

Planning Application Response of Planning Policy

Application No:	APP/21/01434
Site Address:	Land off, St Marys Road, Hayling Island
Development:	Outline application for development of up to 300 dwellings (including affordable housing)
Case Officer:	David Eaves
Comments by:	Jade Ellis
Date of Comments:	17 th March 2022

Policy Status:

The [Local Plan \(Core Strategy\)](#) and the [Local Plan \(Allocations\)](#), together with the [Hampshire Minerals and Waste Plan](#), provide the development plan for the borough.

Following the receipt of the Inspectors' Interim Findings, the Examination was concluded, and the Havant Borough Local Plan from Examination was formally withdrawn on the 16th March 2022.

The Council's Housing Delivery Position Statement is also of relevance to the application proposals which was adopted by the Council on 16th March 2022, which is a material consideration in the determination of this application.

The following Adopted Local Plan policies are of particular relevance:

- CS9 – Housing
- CS16 – High Quality Design
- CS17 – Concentration and Distribution of Development within the Urban Areas
- CS21 – Developer Requirements
- DM1 – Recreation and Open Space
- DM10 – Pollution
- DM13 – Car and Cycle Parking in Residential Development
- DM23 – Sites for Brent Geese and Waders
- DM24 – Recreational Disturbance to Special Protected Areas (SPAs) from Residential Development
- AL1 – Presumption in Favour of Sustainable Development
- AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements

Principle of Development:

In the adopted local plan, the site lies outside of the urban area as defined by policies CS17 and AL2 of the adopted plan. These policies seek to restrict development in these locations, except in exceptional circumstances. I do not consider that any of the exceptions in the policy apply here, the proposal being a major residential development on greenfield land.

The site is however identified in Table 1 of the Housing Delivery Position Statement under HY8, where the Council will continue to support the principle of residential development in accordance with Decision Making Principle 2. In such cases, proposals will be:

- Required to meet the remaining requirements of the Development Plan; and
- Expected to comply with the Decision Making Principles set out in the Housing Delivery Position Statement.

Compliance with the criteria is considered necessary in order to justify a departure from the Development Plan.

The Inspectors' Interim Findings on the previous Havant Borough Local Plan are of particular relevance to the planning application proposals. The Inspectors highlight concerns in relation to the potential transport impacts from the proposed development on Hayling Island in the Plan during tourist periods and weekends. Significantly, they were unable to conclude that as a result of the Plan, there would be no unacceptable impacts on highways safety or that the residual cumulative impacts on the road network would not be severe. In this respect the development proposals will also need to comply with Decision Making Principle 3 of the Housing Delivery Position Statement. This is considered in further detail below.

The development proposals will also need to demonstrate how any concerns raised in the Interim Findings Report of the Examination of the Havant Borough Local Plan which are material to the site in question have been assessed, and overcome as part of the development proposals. In this case, Paragraphs 34 and 35 of the Interim Findings report specifically comment on the proposed allocation at Rook Farm (H27) in the withdrawn Havant Borough Local Plan:

"The site is identified as a 'core area' and it comprises 'Functionally Linked Land'. In order to mitigate for the loss of the...site, it is likely that any replacement site would need to be on Hayling Island. At the time of the hearings, no such replacement site had been secured, despite the scheme first being proposed for development in an outline application that was refused planning permission in 2017 (Ref APP/17/00007).

Whilst the site promoter stated at the hearings that they were at an advanced stage in securing a replacement mitigation site, that site is not currently in the public domain, not have Natural England or the Council's ecologist had a chance to review it and any supporting justification. In these circumstances, it is unclear whether an appropriate mitigation site can be secured, and there are consequently, in our view, significant uncertainties over the site's delivery."

Quantum of development

The Housing Delivery Position Statement (HDPS) indicates that the Council will continue to support the principle of housing development on emerging site allocations that were proposed for allocation in the now withdrawn HBLP. Table 1 of the HDPS identifies the site as having an indicative site capacity of 390 dwellings. The application description is, however, outline planning permission for up to 300 dwellings, a significantly reduced quantum of development than envisaged by the HDPS and the previous allocation. Paragraph 2.17 of the HDPS indicates that as a starting point, the Council generally expects development proposals to achieve 40 dwellings per hectare on the net developable area of a site in line with Decision Making Principle 5.

