

APP/19/00427: Reaching a recommendation and decision.

Rachael's Advice:

I think the best place to start is Rachael's advice to Daphney. For ease of reference this is set out here and my comments are shown in red.

- I have read the full version of [REDACTED] Protection of Heritage Assets' Thank you.
- The further response dated 11th November is additional to the original response provided in July 19 and relates to the recent inclusion of the Manor Farm Buildings as a separate character area within the Old Bedhampton Conservation Area (CA).
Noted, but does not relate to the sunken lane character of Lower Road and the recognition of the historic archaeological heritage importance of Narrow Marsh Lane as identified in the Conservation Area Review.
- The original response from July 2019 does consider the impact of the proposed development on the CA. It recognises that the significance of the Old Bedhampton Conservation Area derives from a dispersed pattern of development, with expansive green spaces and fields to the East, South and South West. There is an eclectic mix of dwellings of varying styles and ages, reflective of the village's incremental historic growth. Overall, this results in an informal, loose knit appearance, which is reinforced by the network of narrow, often windy lanes and the predominance of mature trees and hedges, both within gardens and as property boundaries. This gives the Conservation Area a sense of tranquillity and rural character, in spite of its proximity to the more suburban development that sits to the west and north of the area.
Agreed.
- It also states that the introduction of new dwellings south of Lower Road, will alter the landscape and increase the urban boundary southwards towards the railway line and closer towards Old Manor Farm, although this will be separated by a narrow landscape buffer and rear gardens of only single storey dwellings. The proposal would also extend development into the wider open countryside setting that contributes to the significance of the Conservation Area, diminishing the perception of largely unaltered rural surroundings. 4 cumulative elements of harm (dwellings, urban boundary movement, proximity to Old Manor Farm, diminished open rural setting).
- For a new housing development, there is a wider than average variety of housing styles and design, incorporating traditional style materials with contrasting elevations. E.g. for Plots 2-7 which would front onto Lower Road, there are 4no. varying house types including a terrace, a detached dwelling and a bungalow. Proposed scale and proportions are similar and all are 'box like' in form.
- The proposed dwellings along the Lower Road frontage would be screened by the existing hedgerow. However, this is being retained to preserve the rural feel to the character of the area. A large section is being removed and, given the level of elevation to the north in Lower Road and approaching from Lodge Road, a maintained hedge will not screen much of this frontage and the dwellings to the rear visible through the gaps.
- The matters raised with regards to Narrow Marsh Lane are at the foremost, archaeological considerations. Why 'detach' this from other heritage assets? This is a 3 to 4m wide ancient heritage asset. The proposals destroy much of it. What efforts have been made to produce a layout that safeguards it? Yet more permanent harm.
- The development is likely to have a degree of impact on the conservation area as a result of an increase in vehicles accessing the site and the associated activity which arises from this. However, it also recognised that this impact is difficult to measure or define in tangible terms and therefore does not alter the position that the development would not either preserve or enhance the setting of the conservation area subject to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities, when considering whether to grant planning permission for development which affects a Conservation Area, to have special regard to the desirability of preserving or enhancing the character and appearance of that area.
This is a confirmation of the range of harm related to the Conservation Area. Other

forms of harm (highway safety issues, impact upon wildlife, loss of good quality farmland) can be added to this (see below).

- However, as the harm to the significance of the heritage asset can be moderated to a degree, it is concluded that less than substantial harm would result. In accordance with NPPF, this is a matter which needs to be weighed against the public benefits of the proposal and the overall planning balance. The EiP Inspector for the Land Allocations (7th July 2014) made this judgement in relation to proposals for 15 dwellings and she concluded "the proximity of the site to Old Bedhampton Conservation Area through which it would be accessed is a strong factor weighing against development." The proposals have more than 3 times the number of dwellings covering a much larger area. How can this be moderated to such a degree to now be less than substantial? Moderation does not remove any harm.

