

Appeal by Mr S Wilson

re.

**Site at 1 Northney Cottages, Northney Road,
Hayling Island, Havant, Hampshire PO11 0DW.**

Grounds of Appeal

presented by

Robert Tutton BSc(Hons), MRTPI.

Mr Robert Tutton

Qualifications: Bachelor of Science (Honours) Degree in Town and Country Planning awarded by the University of Aston in Birmingham.
Member of the Royal Town Planning Institute since 1976.

Experience: Has worked in the town and country planning field for fifty-four years, of which nine were spent with Portsmouth City Council (1965-74) and fifteen with Fareham Borough Council (1974-89) in several senior positions, including Chief Forward Planning Officer and Chief Development Control Officer. Has been a Town Planning Consultant in private practice since July 1989 and a Director of Robert Tutton Town Planning Consultants Ltd since January 2008.

Is familiar with the provisions of adopted planning policies for Hayling Island and has visited the appeal site and its environs on several occasions since first being instructed by Simon Wilson in June 2017.

TOWN AND COUNTRY PLANNING ACT 1990
Section 78

APPEAL by Mr S Wilson against the decision of **Havant Borough Council** to refuse the grant of planning permission for the erection of a semi-detached pair of three-bedroomed houses with a new access and parking on the former garden of no.1 Northney Cottages, Northney Road, Hayling Island, Havant in Hampshire PO11 0DW.

Havant Borough Council's reference: APP/18/00593

GROUND'S OF APPEAL.

1.0 THE APPEAL SITE and its environs.

1.1 Northney Cottages stand within the group of fourteen pairs of semi-detached two-storey houses that characterise the north side of Northney Road to the west of its junction with Northney Lane on Hayling Island, in the southeast sector of Havant Borough Council's administrative area. The group displays a mix of finishes (red brick, light render) but all have hipped roofs of brown tiles; two more pairs of semi-detached two-storey houses stand further to the east but, beyond them, nos.3, 4 and 4a Northney Lane form a terrace of three. A bound footpath provides for safe pedestrian movement along the north side of Northney Road; passers-by are afforded a northward view along the field access beside no.38, but tall hedges on the front and rear boundaries of the appeal site prevent such views across it (**Appendix 1**). The site comprises the western part of the residential garden curtilage of no.1 Northney Cottages, so it accords with the definition of 'previously developed land' at 'Annex 2 Glossary' of the National Planning Policy Framework.

1.2 St Peter's Church and the North Hayling Recreation Hall stand six minutes' walk away to the south of the appeal site. The Applegreen Service Station on Havant Road (A3023) opens between 0700 and 2100 hours seven days a week for the sale of provisions and newspapers – it is just twelve minutes walk away to the northwest of the appeal site and can be safely reached via Footpath 106; 'The Ship Inn' is eight minutes further on. Twelve minutes walk to the northwest of the appeal site (via Footpath 106) Havant Road forms part of the route followed by two frequent and regular 'Stagecoach' bus services (nos.30 and 31) that are available to take passengers south to Eastoke via West Town and Beachlands or north to Havant town centre, where a wide range of services and facilities is offered. The 'Hayling Island Carshare' scheme has recently been introduced by Hampshire County Council (**Appendix 2**). Residents of this locality enjoy safe and convenient access to 'Northney Farm Tearooms' and pleasant rural walks along Footpaths 79, 105 and 116 (3.5 minutes walk away to the west) and several routes in the vicinity are clearly marked for the use of short- and long-distance cycling. While it is evident that residents of this locality do not *need* to use a private car to enjoy the use of services (ie this is an accessible, sustainable location) the provision of secure on-site facilities for bicycle storage would help promote the use of that alternative to the private car as a sustainable transport mode for trips under five kilometres, as is recognised in NPPF2.

2.0 RELEVANT DECISION

2.1 Attention is drawn to planning permission 17/01418/FUL that was granted by Basingstoke and Deane Borough Council in 2017 for the erection of a three-bedroomed detached house on land beside no.6 Sunnyside Cottages in Sherborne St John (**Appendix 3**); the application site was seen to comprise part of *'The enclosed space of grounds and buildings immediately surrounding a dwelling'* ie its residential curtilage. As agent for the application, Robert Tutton's practice was familiar with the circumstances which led to the consent. Attention is drawn to these extracts from the Officers' delegated report which led to that decision:

"The site lies outside of any settlement policy boundary and is therefore considered to lie in a countryside location. The site also lies within the Sherborne St John Conservation Area and within the Basingstoke-Sherborne Strategic Gap."

