

Planning Application Response of Planning Policy

Application No:	APP/21/00683
Address:	Land adjacent to 54 Long Copse Lane, Emsworth
Development:	Erection of 8No. dwellings together with associated works
Case Officer:	Lesley Wells
Comments by:	Gill Glover and Jade Ellis
Date of Comments:	24 th August 2021

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. The [Havant Borough Local Plan](#) (HBLP) was submitted for Examination on the 12th February 2021 and must be afforded limited weight.

The following Adopted Local Plan policies are of particular relevance:

- CS17 – Concentration and Distribution of Development within the Urban Areas
- AL2 – Urban Area Boundaries and Undeveloped Gaps between Settlements
- CS9 – Housing
- CS16 – High Quality Design
- CS19 – Effective Provision of Infrastructure
- CS21 – Developer Requirements
- DM10 – Pollution
- DM13 - Car and Cycle Parking in Residential Development

In the submitted Havant Borough Local Plan the following policies are of particular relevance:

- E3 Landscape and settlement boundaries
- IN1 Effective Provision of Infrastructure
- IN3 Transport and Parking in New Development
- H1 High Quality New Homes
- H3 Housing Density
- E1 High Quality Design
- E14 The Local Ecological Network
- E22 Amenity and Pollution

Importantly, the [Emsworth Neighbourhood Plan \(ENP\)](#) has also reached an advanced stage of preparation, and the examiner's report was received on 6 January 2020. A referendum took place on 8th July 2021 and adoption is due to take place shortly. Planning Practice Guidance indicates that a neighbourhood plan may be given significant weight in decision-making in advance of a referendum and adoption.

The following policies from the ENP are of relevance:

- D1 – General Design Policy
- D2 – Height, Mass & Materials
- D3 – Layout, Form & Density

- L1 – General Housing Policy
- L2 – Housing Mix

Principle of development

The site in question lies outside the urban area as defined by policies CS17 and AL2 of the adopted plan. These policies seek to restrict development outside of urban areas, and AL2 sets out specific exceptional circumstances where development may be acceptable. Policy CS17 caveats that development will be acceptable within the five urban areas of the Borough where it *makes the most effective use of land*. The policy also prioritises previously developed land or underused land or buildings within the urban area. Therefore, development is supported in principle where it can be shown it will make the most effective use of land, subject to other relevant considerations. The acceptability of the principle of development therefore hinges on whether it makes an effective use of land.

In the emerging Local Plan under policy E3 the site would be within the urban area. Therefore, under through the emerging Local Plan the principle of development is acceptable, and this must be given weight in the determination of this application.

Housing Density

National Policy Context

The July 2021 NPPF includes the insertion of the ‘effective use of land in urban areas’ into the presumption in favour of sustainable development in plan-making (under paragraph 11).

Paragraph 125 of the NPPF is clear that planning policies and decisions avoid homes being built at low densities and seeks to ensure that developments make optimal use of the potential of each site, especially where there is an existing or anticipated shortage of land for meeting identified housing needs. In such cases, the use of minimum density standards should be considered and as a result are being taken forward through the Havant Borough Local Plan.

In addition, part c) under paragraph 125 indicates that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework.

Local Policy Context

Policy CS9 of the Adopted Local Plan (Core Strategy) states that planning permission will be granted for housing proposals that will: *“achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shop and services in addition to respecting the surrounding landscape, character and built form.”*

Paragraph 6.21 of the supporting text indicates that the density of new housing will depend on its design and appropriateness to its location. A range of minimum density thresholds were developed using the Havant Borough Townscape and Seascape Character Assessment and the levels of accessibility to a range of facilities:

High Density	- Minimum of 60 dwellings per hectare
Medium Density	- Minimum of 45 dwellings per hectare
Low Density	- Up to 45 dwellings per hectare

Policy H3 in the emerging Local Plan indicates that residential development must maximise its contribution to addressing housing need in the context of the finite undeveloped land in the Borough. The policy also requires development resulting in a net gain of 5 or more dwellings will be granted planning permission where development within the defined opportunity areas provides a **minimum** of 40 dwellings per hectare (dph). Any development providing an artificially lowered density will be refused.

Policy D3 in the emerging Neighbourhood Plan also indicates that development proposals should make the most efficient use of land and be developed at the optimum density. The optimum density should result from a design-led approach to determine the capacity of the site, with particular consideration given to:

- the site context
- its connectivity and accessibility to surrounding areas by walking, cycling and public transport.