The Local Plan Framework:

I am sure we will agree this is the statutory starting point for any decision. The Core Strategy and the Land Allocations do **not** include the site. Any site outside of the allocations such as this must be first judged against the policies of the Statutory Plan.

Looking at some of the policies in the **Core Strategy**:

Policy CS1. Health and Wellbeing (13) supports development that improves existing cultural assets with regard to, inter alia, heritage. And Paragraph 2.33, states "More needs to be done to promote existing cultural assets."

The proposals fail to do this.

Policy CS8 Community Safety: says permission will be granted for development proposals that:

1. Engrain community safety into the development process from the beginning.

Lower Road already has recognised safety concerns, which the proposal will aggravate further.

2. Provide well-lit footpaths, cycle ways and roads providing that this does not adversely affect designated habitats or the landscape.

There is an absence of footpaths on Lower Road that cannot be remedied and the footpath at the northern end of Lodge Road is ill lit. Enhancing lighting will detrimentally impact upon the population of bats.

3. Maximise opportunities for natural surveillance through good design.

There is a lack of natural surveillance on the Lodge Road alleyway.

Policy CS9 Housing: may be seen as supportive but several shortcomings can be identified with the proposals in relation to some of its provisions. It states...

CS9 Housing: Planning permission will be granted for housing proposals that will:

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.

The location is not a sustainable one, many facilities and services are on the limits of reasonable choices between public and private transport options and train services from Bedhampton are very variable. The proposals do not respect the surrounding landscape.

8. Ensure housing development is delivered in a phased manner with an appropriate proportion of previously developed land so as to avoid unnecessary development on greenfield urban extension sites.

This is a Greenfield urban extension site. The Core Strategy is based upon a 'brownfield-first' strategy. This proposal is a 'greenfield-first' strategy that has yet to be found sound.

A similar mixed position exists with Policy CS11

CS11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough

Planning permission will be granted for development that:

1. Ensures the key landscape and built form principles set out in the Havant Borough Townscape, Landscape and Seascape Character Assessment are protected and where possible enhanced by partnership working with developers, groups and the wider community.

The study conducted by Kirkham was flawed in relation to a number of findings regarding the character of Bedhampton. A further study by Lizard was commissioned by residents and passed to the Policy Team.

2. Protects and where possible enhances the borough's statutory and non-statutory designated landscape, habitats and features of biological, hydrological or geological interest. Protection and enhancement will be achieved by appropriate adaptation and mitigation measures including wardening, education and information and the creation of new habitats, water bodies/courses planting of new trees and woodland.

A substantial financial contribution has been negotiated in response to the harm that will be done to adjoining wildlife habitat. At what point will HBC produce a strategy that decides which sites of this kind need to be retained in perpetuity? Will they all be treated in this way so that eventually no such sites remain?

4. Protects and where appropriate enhances the borough's statutory and non-statutory heritage designations by appropriately managing development in or adjacent to conservation areas, listed buildings, scheduled ancient monuments, historic parks and gardens, archaeological sites, buildings of local historic or architectural interest.

It fails to do this for **all** aspects of the surrounding statutory and non statutory heritage assets.

8. Protects wildlife habitats and wildlife corridors to prevent the fragmentation of existing habitats and to allow species, for example Brent Geese, to respond to the impacts of climate change by making provision for habitat adaptation e.g. coastal managed realignment and species migration.

This obligation is being ignored or by-passed by HBC seeking a very substantial retribution that removes a potential adaptation option.

10. Protects the best and most versatile agricultural land that has the greatest potential for local food security.

The land is high-grade quality.

11. Responds to the emerging evidence from the Solent Disturbance and Mitigation Project, the published recommendations, and future related research.

The proposal avoids this through payment.

