

Appeal by
Grand Holdings
Land Rear of 10a West Street

Statement of Case

Mr I Donohue
BA (Hons) MRTPI



Client: Grand Holdings

Date: July 2016

Ref: H/225/ID

Appeal Ref:

SOUTHERN PLANNING PRACTICE LTD

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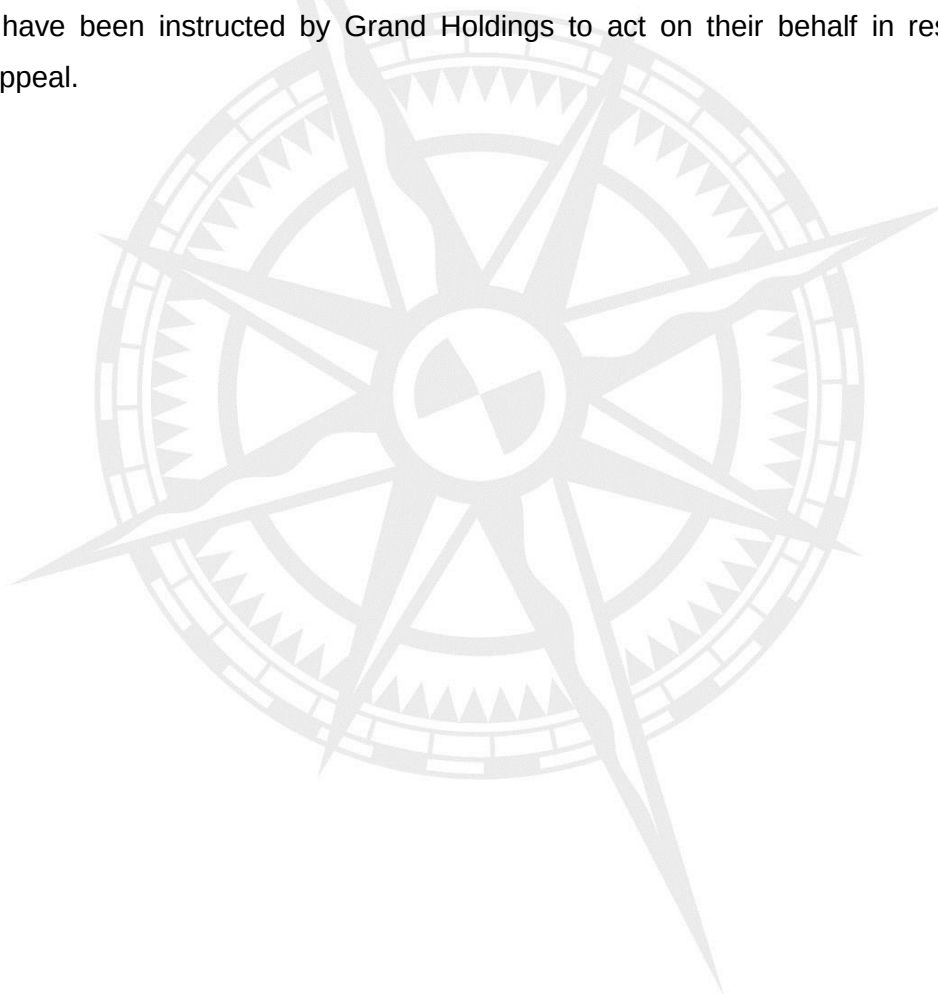
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1.0 QUALIFICATIONS AND EXPERIENCE

- 1.1 I am Ian Michael Donohue. I hold a Bachelor of Arts Degree in Town and Country Planning from Trent Polytechnic. I am a Member of the Royal Town Planning Institute.
- 1.2 I worked in development control from 1976 to 1980 and again from 1988 to 2007. I have been in private practice since. I am a Director with Southern Planning Practice Ltd, which is an independent town planning consultancy. My work covers the full range of town and country planning, for public and private sectors.
- 1.3 I have been instructed by Grand Holdings to act on their behalf in respect of this Appeal.