"The existing site comprises a 0.04ha site, located to the south of 6 Sunnyside Cottages. Sunnyside Cottages comprises a row of cottages located to the west and on higher ground than the A340...The proposal is for the erection of one detached two-storey dwelling on the application site."

"The site is located outside of any Settlement Policy Boundary (SPB). It is therefore within the part of the borough which is designated as countryside as per Policy SS1 (Scale and distribution of new housing) of the Local Plan...The Local Plan is explicit in its aims as stated in Paragraph 4.70: *'The aim of the Local Plan is to direct development to within the identified Settlement Policy Boundaries and specific site allocations...Within the countryside it is the intention to maintain the existing open nature of the borough's countryside, prevent the coalescence of settlements and resist the encroachment of development into rural areas...The countryside is therefore subject to a more restrictive policy.'*...Policy SS1 sets out a spatial strategy for the Local Authority to meet its full housing need over the Plan period. The strategy is **principally** based upon the development of allocated Greenfield sites and the redevelopment of land in towns and villages. Development in the countryside is **generally** restricted." [Emphasis added]

"Policy SS6 states that development in the countryside will only be permitted if the site is on previously developed land...The application site previously formed part of the garden area belonging to 6 Sunnyside Cottages. The applicant has provided details and evidence of how the site was previously enclosed with a boundary hedge and contained a vegetable garden and washing line. Therefore the site constitutes previously developed in accordance with the definition within the National Planning Policy Framework."

“In this instance, the site is located alongside a number of residential dwellings that line the southern side of the A340. Immediately outside of the site is a bus stop which provides a regular service between Basingstoke and Tadley and would be easily accessed from a public footpath by occupiers of the proposed dwelling. Therefore it cannot be said that the proposed dwelling would be ‘isolated’. On this basis, the proposal would comply with Policy SS6(a)(i). Furthermore, there are no policies within the Sherborne St John Neighbourhood Plan that would prevent the principle of development being considered acceptable.”

“The application site is located between existing residential dwellings that also lie within the strategic gap. These dwellings coupled with the open countryside to the west contribute to the rural character of this part of the gap. It is considered that to erect a dwelling between the existing residential development within the gap and on previously developed land would not be out of keeping with the rural nature of this part of the gap or reduce its openness or compromise its integrity, either cumulatively or individually.”

“It is considered that the proposed dwelling would be appropriate in the context in which it sits and in terms of its size, scale and design it would relate appropriately to the existing historic cottages and would preserve their contribution to the character and appearance of the Conservation Area.”

“The proposals are considered to be acceptable in terms of its relationship with the key characteristics of the Conservation Area. The proposals, by way of their height, design and scale would also be appropriate to the character and appearance of this part of the rural landscape.”

“With regards to the impact on no.7 to the south, as the proposed dwelling would be sited to the north east and there would be significant separation between the rear of the proposed dwelling and front of the neighbouring dwelling, no adverse harm in terms of overlooking or loss of privacy to the neighbouring dwelling would result...On this basis, the proposals would not harm residential amenity in terms of overlooking, loss of privacy or loss of light and would comply with Policy EM10.”

2.2 While the circumstances of two sites are never exactly the same, the similarity between 6 Sunnyside Cottages and 1 Northney Road is striking – garden curtilage land outside the Settlement Policy Boundary; local plan policy allowed for development on ‘previously-developed’ land; and as the site was within a group of houses, it would not be ‘isolated’. The adopted spatial strategy was **principally** (but not exclusively) based upon allocated sites and urban redevelopment and residential development was **generally** restricted in the ‘countryside’ (but not exclusively so). While both sites comprised ‘previously-developed land’ within the residential curtilage of a house standing within a group outside the boundary of a defined settlement, the approach taken by Havant Borough Council will be shown to be very different from that by Basingstoke and Deane.

3.0 PLANNING APPLICATION APP/18/00593

3.1 Planning application APP/18/00593 was received by Havant Borough Council on 7th June 2018 and validated eleven days later. Section 3 of the submitted 1APP form described the proposal as the *“Erection of a pair of semi-detached houses on former garden of number 1 Northney Road (Resubmission of APP/17/00304)”*. Section 9 recorded the intention to finish the walls of the houses in ‘Red/brown brick’, with roofs of ‘Plain brown tiles’.