Looking at Design:

Policy CS16: High Quality Design states

Planning permission will be granted for development that is designed to a high standard, which helps to create places where people want to live, work and relax. All development should demonstrate that its design:

1. Responds to, draws inspiration from and respects local context and:

a) Identifies and responds positively to existing features of natural, historic or local character within or close to the proposed development site;

The proposals fall far short of high standard place making. They rely upon screening to attempt to reduce their visual intrusion. Destroying Narrow Marsh Lane, the most ancient piece of heritage here, runs absolutely counter to this requirement.

b) Integrates with existing local landscape features, promotes wildlife and biodiversity and/or applies characteristics of the local area into the design of a scheme wherever possible to create variety and interest;

The proposals make no attempt to do this.

c) 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;

No Design Code has been adopted to guide the development proposals.

d) Is well connected to and integrates with the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible;

The location is relatively remote and unsustainable and the proposals stand apart from their surroundings and rely on screening to minimise their visual intrusion.

3. Contributes to the improvement of the public realm close to the development,...

Increased traffic will detract from the public realm and any measures designed to provide traffic management will create visual clutter and add to the detriment.

4. Is inclusive by considering the needs of those with disabilities, ensuring safe and convenient access for all;..

Safe access does not exist at present and is even more hazardous for those who are disabled particularly those elderly persons who inhabit The Elms and The Lodge located on the blind bends.

Paragraph 7.42. includes,

"It is also important that new development sits well with its neighbours and does not have an adverse effect on their existing uses and amenity".

The proposal sits in an intrusive location and will generate movements and associated safety issues that detrimentally impact upon the amenities of its neighbours within the whole of Lower Road and Lodge Road.

Policy CS17: Concentration and Distribution of Development within the Urban Areas makes clear "Development in the non-urban areas will only be permitted if it is consistent with the policies for the countryside set out in national policy."

Failure to comply with the NPPF is one of the grounds for the failure of soundness of the Draft Local Plan 3036 (see below).

Turning to the Development Management Policies

*Policy DM 9 Development in the Coastal Zone states Planning Permission will only be granted for development in the coastal zone which addresses **all** of the relevant criteria as set out below as shown on the Proposals Map:*
1. Has no harmful effect on nature conservation within the Chichester and Langstone Harbour SSSIs and SPA, Solent Maritime SAC and Ramsar site, or any SINC's and Local Nature Reserves.

A substantial payment is to be made to mitigate the harm the proposal will inflict upon nature conservation off site. This harm is likely to result in the nature conservation interests this land currently serves no longer using this land.

It should be noted that, by very definition, mitigation does not **remove** any harm. It recognises that sufficient harm is being proposed to justify trying to take action to compensate for it. At best, it seeks to reduce its impact.

DM 9 2. Maintains and enhances the appearance and distinctiveness of existing settlements and landmarks along the coast.

The proposal will intrude into the coastal setting of the settlement especially when view from the adjacent railway and trunk roads.

DM 9 4. Upgrades existing footpaths and ensures that public access is retained and provided to connect existing paths along the waterfront where appropriate.

The ancient connection between the site and the harbour will be downgraded by the proposal and the opportunity to reconnect this link will be lost.

DM10 Pollution

*Development that may cause pollution of water, air or soil or pollution through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, heat, electromagnetic radiation and other pollutants will only be permitted where **all** of the following relevant criteria can be met:*

3. The water environment would not be detrimentally affected.

4. It would not lead to an unacceptable deterioration in the quality or potential yield of coastal, surface and ground water resources.

I understand that the concerns of English Nature have not yet been resolved.

The Plan makes clear (in paragraph 10.31 below) that it relies upon other contemporary policy statements including government guidance when considering development management. This is particularly important in conforming with complementary best practice regarding the safeguarding of archaeological heritage assets e.g. the guidance within PPS5 that all alternatives should be fully explored that do not detrimentally affect such assets. I understand that this approach is still considered professional best practice.

10.31 Much of the policy background relating to the historic environment is contained within PPS5 and Core Strategy Policies CS11 and CS16. It is not considered necessary to repeat this information in the form of development management policies. Instead this chapter contains a series of links to the relevant legislation, policies and supporting information.

