect.
18. As a result, the only way that a new housing scheme could prevent this likely significant effect is for there to be no increase in nutrients into the harbour, i.e. for it to be 'nutrient neutral'.

European designated nature conservation sites which are affected

19. The Natura 2000 network of European designated nature conservation sites provides ecological infrastructure for the protection of rare, endangered or vulnerable natural habitats and species of exceptional importance within the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the Habitats Directive) and Special Protection Areas (SPAs, classified under the Birds Directive). Additionally, UK Government policy (section 118 of The National Planning Policy Framework and Circular 06/05) recommends that Ramsar sites listed under the Convention on Wetlands of International Importance (UNESCO, 1971), are treated as if they are fully-designated European sites for the purposes of considering development proposals that may affect them.
20. The European Designated nature conservation sites that are relevant to this Position Statement are those where wastewater from Havant Borough would drain (via a wastewater treatment works):

² Full reference is Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17) available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62017CA0293>.

- Chichester and Langstone Harbour Special Protection Area (SPA)
- Chichester and Langstone Harbour Ramsar Site
- Solent Maritime Special Area of Conservation (SAC)
- Solent and Dorset Coast Potential Special Protection Area (pSPA)

21. These are hereafter referred to the Solent's European Sites.

The impact of development on the Solent's water quality

Natural England's position regarding the impact of development on water quality at the Solent

22. Natural England advises that there is a likely significant effect on the Solent's European Sites due to the increase in waste water from the new housing as a result of the Havant Borough Local Plan 2036. Natural England also advises that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would be likely to cause a significant effect as there is uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the Solent's European Sites.
23. Natural England advise that there is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The Partnership for Urban South Hampshire (PUSH)³, Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.
24. Natural England recommend that any new proposals which include overnight accommodation have inevitable waste water implications. These implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Habitats Regulations.
25. Natural England recommends that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens. Natural England has prepared a methodology setting out how this can be achieved, which is available on request from Natural England. It is appreciated that nutrient neutrality may be difficult to achieve for smaller developments or on brownfield land.
26. Natural England advises Havant Borough Council to set up an interim approach that developments can contribute to, thereby ensuring that this uncertainty is fully addressed by all applications and will continue to work closely with Havant Borough Council in addressing this issue.

³ Which includes Havant Borough Council.

27. Natural England can also provide further advice to applicants through their Discretionary Advice Service⁴.

Havant Borough Council's position regarding the impact of development on water quality at the Solent

28. The Council is already committed to development only taking place if it is sustainable development that includes relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the Solent's water quality, given the presence of the Solent's European Sites, the conservation objectives of which are sensitive to eutrophication.
29. There has been no change to the level of nitrogen that is proposed to be emitted from new development. Nitrogen emitted from urban areas is relatively small and from new development extremely small.
30. However there has been a change in terms of how this is assessed under the Habitats Regulations and whether this level of nitrogen is considered a significant effect. The Council considers that under this new approach, the development of new overnight accommodation would be likely to cause a significant effect on several European Sites.
31. The Council considers that, due to the cause of the issue being recent case law, that the issue itself should be addressed through any one or a combination of the following:
- A national review of the nitrogen discharge consents of wastewater treatment works to include increases in nitrogen as a result of new development.
 - Government provided 'mitigation banking', potentially through a delivery arm such as Homes England.
32. Failing a central solution, there should be a PUSH-wide solution to enable development to come forward comprehensively across the Solent area. However, neither of these potential solutions can be enacted in the short term to enable planning permissions to be granted for much needed new housing.
33. As such, the Council accepts that it will be necessary to provide short term mitigation to enable development to continue to come forward in the Borough. The Council also accepts that it will be necessary to ensure that a nitrogen neutral Local Plan is prepared for submission and longer term mitigation options are explored.

Havant Borough Local Plan 2036 – Initial Nutrient Budget

34. A nitrogen budget, prepared in line with the methodology and supplementary advice from Natural England and Southern Water, using the best scientific evidence available, has been produced by Havant Borough Council (The Nitrogen Budget). The Nitrogen Budget considers all development currently proposed as part of the Havant Borough Local Plan 2036. The number of dwellings used includes all residential applications proposed in the Pre-submission

⁴ Further detail is available at <https://www.gov.uk/guidance/developers-get-environmental-advice-on-your-planning-proposals>.

Draft Havant Borough Council Local Plan⁵, including the published allowance for windfall development⁶. Nitrogen is a chemical parameter for water quality. In this situation, it is used as the measure for the impact that proposed development could have on the Solent's European Sites through eutrophication.

35. This Nitrogen Budget result is derived from calculating the total increase in nitrogen that would arise from foul drainage and be processed through the Budds Farm Wastewater Treatment Works (6751 Kilograms (Kg) / Total Nitrogen (TN) / year (yr)⁷). The Nitrogen Budget also includes development within the Borough that will be processed through Thornham Waste Water Treatments Works (575 Kg/TN/yr). This leads to a total deposition of 7,326 Kg/TN/yr. By separating out planned development in this way, it ensures that a precautionary approach to the budgeting has been used.
36. Additionally, a calculation is made to assess the nitrogen load of existing agricultural land that is planned to be developed (7284 Kg/TN/yr), and the nitrogen load associated with the new uses on the developed site (2900 Kg/TN/yr).
37. By comparing the nitrogen load of the current agricultural uses against the future planned use a figure of 4,384 Kg/TN/yr establishes the nutrient reduction that will occur through planned changes in land use for development. This is due to the fact that using land for agriculture is often more nitrogen intensive than using it for residential development, depending on the density of the proposed residential development scheme.
38. The Nitrogen Budget result subtracts the reduction in nitrogen load arising from changes in land use from the nitrogen load arising from increased foul drainage. **This confirms that the impact arising from all development planned within the Borough to 2036 can be quantified as 2,942 kg/TN/yr. This is the figure that will need to be mitigated to allow occupation of all proposed development within the Borough until 2036.**
39. Moving forwards, it will be necessary for further research to be undertaken regarding the role of nitrogen and phosphorous in the water environment, the sources of nitrogen and phosphorous in the Solent's European Sites and the effectiveness of potential measures to mitigate this. Decisions regarding the effect of recreation on European Sites and measures to avoid and mitigate that impact were based on extensive research and it is logical that the same is true of water quality. Long term decisions on the effect of development on water quality should be taken with the most robust and up-to-date scientific information possible.

