



Appeal Decision

Inquiry opened on 21 May 2013

Site visit made on 22 May 2013

by P J Asquith MA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 July 2013

Appeal Ref: APP/X1735/A/13/2192777

Land north of Goldring Close and south of Beech Grove, Mengham, Hayling Island

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Tolcarne Drive Developments Ltd against the decision of Havant Borough Council.
 - The application Ref. APP/12/00966, received by the Council on 14 September 2012, was refused by notice dated 21 December 2012.
 - The development proposed is the erection of 131 dwellings with associated residential curtilages, parking and turning areas, public open space, new vehicular access from Beech Grove and new pedestrian and cycle access from St Margaret's Road.
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Procedural Matters

1. The Inquiry was held on 21, 23-24 May and 4 June 2013. The application was in outline with all matters except for access reserved for subsequent approval. Although the application included plans showing suggested layouts for the site these are marked as indicative and I have treated them as such. A plan showing a revised application boundary has been produced. This excludes the public footpath along the western and north-western edge of the site that had previously been erroneously included within the application site. I have considered the proposal on the basis of this revised plan and it is my view that no interests would be substantially prejudiced by so doing.
2. At the Inquiry applications for costs were made by Tolcarne Drive Developments Ltd against Havant Borough Council and by the Council against Tolcarne Drive Developments Ltd. These applications are the subject of separate Decisions.

Decision

3. The appeal is allowed and planning permission is granted for the erection of 131 dwellings with associated residential curtilages, parking and turning areas, public open space, new vehicular access from Beech Grove and new pedestrian and cycle access from St Margaret's Road at land north of Goldring Close and south of Beech Grove, Mengham, Hayling Island in accordance with the terms of the application, Ref. APP/12/00966, received by the Council on 14 September 2012, subject to the conditions listed in the attached schedule.

Main Issues

4. From all I have seen, read and heard I consider the main issues in this case to be:
 - The scheme's impact on housing supply within the Borough, particularly bearing in mind the National Planning Policy Framework (the Framework) requirement for planning authorities to have a five-year supply of deliverable housing sites.
 - The impact of the proposal on the appearance and character of the area with particular reference to the effect on the Chichester Harbour Area of Outstanding Natural Beauty (AONB) and to the potential loss of trees protected by a Tree Preservation Order (TPO).
 - Whether the scheme would be likely to have a significant effect on the Chichester Harbour and Langstone Harbour Special Protection Area (SPA) and Ramsar sites and an adverse impact on the associated Chichester Harbour Site of Special Scientific Interest (SSSI).

Reasons

First main issue – housing supply

5. The appeal site of about 4.3ha comprises two regularly shaped fields which have been used for horse grazing for some 20 years. The site is bordered to three sides by existing residential development and by land associated with school premises. To its east side, adjacent to which runs a public footpath, the site is mostly bordered by open agricultural land within the AONB. Vehicular access would be taken from Beech Grove/Hawthorne Grove to the north, with a pedestrian, cycle and emergency access onto St Margaret's Road to the west. The scheme proposes the erection of 131 dwellings (a net increase of 129 given that two existing dwellings in Hawthorne Grove and St Margaret's Road would be demolished to provide access) with a mix of flats and houses ranging from one bedroom to four bedrooms in size. Of these, 30% would be built and thereafter secured as affordable homes.
6. The Development Plan now comprises saved policies of the Havant Borough District-wide Local Plan 2005 (LP) together with the adopted Havant Borough Core Strategy (CS) of March 2011. Within the LP the southern field of the appeal site is allocated as a Reserve Housing Site under Policy H4. This followed the acceptance of the Inspector's recommendation when the LP was being prepared that this site could accommodate some 85 dwellings¹.
7. The Council is currently preparing a Local Plan (Allocations) Development Plan Document². Following public consultation on possible site options for the Allocations Plan the appeal site was not included although two other sites on Hayling Island were. The Council's policy witness indicated at the Inquiry that she considered there to be no major impediments to the two other sites coming forward as housing sites. This was somewhat contradicted by the Council's ecology witness who referred to surveys that have identified Brent Geese and waders on these sites; there would be a need for further survey

¹ The two other allocated Reserve Sites for housing elsewhere within the Borough are either currently being developed or benefit from planning permission.

² Referred to within the Core Strategy as the Development Delivery (Allocations) Plan.

work to be carried out over a two to three year period, with implications for the need for Appropriate Assessment under the Conservation of Habitats and Species Regulations 2010. As such, there can be no guarantee that these other two Hayling Island sites would come forward. Having regard to this draft Allocations Plan I consider little weight should attach to it at this stage.