DM12 Mitigating the Impacts of Travel

New developments will be required to mitigate their travel impact, including the environmental impacts of travel (such as noise, air and visual pollution) and impacts on amenity, health and climate change by ensuring that, where relevant, the following criteria are met:

2. The submission of a transport assessment and travel plan alongside any planning application on proposals for major development or where a proposal is likely to have significant transport implications.

The application relies upon forecasts regarding movements. Whilst the impacts these will have upon safety concerns are **not** accepted, any changes from these assumptions will inevitably have a different result on the mix of movements and possibly produce even more hazardous conditions. No Travel Plan has been submitted nor any means of ensuring that adverse conditions do not arise.

Drawing together these findings related to the Core Strategy; so, there are 10 policies in the Core Strategy that the proposals are at odds with and that would justify forming reasons for refusal of this application either individually or cumulatively.

Now looking at the **Allocations Plan**. The introduction makes clear...

Paragraph 1.06 ...The development sites identified in the Allocations Plan have been subject to rigorous technical assessment and consultation; they are considered sustainable and necessary to meet the remainder of the Core Strategy's development requirements until 2026.

This rigour was applied to all sites considered at the EiP. On this basis, development at Lower Road was ruled out by the Inspector, Sue Turner, whom I recall undertook to make a second unaccompanied visit to the site in the light of the EiP discussions. She supported the case made by the Borough Council against development here. Her decision thus made the current Plan sound **without** this site's inclusion. No doubt you will familiarise yourself with this background evidence and the successful HBC case made at the EiP from the archive records.

Since that time more location-specific evidence has come to light that reinforces the Council's case, e.g. the Solent Bird Study and the additional heritage assets identified by the Conservation Area Review.

The current application is over three times larger than the rejected possible allocation. Consideration of it has resulted in analyses of a range of aspects that were not quantified at the time of the EiP. These confirm such matters as the unsustainable location, the impact on existing safety concerns of increased traffic movements and the detrimental impact on the amenity of the conservation area and its setting as a whole and upon individual heritage assets such as The Elms (grade II*) and ancient Narrow Marsh Lane.

To ensure compliance with government guidance throughout the life of the Plan the strategic policies include Policy AL1, which states...

Policy AL1 Presumption in Favour of Sustainable Development...

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

1. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;

By excluding Lower Road from the allocations following robust examination, the Inspector set the bar high for the application of this policy.

The site lies outside the settlement boundary for Havant/Bedhampton where Policy AL2 applies which states...

Policy AL2 Urban Area Boundaries and Undeveloped Gaps between Settlements.

The urban area boundaries for Emsworth, Havant and Bedhampton, Hayling Island, Leigh Park and Waterlooville are defined on the Policies Map.

The Borough's undeveloped gaps are those areas between the urban area boundaries of Waterlooville, Leigh Park, Havant, Emsworth; together with the undeveloped gaps between them and neighbouring boundaries with Portsmouth, Winchester, East Hampshire and Chichester.

Planning permissions will be granted for developments within the undeveloped gaps that help to define the separate identity of settlements and prevent their coalescence, and meets any of the following:

1. Relates to small scale householder development.

2. Meets an overriding public need e.g. For community or recreation use, that cannot be accommodated elsewhere in the Borough.

3. Meets the policies for exceptional development in 'rural areas', set out in the NPPF.

This proposal is not small scale. It does not meet an overriding public need that cannot be accommodated elsewhere. It is not exceptional development in a rural area.

The Development Management Policies include DM20...

Policy DM20 Historic Assets

Planning permission will be granted for development that conserves and enhances the historic assets of Havant Borough. Applications that affect, or have the potential to affect, heritage assets are expected to provide a Heritage Statement that:

- 1. Describe the significance of the asset and its setting, using appropriate expertise and where necessary original survey, at a level of detail proportionate to its significance and sufficient to understand the potential impact of the proposal.*
- 2. Sets out the impact of the development on the heritage assets and mitigation that is proportionate to the impact and the significance of the heritage asset, including where possible positive opportunities to conserve and enjoy heritage assets*

The Heritage Statement lacks expertise. It fails to recognise and properly assess the significance of elements of the heritage assets e.g.