According to the submitted Planning and Affordable Housing Statement this reflects "a *detailed appraisal of site constraints*" at a density of 40 dph, which principally takes account of the requirement to retain view corridors to St Mary's Church, as well as retaining/delivering other necessary landscaping, green infrastructure and site drainage features" (see paragraph 4.29). In contrast, the Evaluation & Evolution section of the Design & Access Statement suggests the site "has very few physical constraints to development of the type proposed". In this case, Figure 12 in the submitted Design and Access Statement provides an overview of Site Constraints and Analysis but does not provide an indication of the net developable area.

In terms of the net developable area, *“any significant buffer areas required for landscape, ecological or infrastructure such as underground pipes”* should be excluded. It is recommended the applicant submit a plan which confirms the extent of the net developable area.

Nevertheless, it should be noted that the application (as currently proposed) would deliver a significantly reduced quantum of development than envisaged both by the HDPS and the allocation in the withdrawn HBLP.

Five year housing land supply

The Council's Five Year Housing Land Supply Update (November 2021) indicates the Council has 3.9 years supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is normally a presumption in favour of sustainable development (para 11d of the NPPF). The tilted balance means that permission should only be refused where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case, it should be noted that Decision Making Principle 1 of the HDPS indicates there is no presumption in favour of sustainable development where the plan or project is likely to have a significant effect on the Solent European sites (either or alone or in combination with other plans or projects). This is considered in detail under the Brent Geese and Waders section below.

Furthermore, given the Inspector's Interim Findings raise concerns about the uncertainty of the site's delivery, the proposed scheme is not included in the Council's five year housing land supply either in whole or part. Whilst the proposed development has the potential to increase housing supply in the short term, this is subject to details of an appropriate replacement mitigation site being provided. Given the larger nature of the site, it would be extremely unlikely to be delivered in its entirety within the first five years. Though it is acknowledged that it would be possible for completions to begin within this period.

Development requirements

Paragraph 2.19 of the HDPS indicates that it will be necessary for proposals to demonstrate they constitute sustainable development by demonstrating compliance with the remainder of the Development Plan and Decision Making Principles. Given the application proposals were submitted after the Havant Borough Local Plan was withdrawn HDPS was adopted for decision-making principles, it is strongly recommended that the applicant review the submitted evidence and information to ensure it has been fully informed by the Site Opportunities and Constraints and the developer requirements associated with Policy H27.

In order to justify a departure from the Development Plan, the application proposals are expected to demonstrate compliance with the development quality standards set out under Decision Making Principle 5. These developer requirements replicate those included in those in the now withdrawn HBLP; as such it can reasonably be expected that the submitted application proposals will have been informed by the policy expectations in the Plan. The applicant is invited to submit a 'development quality standards checklist' which sets out how their application complies with the requirements of Decision Making Principle 5.

Summertime transport implications of development on Hayling Island

As the development site is on Hayling Island, Decision Making Principle 3 of the HDPS is of relevance. The Inspectors' Interim Findings following the Examination on the HBLP identify that further work and assessment is required of the impact of development on the A3023 corridor in transport terms. The A3023 corridor is considered to constitute Hayling Island and north into Langstone up to and including the A27 roundabout.

The Inspectors Interim Findings regarding summertime traffic impact of development constitute a material consideration and will be afforded weight in the planning balance accordingly. Decision Making Principle 3 indicates that site specific Transport Assessments will be expected to address the concerns raised by the inspectors and demonstrate:

- There will not be an unacceptable impact on highway safety; and
- The residual cumulative impact on the road network will not be severe, including during tourist periods and at weekends.

In this case, whilst the submitted Transport Assessment has been informed by speed surveys were undertaken as part of the submitted Transport Assessment during the summer period, the report has not addressed the residual cumulative impacts on the road network during the tourist periods and weekends as a result of development proposed in the Plan. In these circumstances, the HDPS indicates the Council will seek a planning performance agreement with the applicant to clearly identify the actions and timescales needed in relation to the determination of the application. Alternatively, the applicant may wish to submit a revised Transport Assessment which addresses the relevant considerations set out above.

Brent Geese and Waders:

As you are aware, the site is identified as a Core Area for Solent Waders and Brent Geese (SWBG) within the [Brent Goose and Wader Strategy \(October 2018\)](#) (SWBGS).

The Solent's Special Protection Areas are designated¹ in part due to the assemblages of Brent Geese. As such, a project level Habitat Regulations Assessment (HRA) will need to be carried out² and inform any package of avoidance and mitigation measures for Solent Waders and Brent Geese, to determine levels of impact, alone and in combination with other plans and projects.