8. The Council does not claim that granting permission on the appeal site should be judged as premature in relation to plan preparation. Nor in my view need permission on this site slow down progress on the Allocations Plan (timing of which has already slipped) since it could simply substitute for one of the other Hayling Island sites.
9. In terms of land supply the Council maintains the proposal would be contrary to CS Policies CS9 and CS17. Policy CS9 indicates that permission will be granted for housing proposals that fulfil a number of specified criteria. Amongst the relevant criteria are the need to: contribute to the provision of 6,300 dwellings over the plan's 20-year period from 2006 to 2026; secure the delivery of affordable housing; ensure the creation of mixed communities; achieve a suitable density of development and provide a mix of dwelling types, sizes and tenures which help to meet identified local housing need and contribute to the development of mixed and sustainable communities; and provide accommodation for an aging population in sustainable locations. The proposed scheme would fulfil all these functions, as accepted at the Inquiry by the Council.
10. Policy CS17 is permissive of development that makes the most effective use of land in the borough. This includes the concentration of new housing on Hayling Island, one of the borough's five urban areas, with reference to the Proposals Map. The policy prioritises development on previously-developed land although at the Inquiry the Council acknowledged that greenfield sites are required to meet the borough's housing requirement. The Proposals Map shows the southernmost field of the appeal site as a Reserve Housing Site as carried forward from the LP, although the northern field lies outside the defined urban area of Hayling Island and in an area that should be treated as countryside. In this sense, and despite claims in the appellant's closing submissions that there is no Proposals Map in the CS, the scheme would not strictly accord with this policy.
11. The National Planning Policy Framework (the Framework) sets out the Government's planning policies and is an important material consideration to be taken into account in decision-making. At its heart is the achievement of sustainable development, with paragraph 14 indicating that the presumption in favour of this is seen as the golden thread running through both plan-making and decision-taking. The three dimensions of sustainable development set out in the Framework give rise to the need for the planning system to fulfil an environmental, economic and social role. As far as these aspects are concerned the Council accepted at the Inquiry that the appeal site is in a sustainable location. I have no reason to disagree. It is closely and well related to existing residential areas and a range of facilities accessible on foot, by cycle or by bus, with many being within ready and convenient walking distance in Mengham/Gable Head.
12. Use of sustainable means of transport for occupiers of the proposed dwellings would be further encouraged through measures that would be included within a proposed Residential Travel Plan. The provisions of this

would be secured through the proffered Section 106 Agreement (S106) under the Town and Country Planning Act 1990 (as amended). Other aspects of environmental sustainability would be the ability for the dwellings to make use of renewable energy technologies and the intention for them to be designed to achieve a minimum of Level 3 of the Code for Sustainable Homes in terms of energy efficiency. As the indicative plans show, the scheme would retain many of the existing landscape features of the site whilst incorporating additional environmental elements. I consider the wider environmental issues of impact on the AONB and wildlife below.

13. In terms of the economic and social roles of sustainable development, by providing part of the Borough's housing requirement the scheme would make a contribution to the local economy, the Council being part of a partnership of local authorities that has come together to deliver sustainable economic-led growth and regeneration within south Hampshire. The mix of housing types and sizes, providing both open market and affordable housing on a sustainably-located site, would be likely to be supportive of a strong, vibrant and healthy community.
14. The total of 6,300 dwellings to be achieved over the life of the Local Plan contained in Policy CS9 has to be seen against what is a key thrust of Government policy as set out in the Framework to boost significantly the supply of housing. The Council accepts that this is a minimum figure and not a maximum one. The Council's Housing Supplementary Planning Document recognises that the provision of sufficient housing is one of the biggest challenges facing the borough up to the end of the plan period. In particular, it is clear that within the borough there is a significant need for affordable housing; there are around 3,000 households on the Council's waiting list. This is in an area where the income needed to purchase an average home is approaching double that of current average incomes. The average waiting times for dwellings is eight years or more. The Council's Affordable Housing Enabling Officer is supportive of development on the site, which would yield 39 affordable homes, in light of the consistently high demand for such housing.
15. Having regard to housing land supply, in accordance with paragraph 47 of the Framework the Council should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against its housing requirements. There should be an additional buffer applied of 5% to ensure choice and competition in the market for land or where there has been a persistent under-delivery of housing this buffer should be increased to 20%.
16. Much discussion at the Inquiry centred around the Council's supply of deliverable housing land. The Council rightly points out that the Policy CS9 total makes no reference to an annualised target of provision which, dividing the 6,300 total by the 20 years of the plan period, would give a figure of 315. Such a figure is, indeed, merely a construct. However, in my view this is a necessary one in order to measure and monitor year-on-year whether the Council is maintaining a five-year land supply in accordance with the Framework requirement. Moreover, it is necessary to assess whether there has been a persistent under-delivery of housing which would require the application of a 20% rather than a 5% buffer.