- (i) The sunken lane character of Lower Road and its significance {whilst this may not be the best example in Hampshire, together with Bidbury and Kingscroft Lanes, it is part of the best extended and unique example in Havant.} and the impact of the irrevocable loss of a substantial part of it.
- (ii) The status of The Elms and its Grade II* designation. It is not Grade II. This error may have been picked up from HBC published documents but the author should have checked the original listing and identified that, uniquely, this is the only domestic Grade II* building within the Borough. It is also located in the most vulnerable position vis a vis the detrimental impact upon the conservation area. It will suffer the greatest detrimental impact upon an individual heritage building asset.
- (iii) The archaeological importance of the ancient Narrow Marsh Lane as potentially contributing to the establishment of the original settlement of not just Bedhampton but Havant itself. As a significant meeting point for east west movement along the coast with connections north/south to/from the coastal zone and Langstone Harbour and the Forest of Bere avoiding the obstacle of Portsdown Hill. The Lane is not just a narrow track but wide enough to confirm its centuries of historic importance. This is further reinforced by the provision and size of the railway bridge. The bridge is built at angle to the track and the ramps on either side are also angled to maintain the directness of this route to the evidence that remains within the upper reaches of the harbour. An archaeological survey may confirm its historic origins and potentially uncover other related artefacts within the site.

The Heritage Statement also fails to demonstrate what best practice steps have been taken to produce a development layout that avoids any harm to the assets. The mitigation proposed is not proportionate to the harm inflicted. In the case of the Manor Farm buildings the existing connection to the agricultural land they once served is totally lost. The space proposed between these heritage assets and buildings within the proposed development is no greater than similar spaces within the proposed layout itself. Their setting will change from a rural/agricultural one to a suburban one. This is a significant detrimental change.

There are no positive situations proposed where the heritage assets are to be conserved and enjoyed.

Drawing together the above findings related to the current Allocations Plan; so there are 3 more policies here that would justify reasons for refusal. Until such

time as there is a sound alternative plan, tested through an EiP and adopted by HBC, the Core Strategy policies and those included in the Allocations Plan form the basis of the Borough's statutory plan and the **starting** point for any decision.

The developers have however chosen to submit their application before the outcome of the EiP on the Draft Local Plan 2036 in the knowledge that it will be determined against the statutory provisions of the Adopted Local Plan 2026. They have **not** explained how their proposals conform to this Plan.

They must be relying solely upon the Council placing **some weight** on the untested emerging Draft Local Plan 2036. Yet some of the above existing policies or their principles are extremely likely to be carried forward into any new Plan (e.g. CS1 Health and Wellbeing: CS8 Community Safety: CS11 Protecting and Enhancing the Special Environment and Heritage of Havant Borough: DM9 Development in the Coastal Zone: DM12 Mitigating the Impacts of Travel & DM20 Historic Assets.)

Draft Local Plan 2036 and the Land Allocations

Turning to the **Draft Local Plan 2036** and the associated **Land Allocations**. Publishing this draft resulted in a great volume of response that challenges its **soundness**. Some proposals may have generated little objection and in such cases it may be reasonable, with little risk associated, to attach some weight to the emerging plan. However this site resulted in a large volume of objection that was not restricted to issues related to the site itself but identifies how its inclusion is in conflict with the policies of the draft Plan and therefore challenges its overall **soundness**.

The full range of objections related to soundness can be found in document references R022, R117, R120, R121, R122, R131, R182 & R188. Interestingly the developer also raised objections to the draft. A petition with 1,700+ signatures was also submitted but does **not** appear in the list. This has **yet** to be debated by the Council. No doubt you will familiarise yourself with this body of evidence before deciding what, if any, weight to attach to the draft Plan.

The draft contained a sustainability appraisal. This was not accompanied by any explanation of how any low scoring location might fail to satisfy this appraisal and should be excluded. You will see some of the objections highlighted areas where a different score might be appropriate and the application now includes the developer's analysis confirming that the location is on the borders of sustainability.

