

Planning Application Response of Planning Policy

Application No:	APP/18/00109
Site Address:	Land adj 15 Billett Avenue, Waterloooville, PO7 7SZ
Development:	Erection of four dwellings with associated vehicular and pedestrian access and landscaping and replacement culvert.
Case Officer:	Lewis Oliver
Comments by:	Jade Ellis
Date of Comments:	1 st May 2018

Policy Status

The Adopted Local Plan (Core Strategy) and the Local Plan (Allocations) provide the development plan for the Borough. The Local Plan Housing Statement (LPHS) was adopted in December 2016 and is also a material consideration. The following policies are of particular relevance:

- CS17 Concentration and Distribution of Development within the Urban Areas
- AL1 Presumption in Favour of Sustainable Development
- AL2 Urban Area Boundaries and Undeveloped Gaps between Settlements
- AL7 Hermitage Stream
- CS11 Protecting and Enhancing the Special Environment and Heritage of the Havant Borough
- CS15 Flood and Coastal Erosion Risk
- CS16 High Quality Design
- DM8 Conservation, Protection and Enhancement of Existing Natural Features
- DM10 Pollution
- DM18 Protecting New Development from Pollution

The emerging [Draft Havant Borough Local Plan 2036](#) sets out the Council's direction of travel for local planning policies but has limited weight in decision-making at this stage. It was subject to public consultation from 8 January and 16 February 2018.

Principle of Development:

The site is located within the urban area as defined by Policies CS17 and AL2 which generally seek to concentrate new development within the urban areas, and prioritise development on previously developed land. Guiding Principle 3 of the LPHS also indicates the Council will continue to promote the development of brownfield land. The principle of proposed development is therefore acceptable in policy terms subject to other relevant material considerations.

You have highlighted several environmental constraints including TPOs, a culvert, a sewer and the change in levels on the site, as well as concerns in relation to the impact on residential amenity. I will not comment in detail on these here – but will instead focus on paragraph 14 of the NPPF given the agent's commentary at sections 6.20 and 6.22 of the submitted Planning, Design and Access Statement (PDAS).

Five Year Supply:

Guiding Principle 2 of the LPHS confirms that the Adopted Local Plan continues to form the appropriate starting point for the determination of planning application and appeals. It also states that due weight will be given to the Borough's dynamically changing five-year supply of housing land and the implications under Paragraphs 47 and 49 of the NPPF.

The 2017 Annual Monitoring Report (December 2017) provides the Council's latest published five-year housing land position based on the Government's proposed methodology for calculating housing need. Table 5.4 indicates the Council could demonstrate 4.9 years' supply – representing a modest shortfall of 59 dwellings.

Since the adoption of the LPHS, there has also been a Supreme Court Judgement (May 2017)¹ concerning the effect of Government policy in paragraph 49 of the NPPF including the penultimate point of paragraph 14 of the NPPF which deals with the presumption in favour of sustainable development and specifically "any adverse impacts" which is otherwise known as "the tilted balance".

NPPF Paragraph 14

The primary purpose of paragraph 49 of the NPPF is simply to act as a trigger to the operation of the "tilted balance" under paragraph 14. Where it can be shown that housing policies are out-of-date, the balance is tilted in favour of granting permission except where the benefits are "significantly and demonstrably" outweighed by the adverse effects or where "specific policies" indicate otherwise² (see paragraph 54 of the judgement).

In this case, notwithstanding the Borough's modest shortfall against its five-year supply requirement, the planning application proposals would make a limited contribution to housing supply. Furthermore, it should be noted that the position at April 2017 (4.9 years)

NPPF Paragraph 49

Significantly the Judgement also confirms that a narrow interpretation of paragraph 49 should be taken in terms of "relevant policies for the supply of housing". In other words, policies affecting the supply of housing cannot be considered out of date in the absence of a five-year housing supply (emphasis added).

Other relevant policies in the plan including Policies CS11, CS15, CS16, DM8, D10 and DM18 are not considered out of date in the absence of a five-year supply. As such these policies should continue to be afforded weight as they generally accord with the aims of the NPPF (paragraph 216).

Impact on Hermitage Stream:

Policy AL7 states that planning permission will be granted for development proposals that positively contribute to the improvement of the Hermitage Stream. Paragraph 5.12 of the submitted Planning, Design and Access Statement states that

"each unit and foundations clears the culvert by approx. 5.5m and as such, will not bear any loading impact on the structural integrity of the culvert."

In this respect, there is an outstanding objection from the Environment Agency (EA) on the basis that additional information is required to demonstrate there will be no negative impact on the watercourse.

¹ Suffolk Coastal DC v Hopkins Homes Ltd and others v Cheshire East BC [2017] UKSC 37

² Paragraph 54 of the Judgement

Flood Risk

It is also noted the EA have objected on the basis that the update to Flood Maps which show the site falls within Flood Zone 3.

As the dwellings would constitute a 'more vulnerable' use as defined by Table 2³ in National Planning Practice Guidance, the proposals would need to pass both the sequential and exception tests in order to comply with Policy CS15.

Summary

Significantly, the Judgement confirms the narrow interpretation of paragraph 49 in the NPPF and the relevant policies in the plan (which may restrict housing supply) are not automatically out of date. Furthermore, the Adopted Local Plan remains the starting point in decision-making.

The development proposal would make a limited contribution to the five-year housing supply in the Borough, and should be afforded limited weight accordingly. As such it is considered that this benefit would not significantly and demonstrably outweigh the identified adverse impacts in the overall planning balance.

There is a policy objection given the likely impact on the Hermitage Stream and flood risk and the concerns raised by the EA. The proposals would also fail to address the policy requirements of CS15 and AL7.

³ Paragraph: 066 Reference ID: 7-066-20140306 Revision date: 06 03 2014