

**Town and County Planning Act 1990
Section 78 (As Amended)**

**DRAFT STATEMENT OF COMMON
GROUND**

Prepared by:

**Woolf Bond Planning LLP
for Bargate Homes and Vivid Homes**

and

Havant Borough Council



Woolf Bond Planning
Chartered Town Planning Consultants

Land west of Old Manor Farm, Lower Road, Bedhampton

PINS Ref: XXXXXX

LPA Ref: APP/21/01071

WBP Ref: 8200

Sept 2022

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EXECUTIVE SUMMARY

- 1 This Draft Statement of Common Ground relates to a Town and Country Planning Act 1990 Section 78 Planning Appeal lodged by Woolf Bond Planning LLP on behalf of Bargate Homes and Vivid Homes against the Council's non-determination of a planning application for up to 43 dwellings (LPA Ref: APP/21/01071).
- 2 The Statement records the matters upon which the parties have agreed with the intention of leading to the preparation of more focused proofs of evidence thus saving time and resources at the inquiry.
- 3 Discussions between the Appellant and the Local Planning Authority are expected to result in agreement upon the following matters:
 - a) The development plan policies for the supply of housing are out of date.
 - b) The Council cannot currently demonstrate a five year supply of deliverable housing land.
 - c) The presumption in favour of sustainable development is engaged.
 - d) The Appeal Scheme satisfies the requirements of the Council's Housing Delivery Position Statement (March 2022).
 - e) The Appeal Scheme results in less than substantial harm to designated heritage assets, which harm is described as falling within the lowest level of the less than substantial spectrum set out in paragraph 202 of the NPPF.
 - f) There are no flood and/or drainage objections to the scheme.
 - g) The Appeal Site is not within a valued landscape.
 - h) The Appeal Scheme is consistent with the economic, social and environmental objectives of the NPPF.
- 4 Subject to the matters to be agreed, the forthcoming inquiry should therefore focus on the issues where there continues to be disagreement between the principal parties in relation to the following:

- a) The extent and materiality of the shortfall in the five year housing land supply position having regard to the overall planning balance
- b) The impact the development will have upon the setting and to the character and appearance of the Old Bedhampton Conservation Area
- c) The landscape impact of the Appeal Scheme.
- d) To be expanded once the Council's position is known.

- 5 The parties have agreed that the Appellant will provide planning obligations in the form of a Section 106 Agreement regarding necessary contributions subject to the satisfactory provision regarding delivery.
- 6 Subject to the satisfactory completion of the legal agreement, this will ensure that if the appeal is allowed and planning permission is granted, all of the financial contributions and other compliant obligations required to enable the proposed development to go ahead are in place and/or will be delivered at the appropriate times.

1.0 INTRODUCTION

- 1.1. Preparation of this document follows discussions between Steven Brown of Woolf Bond Planning LLP, acting on behalf of the Appellant and xxxxxxxxxxxxxx acting on behalf of Havant Borough Council.
- 1.2. It is agreed that it would be helpful to seek agreement on relevant factual information before preparing proofs of evidence for the Appeal.
- 1.3. It is also agreed that there should be a common list of reference documents and these are to be referenced as Core Documents ("CDs") to the Inquiry.
- 1.4. Refer here to the Council's case once established.....

2.0. DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

Context

- 2.1. The Appeal Site is located on the settlement edge of Bedhampton, which settlement is considered as a local centre, and a suburb to the Borough's main town of Havant (Policy CS4 of the Havant Borough Core Strategy (HBCS") refers).
- 2.2. Bedhampton is a third tier within the settlement hierarchy, with local centres described as *"including a range of small convenience shops and some community facilities. The local centres play an important role in meeting local day-to-day needs particularly for the elderly and other vulnerable groups."*
- 2.3. The area has a number of primary schools and a secondary school within reasonable distance of the Site. Further information regarding the local area and sustainability of the Site is contained within the Transport Assessment submitted in support of the Appeal Scheme which demonstrates the good range of facilities and services available within walking and cycling distances including retail, schools, restaurants, public transport and outdoor recreation.