The Council's position regarding avoidance and mitigation measures to ensure nitrogen neutrality

40. Based on the results of the Havant Borough Local Plan 2036 Nitrogen Budget the Council confirms that appropriate strategic mitigation options are available within the Borough that would mitigate all development planned within the Borough until 2036. The availability of mitigations options within the Borough include, but are not limited to, the following:

⁵ <https://www.havant.gov.uk/sites/default/files/documents/Pre-Submission%20HBLP2036%20for%20Full%20Council%20-%20FINAL%20POST%20COUNCIL%20%28clean%20for%20use%29%20-%20Copy.pdf>

⁶ <https://www.havant.gov.uk/sites/default/files/documents/RE-ISSUE%20-%20Windfall%20Unidentified%20Housing%20Development%20%28Final%20-%20Word%20Document%29.pdf>

⁷ Figures used are rounded to the nearest kilogram. Rounding has always been up in line with the precautionary principle.

- Apply the optional water efficiency standard of 110 litres per person per day (l/pp/d) to all new development – this mitigation option has already been included within The Nitrogen Budget. As such all residential development will be expected to meet this standard
- Taking land out of agricultural use and converting it to a use that does not artificially increase the nitrogen load of the land
- Create wetland environments that act as a nitrogen sink and remove nitrogen from rivers and streams (catchment management solutions)
- Increase the requirement for open space/SANGS for development on agricultural land
- Agreement with Southern Water that they will increase the nitrogen removal rate at the receiving Waste Water Treatment Works beyond consented levels
- Contribute to taking land out of agricultural use and catchment management solutions within the river catchment area for the impacted protected site
- Development of the Havant Thicket Reservoir
- Implementation of Brent Goose and Wader refuges

41. Havant Borough Council has ownership of land that would be suitable for various mitigation options and therefor has some certainty that strategic mitigation options can be delivered. The Council also intends to provide a mitigation package from the available options that provides a net nitrogen deficit against planned development. This will allow the Council to accommodate unforeseen windfall development and the implications of commercial development within defined limits.

42. The precise nature of the mitigation scheme will be set out through an 'Implementation Plan' associated with this Position Statement. This will set out which mitigation measures will be specifically implemented to mitigate the planned development in Havant Borough. It will then calculate the proportionate scale of mitigation to be provided, in the form of a financial contribution, from proposed development.

43. It is considered that any significant effect as a result of development generally takes place at the point that it is occupied rather than when it commences.

Development schemes that are could be affected

44. A large number of schemes are likely to result in a significant effect on the European Sites as a result of an increase in nitrogen load. Whilst there will inevitably be significant overlap with the Bird Aware Solent mitigation package, different schemes in different places in different ways will need to contribute to addressing water quality.

45. The key test is whether there would be an increase in nitrogen emissions into one or more European Sites once the development is occupied compared to if it was not built. The advice below is general in nature and does not remove the necessity to discuss this matter through a pre-application enquiry at an early point in the development process. It should also not be considered advice as to whether there would be a likely significant effect from other causes. It has already been noted that a large amount of development in the Borough, if not mitigated, would be likely to cause a significant effect due to recreational disturbance. However, as set out above, there are many less common reasons why a significant effect may be caused and it is incumbent upon applicants to familiarise themselves with the issues involved.

Area which is affected

46. All of Havant Borough is within the catchment of a Wastewater Treatment Works that drains into a Solent European site. As such, all of the Borough is affected.

Types of applications that will be affected

47. Full and outline planning applications for applicable uses are affected and so an avoidance and mitigation package will be needed. This applies to any applications determined after the adoption of this Position Statement.
48. It is the Council's advice to the Planning Inspectorate⁸ that any planning appeals for applicable uses should include an avoidance and mitigation package to remove any likelihood of a significant effect.
49. Any increase in residential dwellings that takes place as permitted development must undertake a separate HRA through Regulations 75 and 77 of the Habitats Regulations. Such assessments will need to consider water quality. Mitigation packages for such development will be needed on the same basis as those for dwellings that require planning permission.
50. Other types of application, including reserved matters, those made under Section 73 of the Town and Country Planning Act and re-submitted applications will be considered by the Council as competent authority on a case by case basis.

Residential (C3) dwellings

51. Any residential development would lead to an increase in nitrogen and thus would be likely to cause a significant effect.
52. In this context, 'dwelling' includes net new dwellings created through the sub-division of existing dwellings, second homes, dwellings to be used as holiday accommodation, self-contained student accommodation, and new dwellings created as a result of approval granted under the General Permitted Development Order e.g. change of use from office to residential (including houses and flats). It includes permanent accommodation for gypsies and travellers; temporary/transit pitches will be assessed on a case-by-case basis by the local planning authority in consultation with Natural England.

Other forms of development providing overnight accommodation

53. There is a range of development other than C3 dwellings which provides overnight accommodation. Most commonly, this includes care homes and other forms of housing for older people and hotels.
54. Such development would be considered to increase nitrogen and thus would be likely to cause a significant effect. This is due to such development housing people who otherwise would not have been in the catchment of a wastewater treatment works which drains to a Solent European Site.

⁸ In a scenario where an applicant has appealed to the Secretary of State (in practice the Planning Inspectorate) against a refusal of planning permission, the Planning Inspectorate become the Competent Authority under Regulation 63 of the Habitats Regulations. As part of this, they will need to undertake an assessment under that regulation.