2.0 **INTRODUCTION**

2.1 Southern Planning Practice Ltd has been instructed by Grand Holdings to appeal a refusal of planning permission for Outline application for construction of 9 dwellings with access from West Street following demolition of 178a West Street on land to the rear of and including The Coal Yard, 178A West Street, Havant, PO9 1LR. The scheme which was for refused under delegated powers on 20 June 2016 for the following reasons: -

- 1 *The site is a windfall site situated partially within a Flood Zone 2 with a single access point located within a Flood Zone 3 and the development proposed is classified by the Environment Agency as a More Vulnerable Use. The National Planning Policy Framework requires that the Local Planning Authority undertake a Sequential Test to steer development to areas with the lowest probability of flooding. It is considered that there are sequentially preferable sites within the Borough and that the Local Planning Authority can demonstrate a 5 year housing supply. Therefore, there is no overriding justification for the development of an additional dwelling within a Flood Zone 2 which would result in an unacceptable risk to life and property from tidal inundation. In particular it has not been demonstrated that:*
 - (1) the proposed development has a safe means of access and/or egress in the event of flooding. Consequently, there would be an unacceptable risk to the health and safety of the occupants in a flood event; and*
 - (2) the site is currently not defended to the appropriate standard, taking into account climate change over the lifetime of the development, and no provision is made in the application to improve the existing defences to the required standard.*

As such, the proposal would be contrary to the provisions of the National Planning Policy Framework and Policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011.
- 2 *The applicant has not demonstrated that the access and internal servicing would not lead to demonstrable harm to the highway network in terms of highway safety and amenity. The proposal is therefore contrary to policies CS16, CS19, CS20, and DM13 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.*

- 3 *On the basis of the limited information available to the Local Planning Authority it has not been demonstrated by the applicant that the proposed development could be undertaken in a satisfactory manner without a harmful impact to protected species. The proposal is therefore contrary to policies CS11 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012. note - The NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the LPA prior to determination of a planning application, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable.*
- 4 *Development of the site in the manner proposed would amount to over-development, in that it would give rise to unsatisfactory plot configuration and to a cramped and contrived layout. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.*
- 5 *The proposal, without completion of the appropriate binding arrangements to secure a contribution towards the Solent Recreation Mitigation Partnership, is contrary to the Council's Policy on contributions towards measures of mitigation adopted by the Local Planning Authority which seeks to ensure that the provision is made from new development towards mitigating against increasing recreational pressure on the Solent SPA. It is therefore contrary to Policies CS11 and CS21 of the Havant Borough Local Plan (Core Strategy) 2011 and Policy DM24 of the Havant Borough Local Plan (Allocations) 2014 and the National Planning Policy Framework 2012.*

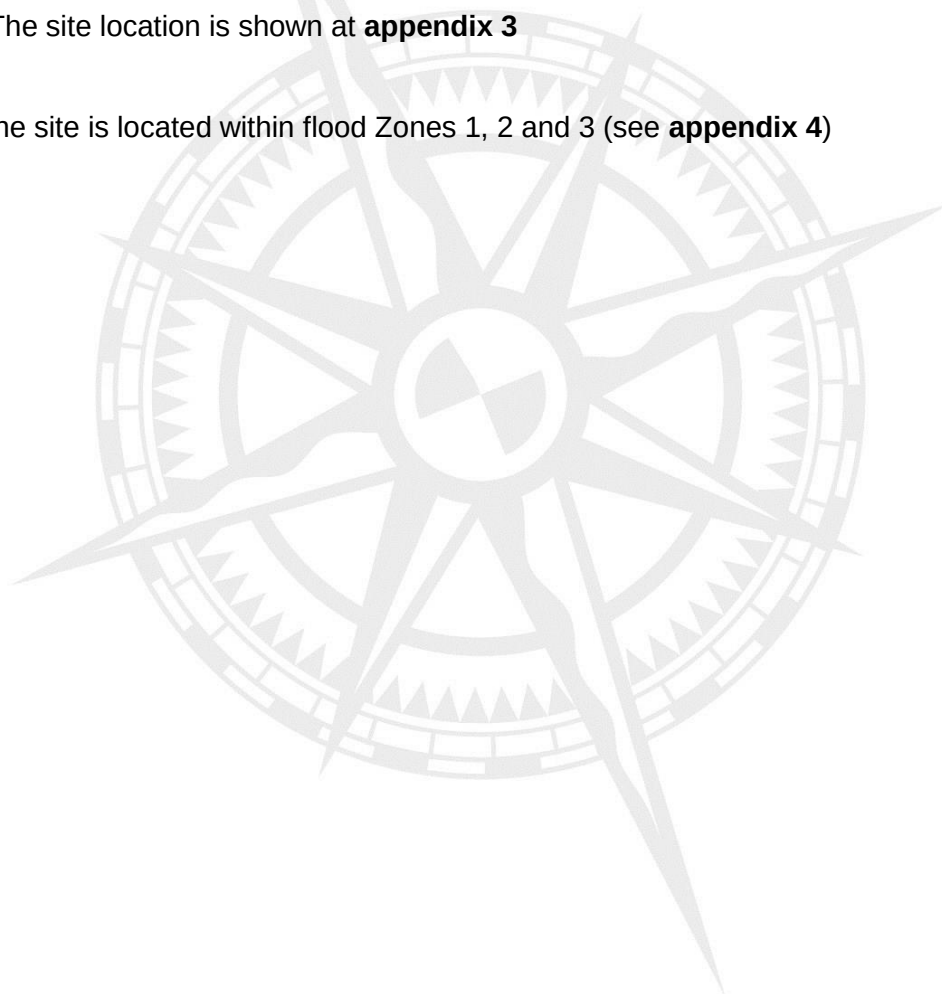
- 2.2 A copy of the application (**appendix 1**) including the decision notice (**appendix 2**) is submitted with this appeal