The [Solent Waders and Brent Goose Strategy Mitigation Guidance](#) indicates that Core Areas are considered essential to the continued function of the Solent waders and brent goose ecological network and have the strongest functional-linkage to the designated Solent SPAs in terms of their frequency and continuity of use by SPA features. Paragraph 16 of the Guidance indicates that development that would result in impacts to a Core Area will need to be carefully assessed on a case-by-case basis. In order for such developments to demonstrate no adverse effect on the integrity of the SPA(s) then, as a minimum the full criteria for the replacement of a Primary Support Areas must be met (listed below);

A. Habitat Type – the proposed off setting site must support habitats, or be suitable for recreating habitats that provide the same, or enhanced, ecological function as those that are to be lost or damaged.

B. Disturbance – the ecological function of an off-setting site is likely to be seriously undermined if subject to regular disturbance from recreational use and unmanaged public access. The appropriateness of the location of the off-setting site and the proposed measures to prevent indirect effects will need to be fully assessed.

C. Area of habitat – where the replacement habitat would be of equal ecological quality the area required should be of a similar extent to the site being lost or damaged. There may be situations however, where a greater area is required when habitat created may be of poorer

¹ Protected under Directive 2009/147/EC of the Conservation of Wild Birds

² Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017

quality to that lost or damaged, or there is a high level of risk involved. Similarly, if significant ecological enhancements are possible that increase the carrying capacity of the replacement site above that of the Primary Support Area affected then a smaller area of replacement habitat might be acceptable. This might include the partial loss of a Primary Support Area providing the remainder can be made significantly improved in habitat quality with long term management so as to provide for a greater capacity for the target species than the original site. In all such cases the test will be to ensure the replacement habitats provide a clear and permanent net gain for the target species.

D. Timing and availability of habitat – operational at the time it is required. Essentially, ‘in time’ to offset the adverse effects which are being addressed, with evidence to show it is functioning and readily available to SPA birds prior to any loss or damage to the original site.

E. Geographic location – for ecological reasons of structure and function it is considered appropriate for the off-setting habitat to be provided as close to the original site as practicable. The solution should also be capable of being:

F. Validated in respect of achieving its ecological function / purpose; and

G. Monitored for effectiveness; and

H. Adapted to adjust to unfolding circumstances in future management; and

I. Resilient in the face of predictable future pressures such as natural population fluctuations and climate change.

In addition to the following requirements:

- A suitable replacement site of an equal, or in some circumstances greater, size and quality must be provided in close enough proximity to the Core Area affected to fully replace its ecological function.
- The freehold or long term lease (in perpetuity) of the replacement site must be passed to an appropriate conservation body, or the LPA, in a suitable condition and managed in perpetuity as a nature reserve for waders and / or brent geese.

The submitted Habitat Regulations Assessment and Appendix 7.2 to the Environmental Statement states:

“At its closest the proposed mitigation land exists within <2km of Rook Farm. For reasons of commercial confidentiality, the precise location of the off-site mitigation land has been redacted.”

The replacement habitat site was a concern raised by the Inspectors’ in their Interim Findings report as it affects the deliverability of the housing site. In the absence of any information regarding the location of the replacement site, it is not possible to conclude whether the application proposal would secure an appropriate replacement mitigation site. As such, it would not be possible to rule out a likely significant effect and as a result it would be unlawful to grant planning permission based on the information currently available. Furthermore, there is no presumption in favour of sustainable development in accordance with paragraph 182 of the NPPF and Decision Making Principle 1 of the HDPS.

Conclusion

The principle of the development of this site is supported by Decision Making Principle 2 of the HDPS. However, at this stage, the deliverability and acceptability of development on this site hinges on whether a suitable replacement habitat can be provided in line with the SWBGS to offset the loss of the Core Area for Solent Waders and Brent Geese. At this stage, no details of the replacement habitat mitigation site have been provided and as such there is not any certainty that the mitigation measures would remove the likely significant effect on the Solent European sites. As such, there is no presumption in favour of sustainable development in accordance with paragraph 182 of the NPPF and Decision Making Principle 1 of the HDPS.

There is also concern the application proposal would result in a significantly reduced quantum of development than envisaged by Table 1 of the HDPS, particularly given that development would be expected to achieve 40 dwellings per hectare. As such, clarification is needed from the applicant on the extent of the developable area.

Furthermore, the Hayling TA finds that development on Hayling (including the application site) would not lead to a cumulative severe impact on the transport network, there is still further evidence work on the summertime traffic addendum of the Hayling Island TA to be undertaken. As such, it is recommended that further engagement takes place with the local planning authority and Hampshire County Council with regard to any mitigation measures.