17. In considering deliverable supply and the correct buffer to apply to the necessary maintenance of a five-year supply the Framework provides no guidance as to what constitutes 'persistent under-delivery' that would trigger the application of the 20% (or additional year's supply) buffer. The Council accepts that in six out of the last seven years the annualised figure of 315 has not been achieved, which the appellant considers amounts to a demonstration of persistent under-delivery. On the other hand the Council points to the general economic recession since 2008 as a contributory factor; draft housing completion figures for 2012/13 indicate a 48% increase in annual supply³; delivery occurs in peaks and troughs; and in a qualitative approach to provision the Council has been, and is being, proactive in having released two of its Reserve Sites as well as progressing its Allocations Plan.
18. Having regard to actual deliverable supply, analysis has been conducted by both the Council and appellant in respect of a range of sites. For various reasons the appellant urges that caution should be applied to what it believes to be the Council's optimistic and somewhat unrealistic assumptions.
19. The assessment of deliverable housing land supply is not an exact science. For example, the appellant and the Council have used differing periods for calculating the five-year supply and judgement is required of what constitutes a reasonable prospect of a site being delivered and whether development would be viable. Consideration of the five-year supply position will be a snapshot in time.
20. Before updating figures during the course of the Inquiry the Council's evidence was that it had a five-year supply with an 8.3% flexibility. At the close of the Inquiry, based on differing assumptions as to the likely delivery of certain assessed sites, its supply figures show a five-year supply with flexibility ranging from 20 to 35%. Re-calculations by the appellant's housing supply witness during the Inquiry suggest that the Council could have an approximate 5.87 year supply. This would be close to, but would not meet, the 20% figure on the basis that the Council's delivery of housing land amounted to persistent under delivery.
21. Having regard to the evidence before me and notwithstanding the Council's efforts, I consider that the appellant's contention of a persistent under delivery is correct. However, the evidence as to whether the Council can demonstrate a five-year supply plus 20% is somewhat equivocal. Nonetheless, even if the Council's assessment is preferred and that a five-year supply plus 20% is identified, this would not preclude the favourable consideration of the proposal if it represents sustainable development; paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. For the reasons already set out above, and in terms of environmental sustainability discussed below, the proposal would represent sustainable development. It would make a useful contribution to housing land supply, particularly in respect of affordable housing, and would accord with the thrust of development plan policies concerning housing provision.

Second main issue – appearance and character

³ This amounted to 249 net completions, so still below the putative 315 target and only represents a single year's figure.

22. The Council suggests that the scheme would significantly change the character of the area by reason of its scale and density by infilling an undeveloped gap between Gable Head and Mengham; this would erode the rural setting of this part of the AONB and fail to preserve or enhance the AONB's special qualities.
23. The immediate surroundings of the site to the south, west and north are already developed and urbanised. The Council does not dispute the proposed density of the proposed development in its own right and which the appellant puts forward as compatible with that of the established surrounding residential neighbourhood. This needs to be considered also within the context of what was earlier seen as a much higher appropriate density on the southern field that is allocated as a Reserve Housing Site. Although the proposal is in outline and detailed layout, scale, appearance and landscaping are matters that would be subject to reserved matters approval in the event of permission being granted, there is considerable illustrative material to suggest how development might progress. The Council has not taken issue with the general form that this might take and I have no reason to question that the development would be capable of suitably complementing the form and nature of the existing residential neighbourhood.
24. Mengham and Gable Head are already effectively physically joined and have been so for a lengthy period. The appeal site is not identified in policy terms as a strategic or local gap and I find no reason why in landscape or townscape terms it is necessary to maintain the present open character of the site providing development was to not have any seriously adverse impact on the adjoining AONB.
25. The AONB is characterised by several special qualities, as set out in the Chichester Harbour AONB Management Plan. These include its unique blend of land and sea, an overall sense of wilderness within the seascape, wooded shorelines, flatness of the landform, historic character and associations, and its unspoilt character and unobtrusive beauty. The Framework indicates that great weight should be attached to conserving the landscape and scenic beauty of such areas, which are afforded the highest level of protection of these attributes.
26. The proposed development would not extend into the AONB and would remain separated from it by what would be, for the most part, a tall and substantial retained hedgerow with a number of mature trees along the eastern site boundary. From the evidence provided, including that in the appellant's Landscape and Visual Impact Assessment, and what I saw on my site visits, views from public vantage points within the AONB towards the site are very limited. The woodland mass of the Toumerbury Plantation to the north of the inlet of My Lord's Pond and the woodland within the grounds of Mengham House at the head of this inlet restrict views to those only from within the inlet itself and to all but a narrow vista between these groups of trees. Even then this view is across intervening farmland and existing residential development can be seen.
27. The proposals would retain the existing eastern boundary hedgerow, which would be reinforced with additional planting. The S106 Agreement also provides a mechanism for the future management of what would be the public parts of the development and which would include the maintenance of

this hedgerow. It is probable that some very limited amount of the roofing of the proposed dwellings within the appeal site might be visible over the hedgerow. However, as earlier noted, appearance, scale and layout of the housing are reserved matters over which the Council would have control. Indicative cross-sections show a typical dwelling being no higher than the retained hedgerow. For the reason already described, any views of the housing over or through the hedgerow, and even bearing in mind the lesser screening that would result after leaf-fall, would be very restricted. They would be within the context of existing residential development and, in my opinion, would be of very limited magnitude and significance. Retention and reinforcement of the hedgerow would provide a large measure of screening for those walking along the adjoining public footpath and the development would not impinge upon views from this over the fields and woodland to the east. As such, I consider that the scheme would have no significantly harmful impact on the AONB and the special qualities which characterise it.