The Appeal Site

- 2.4. The Appeal Site extends to approximately 4.07ha and is located to the south of Lower Road, on the south-western side of Bedhampton.
- 2.5. The Site is identified on the adopted Proposals Map as being located beyond the Settlement Policy Boundary ("SPB") for Bedhampton (Policy AL2), in the Coastal Zone (Policy DM9), and an Important Site for Brent Geese and/or Waders (Policies CS11 and DM23 relevant). However, this position has been updated, with the site reclassified as 'no recorded use'¹, and as such Policies CS11 and DM23 are no longer applicable to the Site.

¹ As such, they are not listed as Adopted Local Plan policies of particular relevance in the Planning Policy consultee response upon the application (12 May 2022).

- 2.6. The Appeal Site comprises a former agricultural field, which along with the adjacent land, is no longer required for agricultural purposes, and all of which are in the same ownership. The south and western site boundaries are defined by varying depths of hedgerows and some mature trees. The boundaries to the north and east are open. The Site is generally flat, but slopes gently southwards.
- 2.7. The Site is bounded to the south by a railway cutting and the A27 Havant Bypass beyond, to the west by the A3(M), to the north by an industrial and storage building and the residential enclave at Old Manor Farm. This area is designated as a detached outlying part of the Old Bedhampton Conservation Area.
- 2.8. The recent planning permission granted at appeal for residential development of 50 dwellings on the adjacent site² yields a low development density of circa 23dph. The Appellants are in the process of constructing new homes on that Site.
- 2.9. In allowing the appeal for the adjoining site, the Inspector noted that the site was sustainably located in relation to the existing services within Bedhampton and would provide appropriate access to facilities by a range of sustainable transport modes, including walking, cycling and public transport. Importantly, delivery of the proposed housing would yield significant social, economic and environmental benefits, not least in the important contribution that both market and affordable housing will make towards meeting the backlog of local housing need.
- 2.10. The findings of the Appeal Inspector are relevant to the consideration of this application and proposals for development on this site, in so far as the site is similarly located adjacent to a detached outlying area of the Old Bedhampton Conservation Area, is currently in the same use as arable agricultural land, and is controlled by the Appellants.

² Appeal Ref: APP/1735/W/20/3259067 – Land at Lower Road, Bedhampton – 50 new dwellings together with access, landscaping and open space

3.0 DESCRIPTION OF THE APPEAL SCHEME

Scheme Description

3.1. The Appeal Scheme description is as follows:

“Outline application for up to 43 dwellings, associated landscaping, open space and allotments with access from Lower Road.”

3.2. Only the principle of developing the Site for up to 43 dwellings, the proposed community facilities and the means of access are to be determined as part of this outline application.

3.3. Appearance, landscaping, layout and scale are reserved for subsequent determination.

Plans and Particulars

3.4. The proposals are set out on the following plans:

The Scheme

- i. Site Boundary (Location) Plan No. 1217/001E
- ii. Proposed Access Drawing No. ITB12174-GA-018F³

Supporting Plans

- iii. Illustrative Masterplan Drawing No. 1217/-V5
- iv. Parameter Plan No. 1217/005B

3.5. Plans (iii) and (iv) are submitted for illustrative purposes only, with permission sought for the principle of up to 43 dwellings along with the means of access to the Site.

³ See i-Transport Technical Note – Further Highways Response (23 June 2022) (Document Ref: SJ/BC/RW/ITB12174-018A TN).

- 3.6. For the avoidance of doubt, a separate condition could be imposed requiring the reserved matters to be submitted in general conformity with the Illustrative Masterplan (iii).
- 3.7. A composite list of the appeal plans and particulars is set out below:

The Original Application Particulars

- Covering Letter (29 Sept 2021)
- Planning Application Form and Certificates
- Planning and Affordable Housing Statement (Woolf Bond Planning)
- Statement of Community Involvement (Woolf Bond Planning)
- Havant BC Conformity with Submission Local Plan Checklist (Woolf Bond Planning)
- Design and Access Statement (Mosaic Urban Design)
- Site Plans:
 - Site Boundary (Location) Plan No. 1217/001E
 - Illustrative Masterplan Drawing No. 1217/-V4
 - Parameter Plan No. 1217/005B
 - Proposed Access Drawing No. ITB12174-GA-018 (Appendix N to the TA)
- Ecological Assessment (Aluco Ecology)
 - European Site Avoidance and Mitigation Checklist
 - Nitrate Calculation
- Flood Risk Assessment and Development Drainage Strategy (MJA Consulting)
- Geo-Environmental Desk Study Report (Geo-Environmental Services Limited)
- Archaeological Desk Based Assessment (Terence O'Rourke)
- Heritage Statement (Terence O'Rourke)
- Transport Assessment (i-Transport)
- Residential Travel Plan (i-Transport)
- Landscape and Visual Evidence and Appraisal: 2 volumes (Terra Firma Consultancy Ltd.)
- Noise Impact Assessment (24 Acoustics)
- Arboricultural Impact Assessment and Method Statement (Barrell Tree Consultancy)
 - Tree Constraints Plan No: 21029-1 A
 - Tree Survey Plan No: 21029-1 B
 - Tree Protection Plan No: 21029-2
 - Manual for Managing Trees on Development Sites

- Arboricultural Opportunities and Constraints Assessment (Barrell Tree Consultancy)
- Draft Heads of Terms for Legal Agreement (Wolf Bond Planning)
- CIL form (Woolf Bond Planning)

Additional Documents Submitted Post Registration of the Application:-

Submitted on 4th March 2022

- Covering email from WBP to LPA attaching the following;
- Agricultural Land Classification Report, March 2022, prepared by Reading Agricultural Consultants
- I-Transport Technical Note – Planning Application Highways Response, 1st March 2022 (Doc ref: SJ/BC/ITB12174-015A TN)
- I-Transport Technical Note – Outline Construction Traffic Management Plan, 8th February 2022 (Doc ref: ITB12174-017 TN)
- I-Transport Residential Travel Plan, 8th February 2022 (Doc ref: SJ/BC/RW/ITB12174-013B R)

Submitted on 21st March 2022

- Covering email from WBP to LPA attaching:
- Noise Response, prepared by 24 Acoustics, 21st March 2022

Submitted on 23rd March 2022

- Covering email from WBP to LPA attaching:
- Heritage Response, prepared by Terence O'Rourke, 22nd March 2022

Submitted on 5th April 2022

- Covering email from WBP to LPA attaching:
- Soakage Testing and Installation of Groundwater Monitoring Wells letter report, prepared by Geo-Environmental, 11th January 2022
- Winter GW Monitoring Report, prepared by MJA Consulting, March 2022 (Doc ref: GE20565)
- Response to LLFA comments on drainage, prepared MJA Consulting, 4th April 2022

Submitted on 14th April 2022

- WBP Letter Responding to Residents

Submitted on 29th April 2022

- Covering email from WBP to LPA attaching the following;
- Winter Waterfowl Survey Report ("WWSR"), prepared by Aluco Ecology, March 2022
- Information for Habitat Regulations Assessment ("HRA"), prepared by Aluco Ecology, April 2022

Submitted on 7th June 2022

- Covering email from WBP to LPA attaching the following;
- Updated Information for HRA (with revised calculations for the nutrients), prepared by Aluco Ecology, May 2022
- Completed Housing Delivery Position Statement Development Quality Standards Checklist

Submitted on 7th July 2022

- Covering email from WBP to LPA attaching the following;
- I-Transport Technical Note – Further Highways Response, 23rd June 2022 (Doc ref: SJ/BC/RW/ITB12174-018A TN)

Submitted on 8th July 2022

- Covering email from WBP to LPA attaching the following:
- Illustrative Masterplan V5, prepared by Mosaic, 23rd June 2021
- Drainage Strategy Plan No. 6430:001/P3 (MJA Consulting)
- SuDS Management & Maintenance Plan Report, prepared by MJA Consulting, Sept 2021
- Letter Response to the LLFA's comments, prepared by MJA Consulting, 22nd June 2022
- Micro Drainage storm water calculations 30yr
- Micro Drainage storm water calculations 10yr + 40

Technical Considerations

- 3.8. The technical considerations relating to the Appeal Scheme are summarised below.
- 3.9. To add subject to agreeing the form and content.