- 2.3 The Statement will begin by describing the site and its surroundings and the proposal in brief. It will then look at the planning history and policy before setting out the statement of case in the context of policy.
- 2.4 The statement of case will draw out the key issues and argues that the proposal would not amount to over-development.



3.0 DESCRIPTION OF THE SITE AND SURROUNDING AREA

- 3.1 The site is located to the west of Havant Town Centre and is just to the north of West Street and to the east of the residential properties fronting Staunton Road
- 3.2 To the west is the Staunton stream beyond which is a car parking area for Seward Garage and to the north is the main south coast railway line
- 3.3 The site consists of a property fronting onto West Street (number 178a) and a number of residential gardens owned by properties fronting onto West Street. The applicant has subsequently purchased the gardens though has retained the garden use.
The site location is shown at **appendix 3**
- 3.4 The site is located within flood Zones 1, 2 and 3 (see **appendix 4**)



4.0 THE PROPOSAL

- 4.1 The application is in outline form (access and siting) for the provision of 9 dwellings. 178a West Street would be demolished to form an access from West Street
- 4.2 The 9 residential dwellings would be a mix of 1,2 and 3 beds units.
- 4.3 It is intended that the dwellings would be 2 storey with rooms in the roof. The design and appearance of the properties would be traditional to reflect nearby development which is within the Brockhurst Conservation Area.
- 4.4 Parking would be within a communal parking area located within flood zone 3
- 4.5 The dwellings would be located within flood zones 1

Use

- 4.6 Previously the area was used as gardens for nearby properties. However the current owner purchased all the gardens and at present the area is unused.

Amount

- 4.7 The scheme would provide for 9 residential units with a mix of 1, 2 and 3 bedrooms

Layout

- 4.8 The layout consists principally of semi detached properties. There would be one block of three flats. The car parking would utilise the area within flood zone 3. The scheme would have regard to the requirements of the flood risk assessment ensuring that minimum ground levels would be adhered to in the design of future dwellings.

Scale

- 4.9 It is envisaged the buildings two stories in height with rooms in the roof.