Commercial and other non-residential development

55. Non-residential development is considered to potentially increase the nitrogen load through the foul drainage network and result in a potential significant effect on a protected site. Due to the large number of different uses within non-residential development these cases will have to be considered on a case specific basis. This should be explored with the Council through a pre-application enquiry.
56. Generally, applications to convert or change the use of one commercial use to another commercial use would not be considered likely to cause a significant effect.

How this position Statement will be implemented through development management decisions

57. It is necessary for the Council, as the competent authority under The Regulations, to undertake a Habitats Regulations Assessment, including Appropriate Assessment, on any development that it is considered could lead to a likely significant effect on a European Site. It is incumbent on the applicant to provide all of the information necessary to undertake that assessment.
58. The Council already undertakes Appropriate Assessment on a large number of planning applications as there is an acknowledged likely significant effect from residential development in almost all of the Borough in terms of recreational disturbance. Avoidance and mitigation packages are collected from such developments in the form of a contribution towards the Bird Aware Solent Partnership and its Solent Recreation Mitigation Strategy.
59. When submitting planning applications, applicants will need to include a 'European Sites Mitigation Checklist' (please see appendix A of this Position Statement) to set out how any likely significant effects on European Sites will be mitigated through the application.
60. For any schemes which would lead to a decrease in water quality, that AA will inevitably conclude that there would be a likely significant effect. If applicants consider there to be site specific circumstances which mean that there is no likelihood of a significant effect, it is recommended that they engage in a pre-application enquiry with the Council. As part of that enquiry, a supporting statement should be provided setting out precisely why the applicant concludes that there would not be a decrease in water quality at a European Site as a result of the proposal. It should be noted that an argument of a de minimus impact would not be considered valid.
61. As such, an avoidance and mitigation package will be necessary for almost all proposals.
62. Proposals which include development on agricultural land will need to prepare a site-specific nitrogen budget, using Natural England's methodology. This will inform a site-specific Appropriate Assessment. It is envisaged that on-site measures will be used in order to achieve nitrogen neutrality. This would generally include:
- Application of the optional water efficiency standard of at least 110 l/pp/d
 - Management of on-site open space in a low nitrogen manner
 - Create wetland environments in SUDS systems that act as a nitrogen sink and remove nitrogen from surface water

63. However, it is envisaged that development on non-agricultural land will not be able to provide mitigation on-site. As such, in order to maintain confidence in the development market and enable the continued growth of Havant Borough, whilst meeting its environmental obligations, the Council will use Grampian Conditions. This will ensure the provision of an avoidance and mitigation scheme prior to the occupation of the residential unit.
64. A Grampian Condition prohibits development authorised by the planning permission or other aspects linked to the planning permission (in this case occupation of the development) until a specified action has been taken (in this case the provision of an avoidance and mitigation package). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission⁹, which is not envisaged in this case. However, it will require applicants to take on an unknown cost and risk when implementing planning permissions relying on an avoidance and mitigation package provided under this Position Statement.
65. The specific condition wording that will be used by the Council will be:

The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority;*
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and*
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.*

Reason: *There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Policy CS11 of the*

⁹ <https://www.gov.uk/guidance/use-of-planning-conditions> Paragraph: 009 Reference ID: 21a-009-20140306

66. For sites on agricultural land that are nitrogen neutral on-site or in other unusual circumstances, variations or different conditions may be necessary in order to conclude that there would not be any likelihood of a significant effect.
67. It is anticipated that there will be a requirement for developers to make a financial contribution to facilitate the delivery of a strategic mitigation package. It is possible that at the point of decision the extent of financial contribution will not be known. However, the Council is fully aware of the need for development to be viable and, if necessary, will part fund delivery of the Havant Borough Local Plan 2036 Nitrogen Mitigation Strategy to facilitate occupation of approved dwellings. If this is necessary, the Council will engage with external funding providers, including Homes England, in order to spread the cost of such provision.

Ongoing monitoring and next steps

68. It is considered that this position statement sets out a mechanism through which some certainty can be provided to developers, whilst fully protecting the Solent's European Sites from the significant effect that would otherwise arise through development. This position statement has been prepared using the best and most up-to-date scientific knowledge available and has applied the precautionary principle where appropriate.
69. The Council will monitor permissions that are granted under this position statement and the nitrogen load that they would create. This will make sure that as mitigation comes forward this 'banked' nitrogen can be addressed as the first priority. The Council will ensure that an appropriate scale of mitigation is in place prior to occupation of any permitted schemes. The use of Grampian Conditions gives the Council a tool which can be used definitively in this effect, albeit the Council will use all tools available to ensure that effectively completed homes are not stood empty whilst mitigation is finalised.
70. Monitoring will also take place of schemes which are able to achieve nitrogen neutrality or a deficit on-site. This will feed into continued nitrogen budgeting to inform the definitive mitigation strategy and the Havant Borough Local Plan 2036.
71. Moving forwards, the Council will continue to work towards a more definitive mitigation strategy. This should ideally be on a PUSH wider (or larger) basis. The Council will continue to positively and proactively work with its partner authorities, through PUSH, together with Natural England, the Environment Agency, Southern Water, Homes England and any other stakeholder in order to address this issue appropriately.

Appendix 1: European Site avoidance and mitigation checklist

This checklist must be completed and provided in order for the Local Planning Authority to validate any planning application for one or more dwellings. It sets out how an avoidance and mitigation package will be provided to remove any likely significant effect on a European Site.

All relevant boxes should be completed and the form must be signed. If signed by an agent, it is their responsibility to ensure that the applicant is aware of the commitment to providing a mitigation package, in the form of a financial contribution, the scale of which is currently not known.