3.2 Drawing no.16151-01 prepared by Stride & Son shows a semi-detached pair of two-storey houses standing centrally on the plot, with the valleys of their twin-hipped roofs aligned east-west, to ensure that their overall height would accord with their neighbours – nos. 1 and 2 Northney Cottages to the east and nos.37/38 Northney Road to the west. Drawing no.16151-02 shows how vehicular access would be achieved via a dropped kerb in the centre of the Northney Road frontage, to serve a pair of parking spaces on the forecourt of each new house. Existing hedges on the road frontage would be removed but new native hedging is proposed to be planted on the frontage and along the site’s western boundary.

3.3 Robert Tutton’s letter dated 6th June 2018 stated that it *“...should be seen to comprise the Design & Access Statement which supports the proposal.”* Two paragraphs have already been reproduced (1.1 and 1.2 above), so attention is drawn to these extracts:

“4. The north side of Northney road is characterised by pairs of two-storey semi-detached houses, so another such pair is proposed to be erected on this site. Nos.1 and 2 Northney Cottages stand forward of the general building line that is presented by the houses to their east and west, so the pair now proposed would be set back a little, to create a transition in the frontage. In reiteration of the predominant materials presented in the vicinity, it is proposed that the new houses be finished in red-brown brickwork with hipped roofs of brown tiles. Vehicular access is proposed to be achieved via a joint dropped kerb and a pair of conjoined accesses at the centre of the site frontage, to enable two vehicles to be parked and turned on each plot and re-enter the public highway in a forward gear. Provision for the storage of bins and bicycles is proposed in each rear garden, with a facility beside each driveway for refuse collection on the requisite day.”

“6. Paragraph 8.02 of the Core Strategy explains that *‘The areas beyond the urban areas (previously countryside) are now defined as non-urban areas’* and *‘The boundary definition for the urban and non-urban areas is identified on the Proposals Map’*. With regard to the ‘Concentration and Distribution of Development within the Urban Areas’, Policy CS17 of the Core Strategy states that *“Development will be permitted that makes the most effective use of land in the borough by granting permission that...Prioritises development on previously developed land. Development*

in the non-urban areas will only be permitted if it is consistent with the policies for the countryside set out in national policy.”

“7. Map 10 of the Local Plan Allocations document shows this application site outside of the red edge that defines the Urban Areas of Stoke and North Hayling and within the area defined by the dark green broken line which renders land the subject of Policy DM9 re ‘Development in the Coastal Zone’. Notably, this application site does not fall within the ambit of the Chichester Harbour Area of Outstanding Natural Beauty (Policy CS12) nor is it part of ‘Important Sites, Brent Geese and/or Waders’ (Policies CS11 and DM23); the absence of such notations confirms that this application site is not of high environmental value.”

“8. One of the ‘Core planning principles’ set down in section 17 of the NPPF is that planning authorities should ‘...*encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value*’. As the contemporary Local Plan Allocations document has acknowledged, this application site is not of high environmental value, so it simply remains to be demonstrated that it should be used effectively, because it is ‘...*previously developed (brownfield land)*’. The Glossary at Annex 2 of the NPPF defines ‘Previously developed land’ as being ‘*Land which is or was occupied by a permanent structure, including the curtilage of the developed land*’. It is submitted that, as no.1 Northney Cottages is a permanent structure and the application site comprises part of its residential garden curtilage, this application relates to ‘previously developed land’...Three years ago, Charles George QC handed down his judgement in the case of *Dartford Borough Council v Secretary of State for Communities and Local Government* - the Deputy Judge held that the wording of the exemption to previously-developed land within the NPPF was significant and only residential gardens within the ‘built up area’ were exempt from the definition of previously-developed land. This residential garden curtilage lies outside the Urban Areas defined on Map 10 of the Local Plan Allocations document and is not of high environmental value, so Simon Wilson’s proposal for a semi-detached pair of two-storey hip-roofed houses (that would reinforce and reiterate the character and identity of this locality) should be seen to be an appropriate residential development for this under-used ‘brownfield’ site.”