Landscaping/Trees

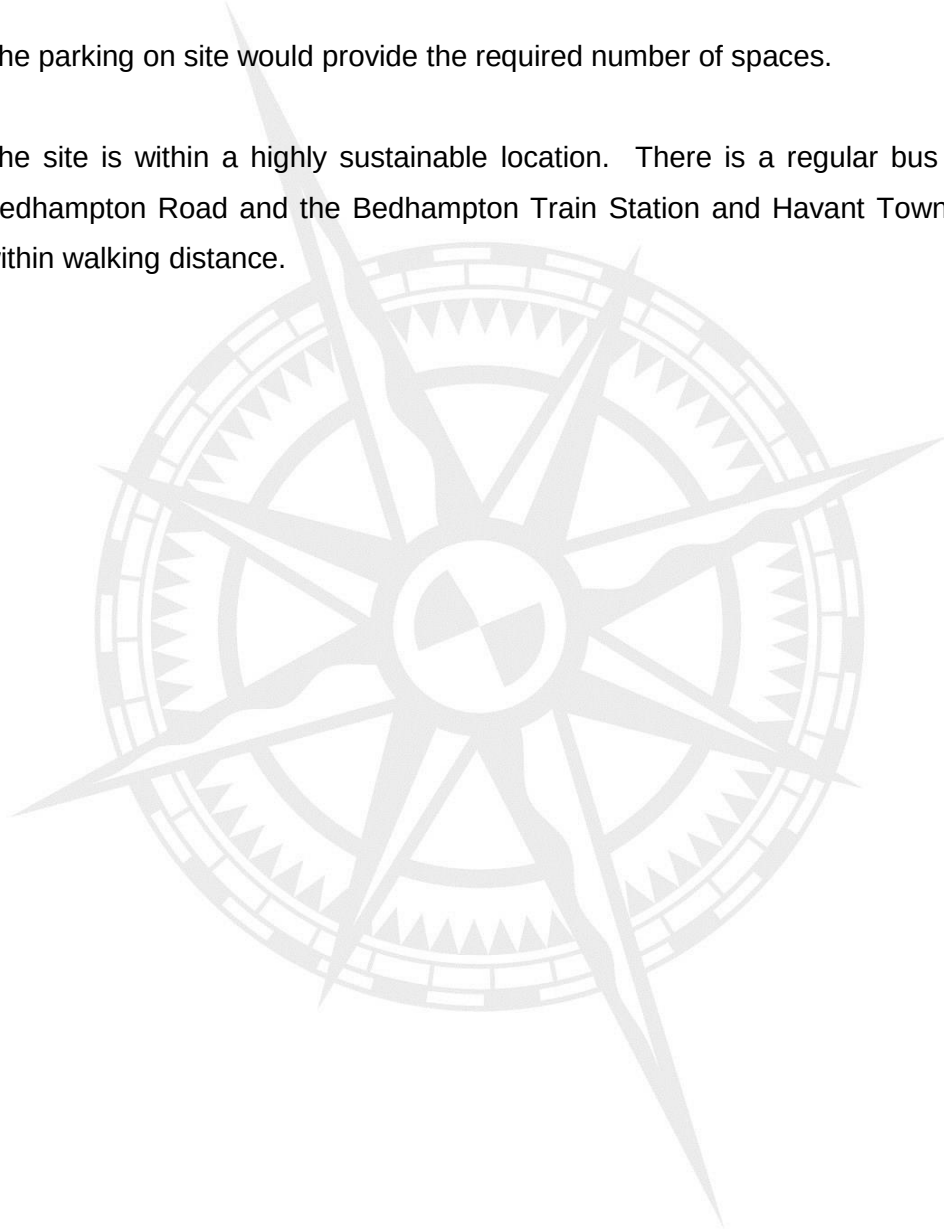
- 4.10 Landscaping would be provided as required though it is envisaged that this will be principally on the western and northern boundaries.

Appearance

- 4.11 The external appearance will have regard to features and materials from with the locality.

Access/Parking

- 4.12 Access would require the demolition of 178a Havant Road
- 4.13 The parking on site would provide the required number of spaces.
- 4.14 The site is within a highly sustainable location. There is a regular bus route along Bedhampton Road and the Bedhampton Train Station and Havant Town Centre are within walking distance.