Application details	
Site name:	
Site address:	

Recreational disturbance																	
The proposed development would be within 5.6 km of Chichester and Langstone Harbour, which is a Special Protection Area and Ramsar site. As such, mitigation will need to be provided. The Council considers that mitigation provided in line with the Solent Recreation Mitigation Strategy (available at www.birdaware.org/strategy) is appropriate to the applicable planning applications. This would result in a mitigation package based on the table below. It will be necessary for a suitable avoidance and mitigation package to be provided in order for the Council to lawfully grant permission for applicable schemes. <table border="1"> <thead> <tr> <th>Size of units</th> <th>Scale of mitigation per unit</th> </tr> </thead> <tbody> <tr> <td>1 bedroom</td> <td>£346.00</td> </tr> <tr> <td>2 bedroom</td> <td>£500.00</td> </tr> <tr> <td>3 bedroom</td> <td>£653.00</td> </tr> <tr> <td>4 bedroom</td> <td>£768.00</td> </tr> <tr> <td>5 bedroom</td> <td>£902.00</td> </tr> <tr> <td colspan="2">Please note that a monitoring fee is attached, at 5% of mitigation cost.</td> </tr> <tr> <td colspan="2">Please note that an administration fee of £20 per application is applied.</td> </tr> </tbody> </table>		Size of units	Scale of mitigation per unit	1 bedroom	£346.00	2 bedroom	£500.00	3 bedroom	£653.00	4 bedroom	£768.00	5 bedroom	£902.00	Please note that a monitoring fee is attached, at 5% of mitigation cost.		Please note that an administration fee of £20 per application is applied.	
Size of units	Scale of mitigation per unit																
1 bedroom	£346.00																
2 bedroom	£500.00																
3 bedroom	£653.00																
4 bedroom	£768.00																
5 bedroom	£902.00																
Please note that a monitoring fee is attached, at 5% of mitigation cost.																	
Please note that an administration fee of £20 per application is applied.																	
Please select one of the following options:																	
I hereby confirm that the proposed development will include an avoidance and mitigation package in line with the Solent Recreation Mitigation Strategy.																	
An alternative approach to avoiding and mitigating the recreational impact arising out of the development is proposed (please set out in more detail in a supporting document appended to this checklist).																	
The site is located more than 5.6km from the Solent Special Protection Areas (this applies to only a small section of the Borough in Cowplain).																	

Water quality

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some designated sites. As such, there is considered to be a likely significant effect from residential (and similar) developments located anywhere in Havant Borough. As a result, an avoidance and mitigation package will be needed in order for the Council to lawfully grant any planning permission. The Council has published a Nutrient Neutrality Position Statement which sets out that it is possible to mitigate development in the short term.

The position statement highlights those developments which are expected to provide avoidance and mitigation on-site, thus resulting in a nutrient neutral development. It also sets out that, for any other applicable developments, the exact scale of avoidance and mitigation package (which would take the form of a financial contribution) is not yet known.

As a result, in order for the development to comply with the requirements of the Conservation of Habitats and Species Regulations and for the Council to lawfully be able to grant planning permission, it will be necessary to impose a grampian condition requiring the provision of an avoidance and mitigation package prior to the occupation of the development.

It would be the applicants risk as to whether to proceed with any development that is granted planning permission without the knowledge of the precise scale of the avoidance and mitigation package.

Please select **one** of the following options:

I hereby confirm that the proposed development will include an avoidance and mitigation package, in line with the Nutrient Neutrality Position Statement and confirm that I am content that a grampian condition is used to secure this prior to occupation.	
The proposed development would be 'nitrogen neutral'. A nitrogen budget is attached to this checklist (this option is particularly applicable to developments proposed on agricultural land)	
The proposed development is not nitrogen neutral and no avoidance or mitigation package is proposed (please note that planning permission could not lawfully be granted in these circumstances).	

Please select one of the following options to the right, then complete all boxes below	Signed by applicant		Signed by agent	
By submitting this form to Havant Borough Council, the applicant is committing to providing mitigation packages, usually in the form of a financial contribution. If the top option for 'water quality' has been selected, the applicant specifically understands that the scale of the contribution is unknown at this time.				
If an agent is signing on behalf of an applicant, it is the agent's responsibility to seek the agreement of the applicant to the commitments selected above as it will be the applicants who assumes the risk and responsibility upon the granting of any planning permission.				
Signed:				
Print name:				
Date:				

Appendix 7



Appeal Decision

Site visit made on 11 June 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/X1735/W/18/3214079

Land adjacent to Mandai, St Peters Road, Hayling Island PO11 0RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Laurence Stanley against the decision of Havant Borough Council.
 - The application Ref APP/18/00207, dated 15 February 2018, was refused by notice dated 21 September 2018.
 - The development proposed is use of land for touring caravan site.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Laurence Stanley against Havant Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The National Planning Policy Framework (the Framework), which was revised in July 2018, was subsequently updated on 19 February 2019. References to the Framework within this decision relate to the latest version published in 2019.
4. The main parties have referred to the Council's Draft Havant Borough Local Plan 2036. However, this Draft Borough Local Plan has yet to be found sound, and therefore very limited weight can be ascribed to it at this point.
5. Within the decision notice, the Council's reason for refusal refers to Policy CS9 of the Havant Borough Core Strategy – March 2011 (CS). As part of their submissions, the Council has however clarified that CS Policy CS9 (Housing) was quoted in error, and that CS Policies CS5 (Tourism) and CS16 (High Quality Design) should have instead been referred to within the reason for refusal. I shall proceed on this basis.

Main Issues

6. Following the publication of a Position statement on nutrient neutral development¹, the Council has submitted further information in respect of the effect of the proposal on the Solent Special Protection Areas. This notably concerns the likely effects from proposals providing overnight accommodation on water quality. Both main parties were provided the opportunity to comment on the information submitted by the Council.

¹ Adopted by Havant Borough Council's Cabinet on 26 June 2019.

7. I therefore now consider the main issues to be:

- The effect of the proposal on the Solent Special Protection Areas (SPAs); and
- The effect on the character and appearance of the area, having particular regard to the site's location within the open countryside.