3.4 The application was determined by the Officers under their delegated powers, so no prior opportunity was afforded for Simon Wilson or Robert Tutton to appreciate the matters on which the decision would turn or to present a deputation in favour of the proposal to the Development Management Committee (of Members). The decision notice issued on 13th August 2018 gave these three reasons for withholding consent:

“1. The proposal represents the undesirable addition of two dwellings in a location outside the built up area for which there is no special justification. Furthermore, the dwellings would be located in an unsustainable location where the occupiers of the dwellings would be likely to have an over-reliance on the private car to access employment, education, retail, entertainment and health facilities. It is therefore contrary to policies CS17, DM11 and DM12 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2018.”

“2. The dwellings and associated access, parking and turning would be sited to the west side of No.1 Northney Cottages, removing an important visual gap between residential buildings and consolidating and extending linear development. This is considered to be detrimental to the attractive semi-rural character of the area. The development would therefore conflict with policies CS11, CS16, CS17 and DM9 of the Havant Borough Local Plan (Core Strategy) 2011, policy AL2 of the Havant Borough Local Plan (Allocations) 2014, the Northney & Tye Village Design Statement and the National Planning Policy Framework 2018.”

“3. In the absence of a suitable agreement to secure appropriate mitigation measures, the development would be likely to have a significant effect on the Solent Special Protection Areas and so is contrary to Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011, DM24 of the Havant Borough Local Plan (Allocations) 2014 and the Conservation of Habitats and Species Regulations 2017 and the National Planning Policy Framework 2018.”

3.5 The Officers' Delegated Report which led to the decision has since become available for scrutiny (**Appendix 5**) and these matters are considered noteworthy:

A. “The site lies to the north of Northney Road. The current dwelling has an amenity space to the west, rear and to the east in the shape of an L and is two storeys in height, brick built and has a slate roof. A pair of semi-detached dwellings are proposed to be developed within the amenity space to the side of No.1 Northney Cottages, which has a large amenity space surrounded with a curtilage boundary of thick foliage and hedging between 1.5-2.5m high...To the east is a pair of semi-detached cottages, Nos 1 and No 2 Northney Cottages. To the west are residential two-storey semi-detached properties, with farmland to the north and south...The site is located outside the urban area.”

B. The ‘Policy Considerations’ were identified as being twelve policies of the Havant Borough Local Plan (Core Strategy) March 2011 (Policies CS11, CS12, CS14, CS15, CS16, CS17, CS20, CS89, DM11, DM13, DM8, DM9), three policies of the Havant Borough Local Plan (Allocations) July 2014 (Policies AL1, AL2 and DM24) and unspecified elements of the National Planning Policy Framework 2018.

C. Eight 'Statutory and Non Statutory Consultations' were undertaken – Building Control; Chichester Harbour Conservancy; Community Infrastructure, Planning Policy & Urban Design; Crime Prevention; Highways Engineer, Development Engineer; Natural England Government Team; Public Spaces; and the Waste Services Manager; **none** raised objection to the proposal. (Section 5).

D. Two representations were received as a result of 'Community Involvement' (Section 6). The NEHRA helpfully commented that *"The proposed property has been designed to reflect the character and identity of the existing buildings in Northney Road and hence is in keeping."*

E. "The site lies outside the built-up area where new residential development is not normally acceptable. Policy CS17 relates to the need to concentrate new development (including housing) in the urban areas. Policy AL2 defines land outside the defined urban area of Hayling Island as 'non-urban' and again restricts development within such areas. The principle of residential development is therefore not considered to be acceptable in this location". (Para 7.2)

G. "The area is outside the built-up area and has a rural character with fields and boundary hedgerows and trees interspersed by a row of dwellings and farmland. The landscape is relatively flat and the site is immediately adjacent to Chichester Harbour Area of Outstanding Natural Beauty. To the west beyond Northney Road is a continuation of housing and farmland with a fairly uniform pattern of semi-detached dwellings to the east. To the south is open farmland." (Para 7.4).

H. "The application site itself is located in a small group of semi-detached cottages to the east end of Northney Road which benefit from a generous amenity space to the side, rather than the typical form to the rear...The proposed plot is partly screened from the highway by thick hedging at various heights and appears to serve No.1 and provide a garden/amenity space to benefit the cottage." (Para. 7.5)

I. "Within such areas, new residential development without specific justification (for example a farm workers dwelling) is normally refused...Furthermore the area is isolated from schools, employment and other facilities and would result in over reliance on the private car, resulting in an unsustainable development in a relatively isolated location.(Para 7.6).