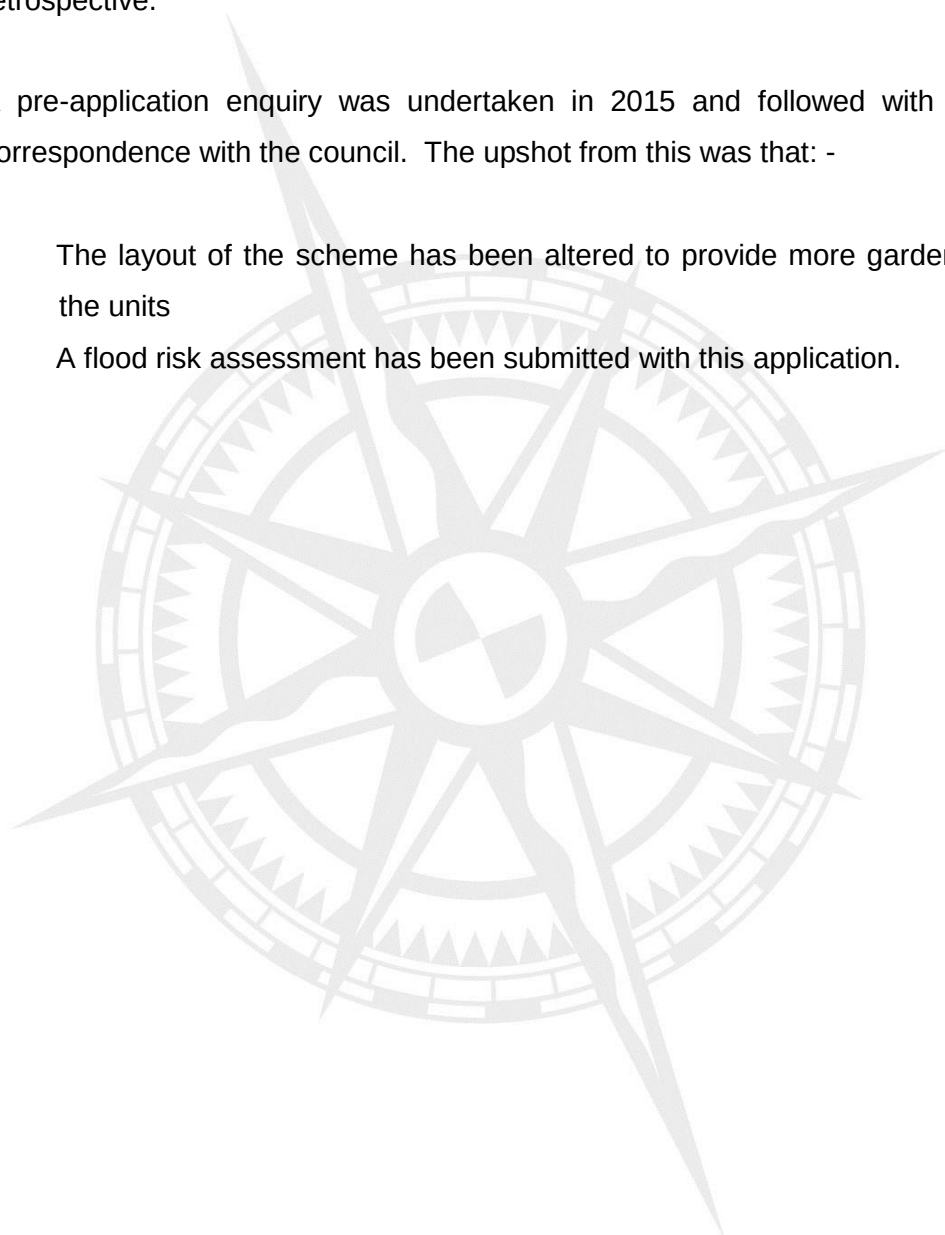
5.0 PLANNING HISTORY

5.1 Planning history for the application site is as follows:

5.2 There is no planning history on the garden area. On number 178a planning permission was granted for a jet wash facility (APP/12/00935). The application was retrospective.

5.3 A pre-application enquiry was undertaken in 2015 and followed with subsequent correspondence with the council. The upshot from this was that: -

- The layout of the scheme has been altered to provide more garden space for the units
- A flood risk assessment has been submitted with this application.



6.0 **PLANNING POLICY CONTEXT**

National Planning Policy

- 6.1 The National Planning Policy Framework (NPPF) became the primary national planning policy guidance on 27 March 2012. It replaced the previous PPS/PPG system of guidance documents and deleted a significant proportion of planning policy including the Regional Spatial Strategies (RSS).
- 6.2 Paragraphs 6 and 7 of the NPPF sets out the Governments overriding objectives of securing sustainable development. Para 7 of the NPPF identifies the roles of the planning system in achieving sustainable development.
- 6.3 Paragraph 23 states that local planning authorities should 'recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites.'
- 6.4 Section 6 states:
- 50. To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:*
- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);*
- 6.5 Section 7 of the NPPF sets out the governments aspirations for requiring good design.
- 6.6 Paragraphs 100 to 104 of the NPPF relate to development and flood risk. The NPPG also provides additional guidance in particular it states: -

In decision-taking, where necessary, local planning authorities also apply the 'sequential approach'. In decision-taking this involves applying the Sequential Test for specific development proposals and, if needed, the Exception Test for specific development proposals, to steer development to areas with the lowest probability of flooding.

- 6.7 Section 12 Paragraph 131 of the NPPF refers to planning applications for heritage assets. Paragraph 131 states that: -

In determining planning applications, local planning authorities should take account of:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality;*
- *the desirability of new development making a positive contribution to local character and distinctiveness.*

Local Policy

- 6.8 Relevant policies from the Havant Core Strategy include DM2, CS4, CS9 CS11, CS15, CS16 and CS17.
- 6.9 Policy CS9 (Housing) states the desire for affordable and accessible housing, and contributing to the net total of housing stock. The development should also 'achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shops and services in addition to respecting the surrounding landscape, character and built form.'
- 6.10 Policy CS9 with regard to Housing states: Planning permission will be granted for housing proposals that will: -
1. Contribute to achieving a net total of 6,300 new dwellings between 2006 and 2026.
 2. Deliver on average 30-40% affordable housing on sites of 15 dwellings (gross) or more and secure a suitable contribution, or on-site provision, equivalent to on average 30-40% on smaller housing developments between 5 and 14 dwellings (gross), unless a lesser requirement has been transparently justified on viability grounds.
 3. Ensure mixed communities are created through the planned distribution and avoidance of a concentration of affordable housing.
 4. Achieve a suitable density of development for the location, taking into account accessibility to public transport and proximity to employment, shops and services in addition to respecting the surrounding landscape, character and built form.
 5. 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.
- 6.11 Policy CS15 relates to flood and costal erosion risk and requires that development meets the sequential and exception tests.