28. The provision of vehicular access from Beech Grove/Hawthorne Grove would necessitate the removal of two oak trees which, together with a slightly taller and more spreading third oak, are covered by a TPO. This latter tree is to be retained as part of the scheme. The two trees for removal are closely grouped and one has suffered a stem wound as a result of fire. Although the Council's arboriculturalist considers this to be well occluded, the view of the appellant's arboriculturalist is that this is a significant wound that raises questions over the tree's long-term safe and useful life and life expectancy. Whatever the impact of this on the longevity of this particular tree, neither it nor the other to be removed have quite the same pleasing form of that which would be retained.
29. The Council argues that the three oaks together provide something of a 'gateway' when looking in a southerly direction down Beech Grove although I do not consider this analogy to be particularly apt since they currently provide a 'gateway' to nowhere. Nonetheless, because of their height their canopies are visible above the rooftops of nearby dwellings from within the area and together they have a significant local amenity value. However, the tree to be retained appears to be the healthier, more robust and dominant of the three and this would continue to provide an important amenity function, acting as a visual 'stop' when viewed along Beech Grove. A suitable planning condition can be imposed to ensure that this is adequately protected during building works and that the method of construction of the access road ensures its long-term well-being. The illustrative layout plan shows additional tree planting close to the proposed northern entrance to the site and these trees in particular could, in time, serve to complement the amenity contribution of the retained oak. Therefore, the loss of two of the three trees subject to the TPO would not be a substantive drawback of the scheme.
30. Overall, in terms of the impact of the scheme on the appearance and character of the area, I do not consider there would conflict with the thrust of CS Policies CS12, CS16, DM8 and DM9. There would be compliance with CS12 in that it would not adversely impact on the special qualities of the AONB. There is no reason to suppose that the development would not be designed to a high standard in accordance with CS16. Whilst involving the removal of two trees subject to a TPO it would protect a third and in my view more valuable oak, would incorporate the existing important eastern

hedgerow boundary into the scheme and would provide new landscape works which could successfully integrate with the local environment in accordance with DM8. One of the criteria to be fulfilled under DM9 is that there should be no harmful effects in respect of various protected areas within the coastal zone, which I address in respect of the third main issue below. Having regard to the other criteria of this policy aimed at protecting this area, for the reasons given the scheme would not negatively impact on the area.

Third main issue - Impact on the SPA/Ramsar site and SSSI

31. The appeal site lies close to Chichester and Langstone Harbours Special Protection Area (SPA), such areas being designated for the protection of rare or vulnerable birds and areas important for migratory species. The SPA is also a Ramsar site, an internationally-recognised wetland habitat site for birds. In the UK these typically overlie designated SPA areas. Additionally, land and the estuary to the east are designated as a SSSI. The issue that the proposal gives rise to is whether the appeal scheme would either result in the direct loss of an inland roosting or foraging site or would lead to a significant increase in recreational disturbance for the birds that make up the qualifying interest of the SPA.
32. The birds in question are Brent Geese and waders. Survey work and data gathering indicate that there have been no recordings of such birds roosting or foraging on the appeal site over the past ten years⁴, the use for horse grazing making the land sub-optimal for these purposes. However, flocks of up to 200 geese have been recorded as roosting or foraging in the field to the east of the site. The appellant's ecological survey work has also shown that use of the public footpath to the immediate east of the appeal site can lead to disturbance of geese in this field.
33. In light of the proximity of the appeal site to the SPA, Natural England has expressed concern about possible disturbance to birds that could be associated with residential occupation⁵ and which could arise from additional recreational activity on or near the coastline of the SPA/Ramsar site and supporting habitat. This is echoed by the Chichester Harbour Conservancy.
34. The appellant's position is that planning permission for the proposal could be granted even without off-site mitigation and without causing significant adverse impacts on these protected birds or their habitats. Nonetheless, on-site mitigation measures and recommendations for off-site enhancements (funded through the S106 Agreement) could potentially result in a positive impact on the SPA in relation to the proposals.
35. There would be no direct impact on Brent Geese or waders through any loss of inland roosting or foraging habitat. The proposal would include an alternative north-south footpath through the site to that which exists. This would be to the west of the substantial hedgerow marking the site's boundary, would be surfaced and lit and would offer an alternative and, particularly in bad weather, more commodious route to that which exists. By being more remote and screened from the field to the east its use would be likely to lead to less potential disturbance to birds there.

⁴ The appellant's Brent Goose and Wader Survey Report and Impact Assessment.

⁵ The Council accepts that any disturbance that might arise during the construction phase of development could be reduced to an acceptable level by a condition limiting intrusive works when birds might be present.