J. "The development would result in the loss of this important gap and views to the Chichester Harbour AONB and open land fronting the harbour by the provision of the two storey dwellings...This character is recognised in the Northney and Tye Village Design Statement." (Para.7.7)

3.6 On 7th February 2019, Simon Wilson completed a Unilateral Undertaking and paid £1,357.70 to settle its requirement for a contribution to the Solent Disturbance Mitigation Project. The Officers have confirmed that, with this matter settled, Reason for Refusal 3 has been addressed.

4.0 PLANNING POLICY

4.1 Section 38 of the Planning and Compensation Act 2004 requires an application or appeal to be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise; an element of flexibility is provided which enables decisions to be made which may disagree with the development plan. The statutory development plan for Hayling Island comprises the **Havant Borough Local Plan (Core Strategy) 2011** and the **Havant Borough Local Plan (Allocations) 2014**. The **Havant Borough Design Guide** was supplementary planning guidance adopted in 2011.

4.2 Map 10 of the Proposals Map of the **Havant Borough Local Plan Core Strategy (Appendix 6)** shows the appeal site outside the red edge that defines the Urban Areas of Stoke and North Hayling and within the area defined by the dark green broken line which renders land the subject of Policy DM9 re 'Development in the Coastal Zone'. Notably, this site does not fall within the ambit of the Chichester Harbour Area of Outstanding Natural Beauty nor is it part of 'Important Sites, Brent Geese and/or Waders'; the absence of such notations confirms that the appeal site does not lie within an area of high environmental value.

4.3 Para.7.04 of the Core Strategy' acknowledges that a 'primary objective' is "...the preservation and enhancement of the borough's natural landscape, open space, its biodiversity and built heritage...However, the council must seek growth and appropriate development in order for the borough to become a vibrant place to live, providing opportunity and facilities for its residents...It is vital to find a balance between these objectives without harming the natural and built environment which forms the borough's identity." As "A significant proportion of Hayling Island is considered to be at risk from coastal flooding" (Core Strategy, page 11 refers) it is evident that development opportunities on Hayling Island are relatively rare and this chance to utilise previously-developed land for new residential development should be welcomed, not spurned. Core Strategy Policy CS11 re "Protecting and Enhancing the Special Environment and Heritage of Havant Borough' states that "Planning permission will be granted for development that..." satisfies eleven requirements but, notwithstanding the call by the Development Management Procedure Order 'to state clearly and precisely the full reasons for refusal', the decision notice issued on 13th August did **not** precisely indicate which of those would be allegedly breached. It is noteworthy that, although requirement 1 of Policy CS11 calls for proposals to respect '...the key landscape and built form principles set out in the *Havant Borough Townscape, Landscape and Seascape Character Assessment*' (consultants were commissioned to prepare it in 2007), the Assessment did not form part of the 'Policy Considerations' identified in the Officers' report and no breach of its provisions is alleged in the decision notice. In the absence of a specific charge, it is submitted that the appeal proposal satisfies all the requirements of Policy CS11.

4.4 Core Strategy Policy CS16 is a 'coarse-grained' omnibus policy that generates a presumption in favour of development proposals that sets down seven general 'High Quality Design' criteria that are intended to apply to all forms of development proposals across the borough during the fifteen-year period 2011-2026. These four sub-tests of criterion 1 are seen to be directly relevant to the determination of this appeal:

"Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

1. Responds to, draws inspiration from and respects local context and:
 - a. Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site...
 - c. Uses the characteristics of the locality to help inform the design of the new development, including heights, massing, existing building lines, plot widths and depths, materials and proportions of windows and doors;
 - d. Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible; and
 - e. The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking....

4.5 Contrary to the charge set down in Reason for Refusal 2 on the decision notice, it is submitted that the appeal proposal responds positively to local character close to the site; vital characteristics of the locality have informed the design of the new development; the site is well connected to and integrates with the immediate local area and the wider area via existing pedestrian and cycle routes; and unacceptable harm would not be caused to the amenity of neighbours.

4.6 Paragraph 8.01 of the Core Strategy tells one that *'The overall character of the borough is largely urbanised...The priority for locating new development is in the existing urban areas, where there are existing facilities to use and new development would have least impact on the range of highly protected biodiversity'* (**Appendix 6**). This northern part of Hayling Island is notably devoid of any special designations. With regard to the 'Concentration and Distribution of Development within the Urban Areas', Policy CS17 tells one how the adopted strategy should be delivered – it generates a presumption *in favour* of development that makes effective use of land that satisfies three criteria:

"Development will be permitted that makes the most effective use of land in the Borough by granting planning permission that...