It also confirms that residential development that does not demonstrably optimise the density of the site should be refused. This approach has been reinforced recently through an appeal decision (reference APP/X1735/W/20/3252953) at 'Fowley Cottage' In Emsworth.

Analysis of the submitted scheme

For the purposes of Policy H3 (Housing Density) in the emerging Local Plan residential density is taken as dwellings per hectare across the net developable area. Figure 1 of the [Residential Density Evidence Paper](#) indicates the development elements should be included for gross and net area calculations. In the case of the latter “any significant buffer areas required for landscape, ecological or infrastructure such as underground pipes” should be excluded. It is considered that retained trees and the necessary buffers and root protection zones would qualify within that definition. In such circumstances, a detailed Design and Access Statement must fully explain the rationale to the proposed approach to the design and layout of the scheme.

From the submitted information, the main constraint to this development is the tree protection areas at Appendix 1 of the submitted Tree Survey and Arboricultural Impact Assessment. When excluding these areas, the net developable area for the site is 0.346ha. The site yield when calculated by applying 40 dph across the net developable area (0.346ha x 40 dph) should be 14 dwellings. The applicant is only proposing 8 dwellings which gives a density of 23 dph, lower than the minimum requirement in Policy H3 in the emerging local plan.

Whilst it is noted that the street scene character is predominantly large, detached dwellings along Long Copse Lane, there is a higher density housing development to the south of the site on Lapwing Close. There is a limited justification for the proposed form of development and why it justifies a deviation from the density standard of 40 dph under emerging Policy H3.

Whilst the size of the 3 bed dwellings would be broadly in line with Nationally Described Space Standards, it should be noted that the detached 4 bed properties would be significantly larger (even when compared to a 8 persons 4 bed):

Plot(s)	Floorspace (Gross Internal Area)	Nationally Described Space Standards GIA (Assumes largest number of persons for each dwelling size)	Comparison
1 & 3	172.40	124	+139%

2	153.70	124	+124%
4	174.80	124	+140%

The proposed development (4 x 3 no. bedroom dwellings and 4 x 4 no. bedroom dwellings) would not make an efficient use of the available land under Policy CS17. As such, it cannot be concluded the proposed form of development would fully maximise the potential of the site to address housing needs and would therefore be contrary to the aims and objectives of emerging Policy H3 and paragraph 125 of the NPPF. Paragraph 125 section c) of the 2019 NPPF is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.

Housing mix, affordable housing and accessibility

Policy CS9 (as amended by the NPPF) sets out that 30-40% affordable housing should be provided on housing sites of 10 or more dwellings; and that housing proposals will provide a mix of dwelling types, sizes and tenures which help meet identified local housing need and contribute to the development of mixed and sustainable communities.

Paragraph 6.24 of the Core Strategy states that a mix of dwelling types should sought from one and two bedroom flats to terrace and larger detached houses. It is noted that the proposal would provide four detached dwellings and two pairs of semi-detached dwellings.

In terms of accessibility, policy H1 of the emerging local plan requires development of 10 or more dwellings to provide housing which offers functional and adaptable spaces for different groups including families, children, older people and disabled people. 30% of new houses will be required to meet as a minimum Part M4(2) of the Building Regulation to ensure that new homes are suitable for a wide range of occupants. For the M4(2) standard, part b. of this policy makes particular reference to houses as it is understood this housing type is more suitable for the delivery of this requirement.

It is considered, with the available evidence, that the site has the potential to accommodate more development than is proposed. Emerging policies on affordable housing (H2 of the HBLP and L1 of the ENP) and mix (H4 of the HBLP and L2 of the ENP) and high quality new homes (H1 of the HBLP) have a threshold of ten dwellings and so would not apply to the proposals as currently designed.

The Neighbourhood Plan also recognises that the neighbourhood plan area may wish to encourage the provision of more flats and terraced housing which would complement the large number of existing larger detached houses. In this respect, the provision of a proportion of smaller dwellings (1-2 bedrooms) should be considered, for which there is evidenced need and demand.

In terms of mix, the Council's Specialist Housing Analysis indicates that Emsworth has a surplus of 4+ bedroom market properties (25%) relative to assessed need (11.6%) and a deficit of 2 bedroom properties for which there is a clear need (20% stock v 34.2% need). It is noted the proposals would provide 4 no. three bedroom units, and 4 no. four bedroom units.