- 6.12 CS16 (High Quality Design) seeks development that 'identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site' and 'uses the characteristics of the locality to help inform the design of the new development including heights, massing, existing buildings lines, plot widths and depths, materials and proportions of windows and doors.'
- 6.13 Policy CS17 (Concentration and Distribution of Development within the Urban Areas) states that using 'redundant, derelict or underused land and buildings within the urban areas should be the priority for new development.
- 6.14 The Borough Design Guide SPD identifies Bedhampton and Brockhampton as a residential suburb. They have typical suburban development with two-storey buildings, small gardens with low boundary walls or hedges. The Old School is identified as a notable building within the townscape.
- 6.15 The Havant borough Local Plan Allocations document (July 2014) aims to provide the Borough with up-to-date policies to encourage investment in new jobs, provide enough land for new homes and protect its special environment.

7.0 STATEMENT OF CASE

7.1 Under section 38(6) of the Planning and Compensation Act 2004, the appeal should be determined in accordance with the relevant policies of the development plan, unless other material considerations indicate otherwise.

7.2 With the refusal the LPA has cited the following documents and policies

Policies DM8, DM13, CS11, CS15 CS16, CS19, CS20, CS21 of the Havant Borough Local Plan (Core Strategy) 2011

Policy DM24 of the Havant Borough Local Plan (Allocations) 2014

and the National Planning Policy Framework 2012.

7.3 Therefore the development must be compliant with all other relevant policies.

Reason for refusal 1 – Development in a Flood Zone

7.4 For clarification the access is within flood zone 2

7.5 The site is located within Flood zones 1, 2 and 3 as identified on the Environment Agency flood zone map. However the housing proposed is within flood zone 1 with the front gardens in flood zone 2. All car parking would be within flood zone 3 and access would be within flood zone 2. A flood risk assessment was submitted with the application and is attached with the appeal documents.

7.6 Residential development in zones 2 and 3 is classified as a More Vulnerable Use by the EA. Paragraph 101 of the NPPF requires that Local Planning Authorities steer new development to areas with the lowest probability of flooding; and that development should not be permitted if there reasonably available sites in areas with a lower probability of flooding.

7.7 To identify sites a sequential approach should be undertaken by the LPA. Advice is contained within the EA's Demonstrating the flood risk Sequential Test for planning applications. The site subject of this report is categorised as a windfall site and the EA advise that, in the absence of a flood risk windfall policy it may be possible (where the data is sufficiently robust) for the LPA to apply the Sequential Test taking into account

reasonably available sites, historic windfall rates and their distribution across the district relative to Flood Zones.

7.8 In calculating the windfall potential for Havant and Bedhampton based on the trend analysis the following calculation provides what is considered a realistic and justified windfall/unidentified inclusion for Havant and Bedhampton. The most reliable sources of continued supply come from the following:

- Residential garden land average net gain 5.57 dwellings per annum
- Redevelopment. of redundant/ commercial/ leisure use average net gain 10.29 dwellings per annum
- Conversion average net gain 6.86 dwellings per annum
- Total 22.72 dwellings per annum

Information taken from Havant Windfall Background Paper attached at **appendix 5**

7.9 The local plan indicates that over a 7 year period (2019/20 – 2025/26) 159.04 potential dwellings (22.72×7) could be delivered from unidentified/windfall development. The plan then applies a 10% reduction to ensure the calculation is realistic rather than optimistic ($159.04 \text{ less } 10\% = 143.14$). Therefore the potential windfall/unidentified supply for Havant and Bedhampton for inclusion in the Local Plan (Allocations): is 143 dwellings over the plan period. It is Havant's intention to include windfall from calculations of housing supply from 2019 as they consider they have a robust housing supply.

7.10 It is evident from Table 3.1 of the adopted allocations plan that there is variation in the range in different areas. This occurs because targets have to be matched with potentially deliverable sites. The Core Strategy indicates that the distribution of housing numbers across the Borough is not an exact science or part of policy. The most important consideration is to deliver 6,300 new homes and to realistically distribute this across the Borough. The Council is satisfied that it has achieved this. However should under-provision arise in one area of the borough then this could effectively be met through over-provision elsewhere, all within the overall 6,300 policy requirement in mind as opposed to the indicative area requirements.