2. Prioritises development on previously developed land, including redundant, derelict or underused land and buildings within the urban area."

4.7 It is particularly noteworthy that criterion 2 of Policy CS17 accords priority to 'previously developed land' and cites '*...redundant, derelict or underused land and buildings within the urban area*' as **examples** of such opportunities; it does not by definition exclude development on previously developed land *outside* the urban area – that principle was endorsed by the *Dartford* judgement in the Court of Appeal (**Appendix 4**).

4.8 Core Policy DM9 relates to 'Development in the Coastal Zone' – it states that "*Planning permission will only be granted for development in the coastal zone which addresses all of the relevant criteria as set out below as shown on the Proposals Map*" and seven items follow. While the 'Hayling Island North Policies Map' shows (in blue) those 'Coastal Change Management Areas' which are the subject of Alterations Policy AL4, it does not show those areas of north Hayling which are the subject Core Strategy Policy DM9. Contrary to the charge set down in Reason for Refusal 2, it is submitted that the erection of a semi-detached pair of houses on this appeal site would not have any harmful effects on nature conservation; would maintain the appearance and distinctiveness of the existing settlement on Northney Road; has regard to best practice on the design of new buildings in coastal locations; has no effect on existing footpaths along the waterfront; and the remaining items 5, 6 and 7 do not bear on the determination of this appeal.

4.9 Core Strategy Policy DM11 re "Planning for More Sustainable Travel" states that "*The council will seek to ensure that every opportunity is taken to increase the integration of sustainable travel and availability of non-motorised modes by appropriate measures*" and records five means by which it would work towards that end. Measure 5 is by '*Ensuring that new developments are located and designed at the outset to...integrate with existing pedestrian cycle and public transport routes...This will facilitate and encourage short distance trips by cycle and walking, including to public transport interchanges.*' Page 5 of the Northney & Tye Village Design Statement helpfully displays the routes of Footpaths 79, 105 and 116 and several routes in the vicinity are clearly marked for the use of short- and long-distance cycling. As (according to paragraph 2.10 of the Allocations document) "*The predominantly urban and compact nature of the Borough means that the distances between settlements are relatively small*", it surely follows that no part (including this appeal site) should be considered an 'unsustainable location'.

4.10 Core Strategy Policy DM12 relates to 'Mitigating the Impacts of Travel' and indicates that new developments may be required to mitigate their travel impact by the provision of ameliorative measures, if they are considered relevant and necessary – s106 contributions, a transport assessment/travel plan, a transport statement and/or a bond which would be used to mitigate negative travel impacts. While paragraph 10.33 of the Core Strategy records that a transport assessment and/or a travel plan would be required for a development which would generate a significant amount of travel, the Development Engineer did not call for such an arrangement to be a pre-requisite for this modest proposal.

4.11 Reasons for Refusal 1 and 2 for application APP/18/00593 both allege that the erection of a semi-detached pair of houses on this site would breach the provisions of Policy AL2 of the **Havant Borough Local Plan (Allocations)** 2014, which relates to 'Urban Area Boundaries and Undeveloped Gaps between Settlements' – Reason 2 in particular

contends that the appeal site is “...an important visual gap’ and that its development in the manner proposed would be “...harmful to the attractive semi-rural character of the area.” The basis for this claim appears to derive from the statement in Policy AL2 that “Land outside the defined urban area on Hayling Island is non-urban’ rather than undeveloped gap.” Paragraph 2.08 of the Allocations document recorded that “The main study supporting Policy AL2 is ‘The formation of Strategic and Local Gaps in Havant Borough’ report produced for the Council by Kirkham Landscape Associates in 2008”. The Kirkham study has been carefully scrutinised and it has been ascertained that it brought forward no proposals for this appeal site to form part of a strategic or local gap.

4.12 The Officers’ report on application APP/18/00593 confirms that they included the **‘Northney and Tye Village Design Statement’ (VDS)** in their ‘Policy Considerations’ (**Appendix 8**) and Reason for Refusal 2 implicitly purports that the VDS calls for this site to be kept free of development; close scrutiny of the VDS lends no support however for the contention that the appeal proposal would result in the removal of “...an important visual gap between residential buildings and consolidating and extending linear development.” While Page 13 of the VDS shows ‘Green spaces and nature conservation’, none of its coloured notations bear on this appeal site and no long views into or across the site have been identified, to support the contention that the appeal site is an important visual gap. It is a mere historic accident that no buildings have been erected on the side garden of no.1 Northney Cottages and no support derives from the VDS for the contention that this appeal site it is an ‘important visual gap’ that should not be effectively and beneficially developed.