Reasons

Solent SPAs

8. The appeal site lies within proximity to the Solent SPAs, which are protected sites designated under the Birds European Directive, as transposed in the UK by the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations), setting out a strict system of protection for European Sites and European Protected Species. Natural England has recently issued revised advice in respect of increased levels of nitrogen and phosphorous input to the water environment in the Solent, causing a dense growth of certain plants, otherwise known as eutrophication which affects the species using the Solent.
9. The Council's position statement, which reflects Natural England's advice, clearly states that forms of development providing overnight accommodation, such as the appeal proposal, are considered to increase nitrogen and thus cause likely significant effects on European Sites. In such circumstances, the Habitats Regulations state that an Appropriate Assessment (AA) is carried out.
10. Having regard to the nature of the proposed development and the increased risk which would stem from the additional waste water as a result of the proposed use, I consider that in the absence of mitigation measures, the appeal scheme would present likely significant effects on the Solent SPAs which, either alone or in combination with other plans and projects, could adversely affect the integrity of these protected sites.
11. The Council's position statement advises that an avoidance and mitigation package will be necessary for almost all proposals which, it is suggested, can be addressed by way of Grampian conditions. The suggested condition would notably require a mitigation package addressing the additional nutrient input arising from the development to be agreed with the Local Planning Authority, and a financial contribution to facilitate the delivery of the strategic mitigation package.
12. However, I note that there is currently no agreed strategy for collecting contributions for that particular purpose. It is also unclear how the contribution required as part of the mitigation package would be secured, other than through a planning obligation. As no planning obligation has been submitted as part of this appeal, the measures suggested as part of the condition would not be adequately secured, and would not bind the Council to spend the contribution towards the delivery of the mitigation package.
13. Additionally, the Planning Practice Guidance² (PPG) advises that negatively worded conditions limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be

² Paragraph: 010 Reference ID: 21a-010-20190723.

appropriate in the majority of cases. The relative proximity of the site to a SPA would not amount to the exceptional circumstances as envisaged by the PPG.

14. I have had regard to the appellant's suggestion that the existing septic tank could be used, but no substantive information has been submitted to demonstrate that this would constitute a suitable and effective alternative to prevent additional nitrogen and phosphorous entering the water environment of the Solent. Whilst there is a possibility that visitors may not use the facilities provided on-site, it is highly likely that they would seek to dispose of the wastewater contained within the cassette of the caravan prior to leaving the site. Additionally, on the basis of the evidence before me, I am unable to conclude that the proposed use of the site would be as or less intensive than the existing lawful use as a garden detached from a dwelling.
15. In the absence of evidence to the contrary, I conclude that the appeal scheme must be dismissed on the grounds of the likely adverse effects on the integrity of the Solent SPAs, either alone or in combination with other plans and projects, as a result of additional nitrogen and phosphorous from additional waste water generated by the proposed use. The proposal would therefore conflict with Habitats Regulations and Policy CS11 of the Havant Borough Core Strategy – March 2011 (CS) which, amongst other things, seek to protect habitats through appropriate adaptation and mitigation measures.

Character and appearance

16. The appeal site comprises a parcel of land located at the entrance of the small village of Northney, and lies immediately to the south of a residential property known as Mandai, which it was severed from a number of years ago. As part of my site visit, I was able to observe that the plot is clearly separated from Mandai and is largely screened on all sides by mature landscaping. The site is otherwise surrounded by open fields.
17. CS Policy CS17 sets out the settlement strategy for the area administered by the Council, which seeks to concentrate new development within the five urban areas of Havant, Leigh Park, Waterlooville, Emsworth and Hayling Island. Policy AL2 of the Havant Borough Local Plan (Allocations) – July 2014 (LP) further emphasises the Council's settlement strategy, whilst making clear that land outside the defined urban area of Hayling Island is 'non-urban' rather than undeveloped gap. As shown on the Proposals Map, the appeal site lies outside the defined urban areas of Hayling Island. It is therefore located in a non-urban area where, in accordance with CS Policy CS17, development will only be permitted if it is consistent with the policies for the countryside set out in national policy.
18. CS Policy CS5 supports development proposals that provide hotels and other types of tourist accommodation, which are not restricted to urban areas. Camping facilities are not generally associated with the urban environment and are more commonly found in countryside locations. The proposed caravan site would be located outside an urban area, but would support small scale rural tourism. Paragraph 83 of the Framework advises that planning decisions should enable sustainable rural tourism and leisure development which respect the character of the countryside. Additionally, paragraph 84 of the Framework recognises that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.

19. As noted above, the site lies just outside the village of Northney and within proximity to residential properties. Whilst the caravan site would include some permanent features such as a site cabin, it would have a limited effect on the character and appearance of the area due to the transient nature of the use, the screening provided by the mature trees and landscaping, and the limited scale and massing of the caravans and other structures on the site. Equally, any additional paraphernalia associated with the proposed use would to a large extent be screened by the existing landscaping, fencing and gate to the front of the site.
20. For the foregoing reasons, I consider that the effect of the proposal on the character and appearance of the countryside would be acceptable, and therefore find no conflict with the design aims of CS Policy CS16. Furthermore, the appeal scheme would accord with the policies for the countryside as detailed within the Framework, and there would subsequently be no conflict with CS Policies CS5 and CS17, as well as LP Policy AL2.

Conclusion

21. For the reasons detailed above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

Appendix 8

Date: 03 October 2019
Our ref: 296494
Your ref: APP/18/00929



Havant Borough Council
& The Planning Inspectorate

BY EMAIL ONLY

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Dear Sir/Madam

Planning consultation: Appeal. Siting of additional 1 mobile home to enable a total of 2 No mobile homes on site for private gypsy and traveller site. Provision of a further 2 additional car parking spaces to allow a total of 4 car parking spaces on site & retention of touring caravan space.

Location: Southdown View, Long Copse Lane, Emsworth

Thank you for your consultation on the above dated 27 October 2019 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Further Information Required

The application site is within 3km of the Solent Maritime Special Area of Conservation (SAC) and Chichester and Langstone Harbour Special Protection Area (SPA) Further information is required to determine the impact of the proposal on the SAC and SPA, specifically in relation to the impact of nutrients from the development.