36. I am unconvinced that the scheme would be likely to give rise to any significant increase in recreational pressure on the SPA. A potential principal source of any such pressure is off-lead dog walking. The Solent Disturbance and Mitigation Project (SDMP) Phase 2 undertook surveys to assess the level of visitor use at selected sites. This indicates that at the closest publically accessible area of the SPA to the appeal site dog walking on intertidal areas was the most common disturbance event recorded but that across the whole of the Solent this area was the second least well used⁶. The number of disturbance events recorded was found to be considerably lower than the number of hourly events that would be likely to cause a significant effect on bird condition and mortality.
37. It is undisputed evidence that calculations in the Brent Goose and Wader Survey Report and Impact Assessment suggest that the proposal would be likely to lead to in the region of 25 additional dogs and that this would not result in an increase in the hourly disturbance threshold. Furthermore, the route, at some 1.8-2km from the appeal site to publically-accessible SPA coastline, is much longer than the route to access non-SPA coastline. This suggests that accessing the SPA would be unlikely to be the most favoured dog-walking route. Additionally, it is proposed that signage would be provided at the entrances to the appeal site to assist in educating residents about the habitats and protected species nearby.
38. The design of the appeal site would incorporate circular dog walking routes and these would be linked to the open grassed area of Legion Field to the site's immediate north-west. The S106 includes an obligation to fund improvements to open space provision to be more attractive to dog walkers. This could include improvements to the publically-accessible Legion Field which some local residents have indicated is not necessarily conducive to such use in wet weather.
39. The Council sought to suggest that little reliance could be placed on the continuing availability of Legion Field to provide this sort of facility. It is land only leased to the Council and which it is necessary to renew periodically, although it has been managed by the Council for about 40 years. The Council's Open Spaces Plan, which comprehensively assessed open space in 2005, found that this land was highly valued by local people and recommended that it be protected from development. It is within the Council's Open Space Strategy. The evidence suggests that renewal of the lease would be recommended. Whilst such continuing open space use cannot be guaranteed, I consider that the balance of probabilities suggests that this land will continue to act as an open public resource well into the future. Therefore, improvements that would make it more suitable for dog-walking could further mitigate any potential disturbance impact to identified bird species.
40. At the Inquiry the Council's position was that dog-walking resulting from the development and occupation of the appeal site would on its own only create short-term, localised disturbance and would thus not result in a likely significant effect upon the SPA. Its case was that it is the effects of the scheme in combination with other proposals that would be likely to amount

⁶ Natural England has noted that a peer-review of the SDMP Phase 2 studies suggests that the number of visitors to the coast and, as a consequence, the level of bird disturbance was greatly overestimated within the study.

to likely significant effects and that the appellant had not carried out such 'in-combination' analysis.

41. The Brent Goose and Wader Survey Report and Impact Assessment which accompanied the application indicated that in discussion with Natural England it was agreed that the proposals could be assessed in isolation rather than as an assessment in combination with other plans and projects. Nevertheless, the report went on to summarise the reasons why there is unlikely to be an in-combination effect on the local area of the SPA near the site from other housing developments around the Solent. This was re-iterated at the Inquiry. Further, the peer-review of the SDMP Phase 2 studies concluded that the SDMP was precautionary or over-precautionary in terms of likely bird disturbance, although it would be difficult to make conclusive statements about the level of risk posed by potential disturbance from current and future housing. It suggested that there remains a need for further project-level assessment. This is what has occurred in respect of the present proposal and which has demonstrated the absence of adverse effects on the integrity of the SPA.
42. In terms of possible in-combination effects, the scheme would result in the net provision of 129 dwellings, only some 0.02% of the Havant housing target within the CS and only some 0.002% of the South Hampshire target. There are few car parks catering for visitors to the east of the site and this area is not regarded as a honey-pot area attractive to visitors as opposed to the south of Hayling Island which is a non-SPA area. The nearest SPA area to the appeal site is accessible via residential areas and is likely to be used primarily by local people, especially during winter months when impact on SPA qualifying features is potentially likely to be greatest. I therefore consider that the likelihood of the proposal posing any adverse in-combination effect to be extremely limited.
43. There is no substantive evidence to suggest that the proposal would have any materially harmful impact on other wildlife species and indeed suggested enhancement measures that could be secured through proposed conditions, and management initiatives that would be secured through the S106 Agreement, could result in positive benefits. In this regard, whilst the domestic cat population might rise as a result of the proposal, there is no compelling evidence that this would have any seriously damaging impact on local wildlife.
44. Overall, I conclude that the proposal would not be likely to have any significant effect on the Chichester and Langstone Harbours SPA/Ramsar site or adverse impacts on the associated Chichester Harbour SSSI. It is not therefore necessary to carry out Appropriate Assessment under The Conservation of Habitats and Species Regulations 2010 (as amended) which transpose the Habitats Directive into domestic law. There would be no conflict with CS Policy CS11 relating to protecting and enhancing the special environment of the borough or with Policies DM8 and DM9 which seek to protect and enhance local habitats and areas of special protection in the coastal zone.

Other matters

45. I am aware that there has been considerable expressed local opposition to the proposal voiced both in writing and at the Inquiry. I have carefully

considered these concerns and have taken account of all other matters raised. Local opinion should not be set aside lightly but opposition to a proposal has to be based on sound planning reasons. One of the Council's reasons for refusing permission was that it had not been adequately demonstrated that there was an acceptable safe and suitable access for the scheme. Traffic impact and safety is clearly a matter that is of concern to many local residents, in particular the increase in traffic and the nature, capacity and safety of local roads to cope, including the sole mainland link access of the A3023.