Other aspects of the evidence base for the draft Plan were flawed. In particular, the 'Kirkham' landscape appraisal (see the 'Lizard' report). Residents have also gathered and shared their evidence with the Council related to such matters as existing traffic generation and safety concerns and commissioned the Conservation Area Review that uncovered heritage matters unrecognised at the time of the draft Plan. At no time has anyone at HBC suggested that any of this material is wrong. What it does is point to circumstances that were not taken into account at the time of the draft Plan.

The draft contains a list of the sites showing what are considered to be the main issues raised. H20 has 17 related bullet points and 5 supplementary paragraphs: a total of 22 issues. This is twice any other location and demonstrates the

sensitivity of this site. No other proposal detrimentally and irrevocably affects a conservation area.

It might be argued that any decision that relies upon the draft Plan is **premature**. Regardless of such an approach, there appears to be **no strong basis** for attaching **any** weight to the draft Plan whilst the situation regarding this site vis a vis the draft Plan provisions remains.

The developer has **falsely** claimed, in the revised Heritage Statement, that the proposal complies with the draft H20 Policy. It does not. **If** the site is found sound, by the EiP Inspector, then an application can be determined within whatever policy context it then sits.

Benefit v Harm?

You will recall that the EiP Inspector found that the detrimental impact upon the Conservation Area is a **strong factor weighing against development**. This was before the Conservation Area Review that has uncovered **more heritage assets** here. These add **yet more weight** against development. I cannot see how with these additional considerations it is possible to reach an alternative conclusion to that found by the independent Inspector.

I will not repeat here the detail of the various forms of harm that will be irrevocable. In summary, there will be harm, inter alia, to the setting of the Conservation Area as a whole, to the setting of The Elms, to the setting of the Manor Farm Buildings, to both the setting of and directly to Narrow Marsh Lane, to the safety of movements around Lower Road and at the entry from Brookside Road and through the Conservation Area, to the recognised tranquillity of the area, to the 'sunken lane' character of Lower Road, to the secondary wildlife habitat, the loss of a significant amount of historic heritage amenities for present and future citizens.

None of this appears to be disputed and some of this is confirmed by attempts to mitigate some of it. The amount of harm generated individually and collectively **cannot** be described as '**less than significant**' as defined in the NPPF.

The potential **public** benefits are much harder to identify. The landowners will benefit financially. So too will the developer. These are both **private** beneficiaries. 50 households will benefit by being able to include this location within their choices but those choices could be met elsewhere within the Borough either through new development or existing stock. In the case of both the private and the affordable dwellings these could be more sustainable elsewhere. The total accommodation will meet less than 0.5% of the identified need (a disproportionate amount of benefit related to the harm inflicted). But the beneficiaries are still **private** individuals. **No** party has made **any** other suggestion or case regarding the benefits that might arise. The case is very weak.

Had the proposals been for a development or land use that served an unmet **public** need, e.g. emergency rescue facility, wildlife visitor interpretation centre, rare flora cultivation laboratory, the balance in favour of **public benefit** may be more supportable.

Conclusions:

- (i) The proposals are contrary to the statutory adopted Core Strategy and Land Allocations and should be refused.
- (ii) The policies in the approved Plan provide many reasons for refusal.
- (iii) The Borough Council made a robust and successful case against any development here at the EiP.
- (iv) That case is still valid and now supported by more evidence.
- (v) The allocation in the emerging Plan is based upon flawed and outdated evidence that question its soundness.
- (vi) Only the forthcoming EiP can verify whether the draft Plan proposals are sound.
- (vii) Any new plan is likely to contain similar policies to justify refusal as contained in the present one.
- (viii) The proposals do not comply with the draft policy H20.
- (ix) The proposals will do significant harm to the Conservation Area and other heritage assets.
- (x) No case has been made to demonstrate how any benefits will outweigh the harm.
- (xi) Any public benefits do not outweigh the harm to the heritage assets and the public enjoyment of these amenities.