Deterioration of the water environment – further information required

With regard to the integrity of the designated sites, we advise that there is currently uncertainty as to whether the increase in waste water from new housing in the Solent catchment will have an adverse effect on the international sites.

There is existing evidence of high levels of nitrogen and phosphorus in the Solent water environment with evidence of eutrophication at some designated sites. The Partnership for Urban South Hampshire (PUSH), Natural England (NE), and Environment Agency (EA) have been jointly working to develop an Integrated Water Management Strategy (IWMS). This examines the potential for the PUSH region to accommodate future housing growth without having a detrimental effect upon the water environment. A Water Quality Working Group has been set up to identify and analyse the existing evidence gaps and evaluate the need for strategic mitigation measures. However, there is currently uncertainty as to whether there is sufficient capacity to accommodate the new housing growth.

The proposal comprises new housing development and has inevitable waste water implications. It is Natural England's view that these implications, and all other matters capable of having a significant effect on designated sites in the Solent, must be addressed in the ways required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

It is Natural England's view that there is a likely significant effect on the internationally designated sites (SPA, SAC, pSPA) due to the increase in waste water from the new housing.

As you are aware, where there is a likelihood of significant effects (excluding any measures intended to avoid or reduce harmful effects on the European site), or there are uncertainties, a competent authority should fully assess (by way of an “appropriate assessment”) the implications of the proposal in view of the conservation objectives for the European site(s) in question. Appropriate assessments cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. Complete information is required to ensure that the proposal will not affect the integrity of the international sites.

Natural England advises that the waste water issue is examined within the appropriate assessment and that the existing nutrient and conservation status of the receiving waters be taken into account. LPAs will be aware of recent CJEU decisions regarding the assessment of elements of a proposal aimed toward mitigating adverse effects on designated sites and the need for certainty that mitigating measures will achieve their aims. The achievement of nutrient neutrality, if scientifically and practically effective, is a means of ensuring that development does not add to existing nutrient burdens. Natural England has prepared a methodology setting out how this can be achieved and this is attached for your information. It is appreciated that this may be difficult for smaller developments or developments on brownfield land. Natural England has advised that your authority set up an interim approach that developments can contribute to thereby ensuring that this uncertainty is fully addressed by all applications. Natural England is working closely with affected local planning authorities to help address this issue. Natural England can also provide further advice to the applicant on mitigation options under our Discretionary Advice Service.

Please note we advise that the competent authorities to whom Natural England gives its statutory advice on the environment will need to seek and rely upon their own legal advice on the interpretation of the Habitats Regulations and case law.

Solent Recreation Management Strategy – No objection subject to mitigation

This application is within 5.6km of Solent and Southampton Water SPA and will lead to a net increase in residential accommodation. Natural England is aware that Havant Borough Council has adopted a Supplementary Planning Document (SPD) or planning policy to mitigate against adverse effects from recreational disturbance on the Solent SPA sites, as agreed by the Solent Recreation Mitigation Partnership (SRMP).

Provided that the applicant is complying with the SPD or policy and the requirement for Appropriate Assessment under The Conservation of Habitats and Species Regulations (as amended 2017). Natural England are satisfied that the applicant has mitigated against the potential adverse effects of the development on the integrity of the European site(s), and has no objection to this aspect of the application.

Biodiversity Enhancement

It is a requirement of all development to enhance the natural environment, as stated in the NPPF (2018 as amended), paragraphs 8, 170 and 175. Without enhancement, the development would not be complying with National Policy (NPPF 2018 as amended). Natural England advise that an appropriate level of enhancement, such as the addition of bat boxes and/or bird boxes, is secured through a planning condition.

Landscape

The proposed development is for a site close to South Downs National Park we recommend you also seek the advice of South Downs National Park Authority.

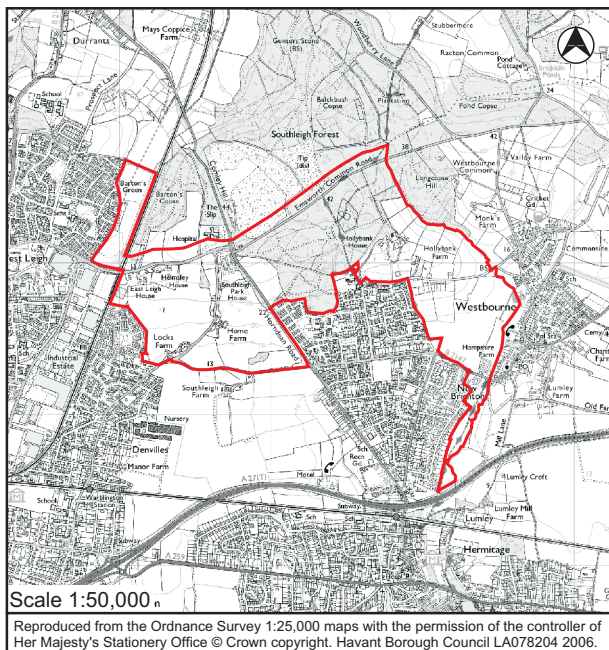
I trust this advice will assist you and the authority in considering the application further.

Please contact me if you have any queries relating to this advice.

Yours sincerely

Rachael Clemson
Sustainable Development Adviser
Dorset, Hampshire and Isle of Wight Area Team

Appendix 9



LCA21

Southleigh Forest



Bartons Green



Farmed landscape to the south of Barton's Road



River Ems landscape



South front of Southleigh Park

LCA21 Southleigh Forest

Introduction

The area contains one landscape character type: Lowland Settled Wooded Farmland LCA B. A full description of the characteristics common to this type is set out in Section 4. The area is composed of fifteen historic landscape character types: Small Regular Fields with Straight Boundaries (Parliamentary Type) (1.9); Medium Regular Fields with Straight Boundaries (Parliamentary Type) (1.10); Wooded over Commons (2.4); Assarted Pre-1810 Woodland (4.1); Early and Mid-Victorian Settlement (9.6.1); Late Victorian Settlement (9.6.2); Pre-War Residential (9.6.4); Late 20th Century Residential (9.6.7); Pre 1810 Village/Hamlet (9.7); Small Farmsteads (9.13); Manor House/Estate (9.14); Large-Scale Commercial (9.15); Post 1810 Parkland (10.2); Sports Fields (11.3); and Railway (13.5.1) (Figure 1).