46. A Transport Assessment accompanied the application. It considered existing traffic conditions and the potential traffic generation from the development and its impact on the surrounding road network. Following the Council's refusal further survey work, information and design checking has been carried out. This has been reviewed by the County Council as local highway authority. An agreed Statement of Common Ground (SoCG) between the appellant and the highway authority indicates that a suitable access arrangement is both achievable and deliverable with any final details being capable of confirmation as part of the Section 278 of the Highways Act 1980 process.
47. It is further agreed that local road junctions would continue to operate within capacity taking into account the increase in traffic that would result from the scheme. The development would result in a less than 2% increase in the evening peak hour flow of traffic across the A3023 bridge linking to the mainland (not taking into account any reduction resulting from the operation of a Residential Travel Plan). Such an increase would represent an increase of about one vehicle movement every two minutes in the peak hour which the local highway authority agrees is insignificant.
48. However, it is also agreed that to mitigate the impact of the additional trips that would be generated on the local highways and transport network various appropriate infrastructure improvements should be provided or financial contributions made. These would be secured by the S106 Agreement. As a result of the agreed SoCG the Council has not contested the highways reason for refusal. In my view with the imposition of suitable and appropriate conditions and the S106 Agreement (which would also secure the provision and implementation of a Residential Travel Plan aimed at encouraging more sustainable travel) the proposal would not have any materially harmful highway impacts. As a consequence, there would be no conflict with CS Policies CS16, CS19, CS20 or DM11 relating to matters of design, infrastructure provision, transport and access, and planning for more sustainable travel.
49. A Flood Risk Assessment together with a related Drainage Strategy show how the site is within an area considered appropriate for development, can be adequately drained, the development would incorporate a Sustainable Urban Drainage Scheme (SUDS) and would not be at risk of coastal flooding.
50. Whilst concerns have been raised about the extra burden the development would impose on local services, such as health services and schools, and lack of employment opportunities on Hayling Island, I have seen no substantive evidence to suggest that these are significant limiting factors. The Council does not oppose the scheme on this basis. The protection of

privacy of residents adjoining the site is a matter that would be addressed through the need for approval of reserved matters.

51. Bearing all these matters in mind, for the reasons given above and having regard to the raft of suggested conditions and measures and financial contributions secured through the S106 Agreement, I find that the scheme and its benefits are such that they address or outweigh these and other concerns raised which I have taken into account.

Overall conclusions

52. It is my overall conclusion that the proposal would represent a sustainable form of development. The scheme would make a useful contribution to housing provision within the borough, in particular through the provision of a 30% element of affordable housing at a time when there is a demonstrable need for this. It would accord with the Framework's thrust of boosting significantly the supply of housing. Part of the site is allocated as a Reserve Housing Site within the CS. Any strict conflict with CS Policy CS17 by reason of part of the site not falling within the defined urban area of Hayling Island is outweighed by these material considerations and in light of the Council's acknowledgement that it will be necessary to develop on greenfield sites to meet its housing requirements. The scheme would broadly accord with other criteria-based local housing policies.
53. There would be no significantly harmful impact on the appearance and character of the area including the adjoining AONB. Nor would the proposal be likely to have any significant effect on the Chichester and Langstone Harbours SPA/Ramsar site or adverse impacts on the associated Chichester Harbour SSSI. It would accord with development plan policies aimed at the protection of these designated areas. As such, there would be broad compliance with the development plan. Subject to the provisions of the S106 Agreement and the imposition of appropriate conditions the scheme would accord with the thrust and intent of the Framework. This has at its heart the presumption in favour of sustainable development. For these reasons I find the scheme to be acceptable.

Conditions

54. I have considered the conditions discussed at the Inquiry in light of advice within Circular 11/95 *The Use of Conditions in Planning Permissions*. In addition to the usual conditions relating to the approval of reserved matters, to avoid doubt and in the interests of proper planning a condition is required specifying the plan relating to access provision as this was a matter for determination at this stage. To ensure an appropriate and satisfactory standard of the development conditions are necessary requiring the subsequent approval of finished levels, lighting, road details and footpath layouts, and the protection of trees that are to be retained. The latter matter would be covered by ensuring compliance with the Arboricultural Implications Assessment and Method Statement that accompanied the application.
55. In order to protect the living conditions of existing residential occupiers surrounding the site, and future occupants of the development itself, a condition is required relating to means of enclosure. Also to safeguard living conditions I shall impose a condition relating to the need for the agreement

of the storage and disposal of refuse, to require a Construction Management Plan and Method Statement, timing of works, the prohibition of bonfires during construction and the need for the provision of a scheme to be submitted in the event of contamination on the site.