7.11 In accordance with the aims of the NPPF, and a general desire to develop brownfield (PDL) rather than greenfield sites (as supported by Policy CS17 of the adopted Core Strategy), the

Council would not wish to effectively over-allocate for development requirements on greenfield sites when it is confident local circumstances and past trends would indicate a good supply from windfall sites. This is because windfall sites are often in sustainable locations and the concentration of development within the existing urban areas will save open countryside much valued by our communities. The site now proposed is clearly brownfield land and therefore preferable to development on greenfield land

- 7.12 In addition in terms of bringing this site forward prior to 2019 it should be noted that a large proportion of the housing allocation for Havant and Bedhampton (site H14) is on Portsmouth Water Land. The deliverability of this housing is dependent upon Portsmouth Water moving to new headquarters to the south of the allocated site on Solent Road. However in March 2015 the Water Company were still unsure of the move. The following was a quote in the Portsmouth News from the managing director Neville Smith: -

'There is still a lot of work to be done,' said Mr Smith. 'At this stage it's still an if. No firm decisions have been made'.

- 7.13 Therefore not only has the new headquarters yet to be granted planning permission, there would also have to be a move to the new headquarters before any development could be undertaken for housing on the existing site. All this needs to be achieved within 3 years. Therefore there is a significant question mark over the deliverability of 120 of the allocated houses. As at the time of this appeal there is still no application for the new headquarters.

- 7.14 The reason for refusal indication that there are sequentially preferable sites in borough but there is no indication of where these sites are. The authority have not therefore demonstrated through a sequential test that there are sufficient windfall sites to meet the 5 year housing supply.

- 7.15 I also draw your attention to the appeal decision attached at **appendix 6**. The judgement is in effect confirmation of the view that even if there is not out of date development plan policy and there is a five year housing land supply the presumption in favour of Sustainable Development will prevail for an unallocated sustainably located site.

- 7.16 In terms of the flooding all the houses are located within flood zone 1 so there is no unacceptable risk to life from tidal inundation. The flood risk assessment submitted confirms that: -
- There is a 1% chance annually that the 1:100 year storm will occur.
 - The depth of water would be maximum 142mm in the furthest car parking space, there would be a clear dry walkway from all plots out of the site for the 1:100 year storm (1% annual probability), which is the standard level of protection.
 - The residents will all be signed up to the EA flood warning, they will get regular updates by text, email or automated phone message telling them of the current level of warning.

Please note that the flood risk report was prepared for the pre-application enquiry and the report shows the original layout plan not the revised one however this does not affect the report as the buildings are still within flood zone 1)

- 7.17 Discussions are under way with the EA to see if they would consider an increase in the height of the access road and the parking area subject to the provision of a porous surface. This has been permitted elsewhere in the County see document at **appendix 7**. Any feedback from the EA will be forwarded to the authority.
- 7.18 It is considered therefore that the proposal meets policy CS15 of the core strategy

Reason for refusal 2 – access

- 7.19 Access would be via a new access onto West Street following the demolition of 178a. There is adequate visibility for egress onto West Street. There is also sufficient space within the site access for cars to pass.
- 7.20 In 2012 the council permitted the site to be used for a hand car wash APP/12/00935. (see **appendix 8**) It should be noted that there were no highway objections to the application and there were no restrictions on the number of vehicles that could access the site

- 7.21 In relation to car and cycle parking, the Council provides standards within the document Havant Borough Residential Parking and Cycle Provision Supplementary Planning Document March 2010. It is envisaged that the development will meet the requirements of the SPD
- 7.22 Concerns about the internal layout could be addressed at reserved matters stage as there is sufficient room within the site to provide additional car parking and manoeuvring areas if required.

Reason for refusal 3 - ecology

- 7.23 The site has been used as domestic gardens for a number of years by owners of the adjoining houses. The site is now owned separately from the house owners however the residents continue to use the garden area. There is also areas of hardstanding.
- 7.24 It is not clear therefore why the authority consider the characteristics of the site and its surrounds suitable habitat for any Protected Species