In addition to the above, the supporting text to Policy H2 (para 6.28) sets out that:

"Housing proposals will be expected to make efficient use of land in line with Policy E1 (High Quality Design). Any proposal that appears to have an artificially lower density in order to avoid the affordable housing requirement may be refused planning permission".

The latter principle is also set out in Policy DM8 of the Adopted Local Plan.

Five Year Housing Land Supply

The Council's [Five Year Land Supply Further Update \(June 2021\)](#) indicates the Council has 4.4 years supply with a 20% buffer applied. This is below the five year supply threshold, and as such there is a presumption in favour of sustainable development (para 11d of the NPPF).

Significantly, however, it does not follow there is a tilted balance in favour of permission being granted – permission should be only be refused where unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The Council adopted [a Housing Delivery Action Plan](#) in January 2021 which outlines the Council's response to the lack of a five year housing land supply.

The proposed scheme is not in the five year supply in whole or part. However, there would only be a gain of 8 units to address the five year housing supply requirement.

Five year requirement with 20% buffer = 3,376 dwellings / 5 years = 675.2 dwellings a year

8 dwellings / 675.2 dwellings = 0.01 years

As currently proposed the scheme would fail to make efficient use of land. In the absence of a five year housing land supply, there is a heightened need to ensure the maximise housing potential in order to ensure the scheme makes a genuine contribution to boosting housing supply. In this respect the NPPF is clear it is especially important that planning policies and decisions avoid homes being built at low densities where there is a shortage of land for meeting identified housing needs (paragraph 125).

Nature Conservation

The site is a designated SINC. Policies in both the adopted and the emerging plan require development to have regard to sites protected for nature conservation, and to protect, conserve and enhance them. This approach is supported by chapter 15 of the NPPF. Planning permission should only be permitted on or adjacent to a local nature conservation designation where:

- The value of the designation is retained and, where possible, enhanced in line with its original criteria for designation through avoidance and/or mitigation measures; or
- The benefit of the development can be shown to clearly outweigh the substantive nature conservation value of the site, and where the impact cannot be avoided nor mitigated, compensation is provided.

The applicant has submitted detailed ecological assessments and advice should be sought from the Council's Ecologist about the nature conservation value of this site, its SINC status and the impact of the proposal, and the proposed mitigation and compensation package and management plan which is proposed.

Design

More generally, both the adopted and emerging local plan require high quality design in all development under policies

- CS16 High Quality Design (Core Strategy)
- E1 High Quality Design (HBLP)

These considerations are reinforced through the Design Policies (D1 to D7 + design checklist) in the Emsworth Neighbourhood Plan.

Development Requirements

In addition to the above, emerging policies which are of particular relevance to the proposed development are summarised below:

- **Low Carbon Design** – Residential development is expected to achieve a 19% reduction in Dwelling Emission Rate in accordance with emerging Policy E12.
- **EV Charging Infrastructure** – Electric Vehicle charging infrastructure should be provided for each new residential unit with private off-street parking in line with emerging IN3.
- **Management Plans** – A management plan is likely to be required through a legal agreement to establish the whole life management and maintenance of any common parts within the development.

Recommendation

The proposed development is outside of the urban area as set out in Policies CS17 and AL2 of the Adopted Local Plan. However, it is within the settlement boundary, as proposed to be defined by Policy E3 of the Havant Borough Local Plan. As such, the principle of development is accepted.

Whilst the Council is not currently able to demonstrate an up-to-date five year housing land supply position, the development plan remains the starting point in decision making. In the context of the tilted balance, permission should only be refused where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

In weighing the various material considerations associated with this application, both the emerging Local Plan and the NPPF have weight. Emerging policy H3 must be afforded some weight particularly given the clear direction in national policy to optimise the use of land. The NPPF in and of itself is also a material consideration in the determination of planning applications.

The development proposals would provide for a significantly lower density than set out by emerging policy H3. As such the development proposals are not capable of support in their current form. The proposed form of development seeks to artificially lower the density of the site, and thereby circumvent the requirements for housing mix, affordable housing and accessibility.

On this basis, the current development form would fail to make an efficient use of land, and optimise the use of the site. Though it is acknowledged there are site specific constraints which reduce the net developable area, the proposed form of development seeks to artificially reduce the capacity of the site. Furthermore, it is noted the size of the dwellings would be larger than can be found in the local context.