56. To avoid harm to wildlife and to mitigate and compensate for any impacts of the scheme where necessary I shall impose a condition requiring the provision, agreement and implementation of a Biodiversity Mitigation, Enhancement and Management Plan. Similarly, to avoid disturbance to Brent Geese and other foraging birds that habitually feed within the fields to the east of the site a condition is required limiting noisy construction activities during the period such birds are likely to be present. To ensure adequate parking, and in the interests of highway safety, conditions are required relating to garage provision and parking.
57. Conditions are necessary to ensure that the development is adequately drained and would avoid causing flooding. So that the development is built sustainably I shall impose a condition to ensure it is carried out in accordance with the Code for Sustainable Homes. To protect and record any archaeological interest of the site a condition is required to secure the implementation of a programme of archaeological work. As appearance is a reserved matter I do not consider there to be a need for conditions requiring approval of facing or surfacing materials.

Section 106 Agreement

58. In addition to the conditions discussed above, the concluded S106 Agreement between the appellant, the Council and Hampshire County Council, as highway authority, would secure a range of relevant provisions necessary to make the proposal acceptable. The Agreement and its provisions overcome another of the Council's initial reasons for refusal and which was not pursued at the Inquiry. As noted above, the S106 would secure a financial contribution to the local highway authority towards highway and safety improvements and the operation of a Residential Travel Plan.
59. The Agreement would provide the mechanism for securing the provision of the affordable housing within the site and ensuring that it continued to fulfil this function. There would be a financial contribution towards the provision of playing space, the securing and implementation of a Sustainable Urban Drainage Scheme and the setting up of a management company for the management of the common parts of the site (those parts beyond the curtilages of the proposed dwellings). It would also secure the provision of an Employment and Skills Plan aimed at benefiting the local labour market and economy by raising skills and enabling local people to compete for jobs generated by the scheme. I am satisfied that the provisions of S106 Agreement are reasonable, necessary and relevant and are compliant with section 122 of the Community Infrastructure Levy 2010.

P J Asquith

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Paul Stinchcombe QC

instructed by Pro Vision Planning & Design, Grosvenor Court, Winchester Road, Ampfield, Winchester, SO51 9BD

He called:

Davog McCloskey BSc(Hons) MIEEM

Director, PV Ecology

Jeremy Higgins BSc(Hons) DipTP MRTPI

Planning Director, Pro Vision Planning & Design

James Cleary MA DipUD MRTPI

Director, Pro Vision Planning & Design

FOR THE LOCAL PLANNING AUTHORITY

David Lucas, Non-practising barrister

instructed by Chris Murray, Service Manager for Planning and Design, Havant Borough Council (HBC)

He called:

Robyn Lyons BA(Hons) MSc MRTPI

Senior Planning Policy Officer, HBC

Julie Boschi BSc(Hons) MA CertUD MLI

Senior Landscape Architect, HBC

Adam Egglesfield MA

Senior Ecologist, Hampshire County Council

Jamie Gargett MSc DipA MAA Assoc ICF

Arboriculturalist, HBC

Aaron Wright BSc(Hons) MSc MRTPI

Senior Development Control Planner, HBC

INTERESTED PERSONS

Tom Deans

Local resident

Norma Dyer

Local resident

Tony Higham

Local resident

P C Crane

Local resident

Cllr Leah Turner

Havant Borough Council (Hayling East)

Janice Daws

Local resident

Maureen Sherrington

Local resident

Gary Tester

Local resident

DOCUMENTS (handed in at the Inquiry)

1. Letters of notification of the Inquiry and lists of those notified
2. Signed Statement of Common Ground on planning matters
3. Appellant's opening statement
4. Council's opening statement
5. Updated draft version of S106 Agreement
6. Plan showing viewpoints of photographs attached to Julie Boschi's proof
7. Letter from Mr Crane (read out at the Inquiry)
8. Housing land supply update, 22 May 2013 (R Lyons)
9. Technical Note by David Wiseman (Stuart Michael Associates) on highways issues in response to matters raised by Mr Higham
10. Statement by Cllr Turner (read out at the Inquiry)
11. Statement by Maureen Sherrington (read out at the Inquiry)
12. Statement by Gary Tester (read out at the Inquiry)
13. Local bus timetable (Norma Dyer)
14. Open Spaces Plan Review, November 2012
15. Copy of letter of 12 February 1985 from the Technical Services Dept, HBC to the Chairman of Hayling Island Residents & Ratepayers Association regarding the Transport Policy and Programme 1985/6 (from Mr Higham)
16. Copy of the front page and first five pages of the 'Save Hayling' petition (from Cllr Turner)
17. Plan of non-statutory designated sites within 2km of Mengham, Hampshire Biodiversity Information Centre
18. List of conditions agreed between the appellant and the Council
19. Comments on evidence from Gary Tester
20. Copy of completed S106 Agreement between the appellant and the Council
21. Closing submissions on behalf of the Council
22. Closing submissions on behalf of the appellant
23. Costs application on behalf of the appellant
24. Costs application on behalf of the Council

PLANS

- A. Revised application site boundary (Ref. 9711/PO1, Rev D)
- B. Revised indicative layout plan (Ref. 9711/PO2, Rev H)