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4.0 PLANNING POLICY

The Development Plan

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a requirement that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 4.2. The Development Plan comprises the following:
- Local Plan (Core Strategy) (March 2011)
 - Local Plan (Allocations) (July 2014)
- 4.3. Relevant policies are to be set out below and addressed in evidence.

Material Considerations

General

- 4.4. The following represent material considerations in the determination of the Appeal Scheme:
1. The NPPF and the approach to the presumption in favour of sustainable development.
 2. The heritage balance to be undertaken pursuant to paragraph 202 of the NPPF.
 3. The five year housing land supply position.
 4. The Council's Housing Delivery Position Statement (March 2022).
 5. Appeal decisions, including the appeal for residential development of 50 dwellings on the adjacent site (APP/1735/W/20/3259067)
 6. Committee reports.
 7. Case law.

- 4.5. It is accepted that the Council is currently unable to demonstrate a five year supply of deliverable housing land against the Standard Method.
- 4.6. The presumption in favour of sustainable development (or 'tilted balance') is engaged on account of the inconsistency between the development plan and the NPPF. This includes in relation to the spatial application of its policies being out of date; and in relation to the lack of a five year supply of deliverable housing land. Either issue separately triggers the presumption in favour of sustainable development.
- 4.7. It is also agreed that there is a significant need for affordable housing, which is a material consideration in support of the Appeal Scheme.

5.0 CONSIDERATION OF THE APPEAL SCHEME BY HAVANT BOROUGH COUNCIL

- 5.1. The Appeal has been submitted against the failure of the Council to determine the application within the statutory time frame.
- 5.2. At the time of writing, the position in relation to the responses received upon the Scheme to date may be summarised as follows:

No Objection (subject to conditions/S106/details at reserved matters stage)	Objection
1. Arboricultural Officer 2. Ecology Officer 3. Environmental Health Officer 4. Housing Officer 5. Crime Prevention Design Officer 6. HCC Archaeologist 7. HCC Children's Services 8. HCC Highways	1. Local Residents 2. Planning Policy 3. LLFA 4. Langstone Harbour Board 5. The Manor Trust

6.0 MATTERS IN DISPUTE

6.1. The areas of disagreement comprise as follows:

- a) The extent and materiality of the shortfall in the five year housing land supply position having regard to the overall planning balance.
- b) The impact the development will have upon the setting and to the character and appearance of the Old Bedhampton Conservation Area.
- c) The landscape impact of the Appeal Scheme.
- d) To be expanded once the Council's position is known.

7.0 HEADS OF TERMS FOR LEGAL AGREEMENT

- 7.1. It is agreed between the parties that the Appellant will provide planning obligations, in the form of an undertaking under Section 106 of the Town and Country Planning Act (1990) in favour of Havant Borough Council and Hampshire County Council.
- 7.2. The legal agreement will ensure the financial contributions and other compliant obligations to enable the proposed development to go ahead are provided in accordance Regulation 122(2) of the Community Infrastructure Levy Regulations and the content at paragraphs 55 and 57 of the NPPF.
- 7.3. Set out the agreed provisions.
- 7.4. The legal agreement will be completed and submitted to the inquiry.
- 7.5. Havant Brough Council is a CIL Charging Authority and financial contributions will also be secured at the reserved matters stage once the amount of proposed floorspace is fixed.

8.0 CONDITIONS

- 8.1 It is agreed that there should be a schedule of conditions agreed between the parties, for discussion with the Inspector during the Inquiry.
- 8.2 The schedule will be compiled and submitted to the Inspector during the Inquiry.

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9.0 CORE DOCUMENT LIST

- 9.1 It is agreed that there should be a common list of reference documents and these are to be referenced as Core Documents to the Inquiry. The list will be compiled and a full set of the documents will be provided for the Inspector.

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10.0 AGREEMENT: SCHEDULE OF COMMON GROUND

- 10.1. This document is accepted as the agreed Statement of Common Ground for the Appeal being considered under PINS Ref: xxxxxxxxxxxx.
- 10.2. It has been duly signed by representatives of the Appellant (Bargate Homes and Vivid Homes) and Havant Borough Council.

Signed..... on behalf of Bargate Homes and Vivid Homes.

.....
NAME DATE

Signed..... on behalf of Havant Borough Council

.....
NAME DATE