4.13 The Executive Summary of the **‘Havant Borough Design Guide’ 2011 (Appendix 9)** records that its aim “...is to provide detailed information that supplements Policy CS16 of the Havant Borough Core Strategy, to raise the standard of design across the Borough and set out what the Council expects developers to deliver in terms of the design of new developments and how the distinctive character and qualities of the Borough should be respectfully improved and enhanced through development... The SPD forms part of Havant Borough Council’s Local Development Framework (LDF) and is a material planning consideration in the determination of planning applications in the Borough.” At para.5.25 of its SPD, Havant Borough Council acknowledges that ‘Residential Backland and Infill Developments’ have a role to play in delivering the Council’s housing and development targets. Its paragraph 5.33 re ‘Infill Development’ suggests that “Infill development should look to the immediate site context for reference and respect the layout and character of the surrounding area, looking to immediate neighbouring properties in the first instance.” The appeal site lies within a substantial group of semi-detached pairs of houses that follow the north side of Northney Road and all are two stories in height with conjoined hipped roofs; as the appeal proposal is for a semi-detached pair of two-storey houses with conjoined hipped roofs, it is evident that the layout and character of neighbouring properties has been respected; that the central requirement of Design Guide paragraph 5.25 is satisfied; and the way is clear for two houses to play their part in meeting the Borough’s needs.

4.14 In accordance with the objective of ‘Making effective use of land’, paragraph 117 of the **National Planning Policy Framework 2018 (NPPF2)** states that “Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way

*that makes as much use as possible of previously-developed or brownfield land.” Pursuant to that approach, Annex 2:Glossary of NPPF2 defines ‘Previously developed land’ as “Land which is or was occupied by a permanent structure, including the curtilage of the developed land...This excludes...land in built-up areas such as residential gardens”. In accordance with the principle endorsed by the ‘Dartford’ case (**Appendix 4**), the curtilage of No.1 Northney Cottages is previously developed land because it is outside the urban area. It is evident that NPPF2 seeks to encourage residential development on this site.*

5.0 CONCLUSION and SUBMISSION

5.1 Northney Cottages stand within the substantial group of semi-detached two-storey houses that characterises the north side of Northney Road. The group displays a mix of finishes but all have conjoined hipped roofs. The site is in an accessible, sustainable location and the proposed houses would not be isolated. The appeal site comprises the western part of the residential garden curtilage of no.1 Northney Cottages; it thereby accords with the definition of ‘previously developed land’, as was clarified by the ‘Dartford’ judgement in the Court of Appeal and reiterated last year in the ‘Annex 2 Glossary’ of NPPF2. Paragraph 7.5 of the Officers’ report recorded their recognition that *‘The proposed plot...appears to serve No.1 and provide a garden/amenity space to benefit the cottage’* yet they failed to appreciate the policy consequence of its status as ‘previously-developed land’, even though attention had been drawn to the *Dartford* case in Robert Tutton’s letter, which had been submitted with the application. Had the Officers reminded themselves of the details of *Dartford*, they would also have appreciated that, as the proposed houses would stand within the curtilage of no.1 Northney Cottages, residential development of this site would **accord** with the development plan. The appeal site is not a visually-important gap and this opportunity to make more effective use of under-used land in a sustainable location should be welcomed, not spurned.

5.2 The Secretary of State for Housing, Communities and Local Government is respectfully requested to allow this appeal and grant planning permission for development that **accords** with the policies of the adopted development plan and no other material considerations suggest otherwise.

6.0 APPENDICES

1. Photographs.
2. The Hayling Island Carshare scheme.
3. Documents relating to planning permission 17/01418/FUL.
4. Court of Appeal judgement - Dartford Borough Council v Secretary of State for Communities and Local Government.
5. Officers’ Delegated Report re application APP/14/01166.
6. Havant Borough Core Strategy 2011 (extract).
7. Havant Borough Local Plan (Allocations) 2014 (extract).
8. Northney & Tye Village Design Statement 2005 (extract).
9. Havant Borough Design Guide SPD, December 2011 (extract).