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 3726.002.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) Construction of the buildings hereby permitted shall not commence on each phase until plans and particulars specifying the finished levels (above ordnance datum) of both the ground floors of the proposed buildings and the surrounding ground levels in relation to existing ground levels for that phase have first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.
- 6) Construction of the buildings hereby permitted shall not commence on each phase until plans and particulars specifying the alignment, type, height and, where appropriate, construction materials and design of all proposed screen walls, fences, hedges and other means of enclosure for that phase have first been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved plans and particulars. The screening provision shall be retained at all times thereafter.
- 7) The proposed works shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement Ref: 12311 – AIA, received by the Local Planning Authority on 14 September 2012.
- 8) The dwellings hereby permitted shall not be occupied on each phase until plans and particulars specifying the provision to be made for external lighting of the same and the type of street lighting, including calculations, contour illumination plans and means to reduce light pollution for that phase, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved. There shall be no external lighting on the site other than as hereby approved.
- 9) No development hereby permitted shall commence on each phase until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewerage to serve it, the treatment of existing water courses and ditches and details of any other proposed ancillary drainage works/plant for that phase have first been submitted to and approved in writing by the Local Planning Authority. No dwelling or

- building shall be occupied until completion of the implementation of its drainage provision in full accordance with such approved plans.
- 10) No development hereby permitted shall commence until a Construction Management Plan and Construction Method Statement have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved Construction Management Plan and Construction Method Statement.
 - 11) Any single garage/car port shall measure a minimum of 6m by 3m and shall be constructed and made available for the parking of motor vehicles at all times.
 - 12) Any garages permitted as part of the development shall be retained and kept available for the parking of cars at all times and shall not be converted to living accommodation without the prior written approval of the Local Planning Authority.
 - 13) Demolition, clearance, excavation, road and construction works shall take place only between the hours of 08:00 and 18:00 on Mondays to Saturdays and not at all on Sundays, Bank or Public Holidays.
 - 14) No dwelling shall be occupied until space for the loading, unloading and parking of vehicles serving it has been provided within the site and surfaced in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Such areas shall thereafter be retained and used solely for those purposes.
 - 15) Construction of the buildings hereby permitted shall not commence on each phase until a specification of the provision to be made for the storage and disposal of refuse for that phase has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the implementation of such provision for refuse has been completed in full accordance with the approved specification.
 - 16) No development hereby permitted shall commence on each phase until plans and particulars specifying the alignment, width, gradient and type of construction proposed for all footways, roads and individual accesses thereto (including all relevant horizontal cross and longitudinal sections), and the related provision to be made for surface water disposal and a programme for making up of the same for that phase, have been submitted to and approved in writing by the Local Planning Authority. The implementation and making up of the same shall be completed in full accordance with such approved plans, particulars and programme.
 - 17) No bonfires shall take place on the site during demolition, clearance and construction.
 - 18) The development hereby permitted shall not commence until an interim Certificate of Compliance with the Code for Sustainable Homes has been submitted to and approved in writing by the Local Planning Authority. The Certificate shall demonstrate that the development will attain a minimum standard of Level 3 in accordance with the Code. The development shall be carried out only in accordance with the details subject of the Certificate.

- 19) The development hereby permitted shall not commence until full details of the access arrangements for the site access onto Beech Grove/Hawthorne Grove and St Margaret's Road have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until such time as the access provision has been completed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 20) No construction activities that would result in noise levels in excess of 75dB(a) as measured at the eastern edge of the eastern site boundary hedge shall take place between the months of November to March inclusive.
- 21) The development hereby permitted shall not commence until a detailed Biodiversity Mitigation, Enhancement and Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall detail the measures to be implemented to avoid, mitigate and compensate for impacts to biodiversity as a result of the development hereby permitted, with particular reference to bats, reptiles and foraging and nesting birds, as well as boundary planting along the eastern edge of the site. Development shall be carried out in accordance with the approved Biodiversity Mitigation, Enhancement and Management Plan with all biodiversity compensation and enhancement measures being permanently retained.
- 22) The development hereby permitted shall not commence until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The results of the archaeological investigation shall be made publically available in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority.
- 23) The development hereby permitted shall not commence until a final surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall demonstrate that the surface water run-off generated up to and including the 100-year critical storm including an allowance for climate change will not exceed the run-off from the greenfield site following the corresponding rainfall event. No ditch is to be culverted, diverted or filled-in without the prior written approval of the Local Planning Authority. The surface water drainage scheme should be based on sustainable drainage principles referred to within the Capita Symonds Flood Risk Assessment, dated September 2012, and shall also include:
 - i) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) Confirmation of final dimensions and locations of the specific drainage features (including permeable paving, soakaways and ponds);
 - iii) A timetable for the implementation of the drainage scheme;

- iv) A management and maintenance plan for the lifetime of the development which shall include the arrangements for the adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.

The approved scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme or within any other period as otherwise agreed in writing by the Local Planning Authority.

- 24) If during development contamination not previously identified on site is found to be present, no further development shall be undertaken until a report has been submitted to and approved in writing by the Local Planning Authority detailing how that contamination is to be dealt with. The works specified within the approved report shall be fully implemented.