Location

Located towards the north east of the Borough, including the woodland of Hollybank Wood which forms the southern part of Southleigh Forest. To the east this LCA also includes the remnant parkland of Southleigh.

Relationship to adjacent character areas

LCA17 West Leigh: Good visual relationship with housing on Wakefords Way that fronts the recreation ground which forms part of LCA21. Small woodland copses within LCA17 connect across to the wooded character of LCA21.

LCA18 West Leigh Industrial Estate: Tree and shrub planting along Bartons Road and the railway line provide a visual buffer and a connection to the adjacent industrial estate.

LCA19 Denvilles: The new housing to the north is visually prominent from adjacent areas within LCA21. Due to the high density of development this limits any landscape connections to the wider rural landscape of LCA21.

LCA22 Southleigh agricultural plain: Some intervisibility exists between these two LCAs although there is a dense hedgerow along the southern boundary road. The open predominantly treeless fertile agricultural plain of LCA22 contrasts with the wooded landscape of LCA21, although hedgerows within LCA21 connect across to poor intermittent hedgerows within LCA22.

LCA23 New Brighton: To the north the urban edge is hard up against Hollybank Wood, while in the east the relationship is more transitional with clusters of trees found within the urban landscape of LCA23. Along the western edge the hedgerow planting adjacent to Redlands Road and Westbourne Road provides some screening of the adjacent built form.

Beyond the Borough boundary: To the north is an extraction site which is now being filled with waste. Adjacent this site and within the Borough is a wide band of trees (part of Southleigh Forest), these screen and filter views into this waste site. Hollybank Wood forms part of the woodland which extends into Southleigh Forest to the north.

Historic development

Historically, an interesting mix of gentlemen's houses in parkland settings, and isolated farmsteads, lying along the southern edge of the Havant Thicket. The early 19th century houses of East Leigh and Hollybank House, together with the mid 19th century Southleigh Park (formerly 'Woodlands') (and West Leigh House in LCA17 to the west), are all situated on or above the 100 ft contour, and therefore commanded fine views across the lower harbour plain to the sea beyond. The south-west quadrant of the LCA was occupied by the parkland settings of East Leigh and Southleigh Park, while the agricultural land down the east side of the LCA was managed from the two isolated farms of Hollybank Farm and Hampshire Farm. Historically, the junction of Southleigh Road and Eastleigh Road lay immediately to the south west of Emsworth Common, and early maps show a small cluster of buildings here, presumably taking advantage of the common land. Another small cluster of buildings are shown just to the north by 1810, along the western boundary of what became the parkland to Southleigh Park, marking the enclosure of the common land.

Key characteristics of *Southleigh Forest*

Physical: landform, soils and land cover

- The landform gently slopes down from Comley Hill to the north in a southerly and westerly direction, with the upper levels forming part of Southleigh Forest and Hollybank Wood and the lower slopes becoming more open with the designed parkland to the south of Southleigh House and the open arable landscape to the west
- The underlying geology for this LCA is London Clay with periglacial drift deposits of Head found in a band to the north and to the south. River terrace deposits align along the southern boundary
- The soils to the north overlying the London clay and periglacial deposits are composed of slowly permeable seasonally wet slightly acidic but base rich loamy soils, this have produced a range of poorer grade agricultural land ranging from Grade 3 to Grade 4. Further to the south west, the soils are loamy with a naturally high water content producing fertile plains (grade 1) under arable production
- The parkland at Southleigh House consists of small woodland copses and individual trees within an area of grassland
- The open area of farmland to the east, consists of medium sized fields of pasture in the north predominantly used for horse grazing with some hedgerow division leading to larger open arable fields to the south.

Biodiversity

- The north east of this area consists of a large area of broadleaved woodland, none of which is ancient semi-natural woodland. Within the broadleaved woodland there are smaller patches of coniferous plantation and a patch of forestry scrub as well as three patches of grassland, one of which is quite large
- In the north west of the area there is a large sports field with broadleaved woodland at its southern extent
- A habitat mosaic adjoins the woodland at the southern edge and extends to the east with grassland adjoining a large patch of arable land. There is a small area of residential development associated with this mosaic providing habitat

through gardens. The patch of arable land is large, with some commercial buildings on its south eastern edge

- The arable land is bordered by improved grassland which is associated with a thin strip of broadleaved woodland that runs up to the larger patch of woodland in the north.
- In the south east of the area, below the woodland there is further agricultural land consisting of improved grassland and arable land.

Historic and built environment

- This is one of the few areas in the Borough where the sparseness of the historical settlement pattern survives with only few later additions, and contains a number of important listed buildings
- Small regular parliamentary type fields define the historic landscape in the north west corner and eastern quarter of the LCA. Recent hedgerow loss in both areas has degraded this historic landscape although where field boundaries survive the character is still traceable
- The north eastern part is dominated by woodland which includes pre-1810 woodland north of Southleigh Park and plantation woodland in areas of the historic woodland of Emsworth Common
- The central area retains the designed parkland character associated with Southleigh House
- South of East Leigh House the historic landscape is defined by medium sized regular parliamentary type fields. However, extensive boundary loss has degraded this character and it is hardly recognisable in the current landscape.
- Linear intermittent hamlets with predominantly mixed hedgerow boundaries with mature oak trees evoking a rural character
- Individual farmsteads with farm house, outbuildings and adjacent small paddocks
- The 16th century timber-framed and thatched house of 'East Leigh', at the junction of Southleigh Road and Eastleigh Road is one of the very rare surviving examples of the early local vernacular building tradition of the Borough
- To its north, though of somewhat later date, the small cluster of flint and brick buildings at Home Farm demonstrate the later vernacular building materials of this area, including the decorative use of tabular flint in the Victorian period
- Southleigh Park retains a number of flint and brick ancillary buildings including stables and a model dairy, which together comprise a fine group, though their setting has been seriously compromised by the modern tinted glass office building to the north
- Line of gentlemen's houses built in the early 19th century within parkland estates, following the enclosure of parts of the Forest of Bere
- Interesting group of buildings focussed on Home Farm now constitutes one of the rural hamlets in the borough
- The entrance to the sand quarry is busy however the good quality boundary vegetation filters views reducing the impact.