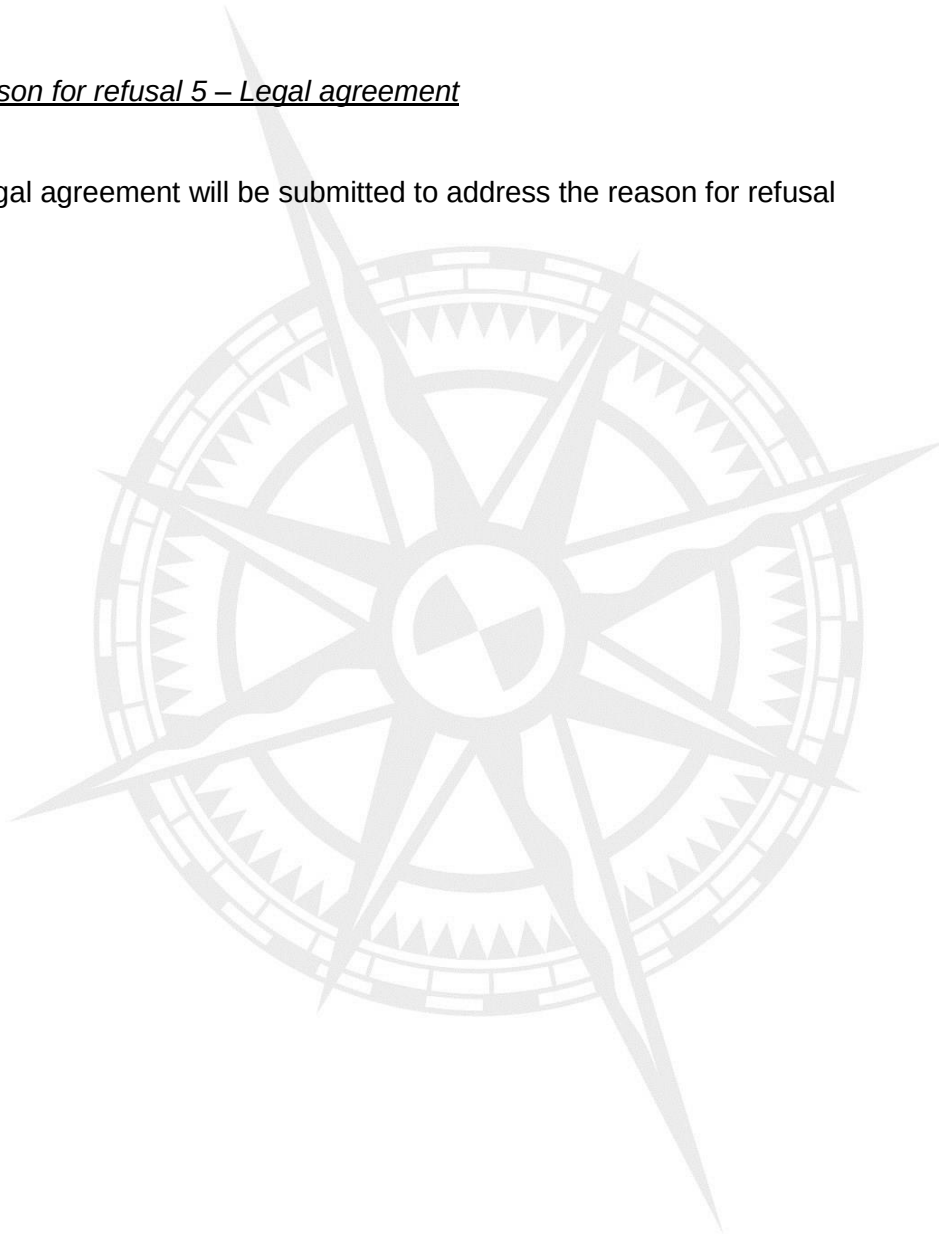
Reason for refusal 4 - overdevelopment

- 7.25 It is recognised that the location of the flood zone has an impact on the available area for the development. However following the pre-app response the layout was altered to provide a slightly amended layout, larger gardens and a reconfigured car parking area.
- 7.26 the development is very similar in form an style to a development further north on Staunton Road which is a curved development similar in form to that now proposed (although concave not convex). See **appendix 9**. This was a creative design to address a restricted site. The situation is no different from the current application in that the form and style of the development addresses a restriction though in the current case is due to the flood zone.

- 7.27 There is sufficient distance from the proposed properties to those on West Street and Staunton Road to ensure there would be no overlooking
- 7.28 It should be noted that the authority have raised amenity as an issue nor the potential for impact on the character and or appearance of the conservation area

Reason for refusal 5 – Legal agreement

- 7.29 A legal agreement will be submitted to address the reason for refusal



8.0 CONCLUSION

- 8.1 It is considered that the provision of a windfall site having regard to the deliverability of housing within Bedhampton and Havant is in principle acceptable.
- 8.2 The aim of the NPPF is to significantly boost housing numbers and unless the adverse impacts clearly and significantly outweigh the benefits the planning permission should be granted for sustainable development. It is argued that this site is sustainable and there are no significant adverse impacts.
- 8.3 The physical housing development would be outside the flood zone.
- 8.4 There would be no detrimental impact on the Conservation Area, existing neighbours or future occupiers.
- 8.5 It is considered that the development would comply with local and national policies regarding housing and development.
- 8.6 The inspector is requested to uphold the appeal.