Experiential: tranquillity, visual perceptions and access

- Road located along the wood's northern boundary is busy and detracts from the tranquil quality within adjacent areas

- The accessibility to this LCA is mixed, with the Hollybank Wood accessible with numerous footpaths and the Sussex Border Path. The parkland area of Southleigh House is private. Further to the west, the large arable fields are inaccessible as well as the mixed range of fields to the east.

Visual: openness/enclosure, prominence and visibility

- The woodland provides an enclosed landscape with a variety of vegetation types, including a high density of holly, areas of coppice and yew
- Eastleigh Road due to its thick hedgerows is predominantly enclosed, while further to the north views along the elevated Bartons Road focus down across the landscape to the A27 (T) and beyond. Farmsteads are seen as individual clusters within this open rural scene
- Hollybank Wood is a prominent feature
- Views from the road out towards Westbourne across the open agricultural plain.

Specific local key issues

- Loss of boundary hedgerows leading to large fields and poor edge treatment adjacent New Brighton
- Encroachment of urban character into adjacent rural areas
- Increased use of farmland for horse grazing
- Views eastwards from Eastleigh Road are now dominated by the industrial area of LCA18
- Potential loss of settings of historic buildings.

Designations

8 listed buildings

7 unlisted historic buildings

Southleigh Forest (South) SINC

Southleigh Forest (North of Emsworth Common) SINC

Landscape and built form strategy and guidelines

The landscape strategy is *conserve* and *enhance* the local character. The following guidelines apply:

Land management

- Maintain and manage woodland strip adjacent quarry
- Maintain robust woodland edge adjacent New Brighton
- Continue to manage a variety of vegetation types within Hollybank Wood
- Retain and manage the treed hedgerow character along Redlands Lane and Westbourne Road to maintain a vegetated buffer to New Brighton as seen from the open landscape of this LCA
- Maintain and enhance the broadleaved woodland, replacing coniferous woodland when appropriate with broadleaved species
- The woodland resource needs to be protected from loss through development
- Encourage the use of field margins for ecological benefits by providing habitat through hedgerows and land that is not cultivated for farming
- Retain and manage characteristic small hedged paddocks.

-
- Enhance the rural character to the playing fields at Barton's Green
 - Protect the character and public enjoyment of Ems Valley.

Built form and development

- Retain, manage and improve the parkland character of Southleigh House. Retain the historic setting for Southleigh House and associated buildings within this rural landscape
- Avoid urbanisation of site with lighting, road details and sight lines
- Maintain the scale and size of farm settlements at Locks Farm and Home Farm
- Retain rural character of the intermittent linear settlement to the east of New Brighton, with open grass verges, boundary hedgerows or low flint walls. Avoid urbanizing trends i.e. close boarded wooden fencing, high brick walls, outside lighting and railings
- The surviving elements of the 19th century estates, and their landscape settings should be protected from further erosion by development
- The long distance views from Southleigh Park, once common to all of the estates, should be protected.

APPEAL – Southdown View Long Copse Lane Emsworth

**LPA REF:-18/00929/
Planning Inspectorate Reference:-
APP/X1735/W/19/3227101**

LIST OF SUGGESTED CONDITIONS

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of 'Planning policy for traveller sites'.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.
- 3 There shall be no more than 2 pitches on the site and no more than 4 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 2 shall be static caravans.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry. Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.
- 4 No commercial activities shall take place on the site, including the storage of materials.
Reason: To protect the amenities of neighbouring residential properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 5 No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
Reason: To protect the amenities of neighbouring residential properties in accordance with policy CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011.
- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure or areas of hardstanding other than those shown on the approved site development scheme shall be erected on the site.
Reason: The development is contrary to the provisions of the development plan in that the site lies within the rural area and is unrelated to the needs of agriculture or forestry.

Planning permission has only been granted in this instance because of insufficient site provision for the needs of the Gypsy and Traveller Community. This condition is therefore necessary in order to protect the character and appearance of the rural locality in accordance with Policy CS10 of Havant Borough Local Plan (Core Strategy) 2011 and the Planning Policy for Traveller Sites 2015.

- 7 No above ground construction works shall take place until a Site Development Scheme has been submitted to and approved in writing by the Local Planning Authority. The Site Development Scheme shall include details of:

(a) full details of hard and soft landscape works including planting plans; written specifications (stating cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities,
(b) all boundary treatments;
(c) all parking and hardstanding areas;
(d) all external lighting;
(e) cladding materials for the mobile home, such details shall include the type, colour and texture of the materials.

The approved Scheme shall be carried out in full, and completed prior to the occupation of the development hereby approved. Following the implementation of the approved Site Development Scheme, the works thus carried out shall thereafter be retained and maintained, and shall remain in use throughout the lifetime of the development.

Reason: To ensure the development does not have a significant adverse impact on the character and setting of the area in accordance with policies CS10, CS11 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011.

- 8 The development hereby permitted shall be carried out in accordance with the following approved plans:
LOCATION PLAN Drawing No. 000
01297/2C REV FEB 17 PROPOSED SITE PLAN
MOBILE HOME ELEVATIONS AND FLOOR PLAN Drawing No. 200
PROPOSED UTILITY BUILDING PLANS AND ELEVATIONS.
01297-5 REV1 EXISTING STABLES
Arboricultural Report Prepared by Jonathan Rodwell Date October 2018 – Beechdown ref: B/0202/18

Reason: - To ensure provision of a satisfactory development.