

APP/16/00021 | Change of use from private equestrian yard to a mixed use comprising private equestrian yard and two pitch, private gypsy and traveller site (including amenity block and two touring caravan pitches).

Land and Stables adjacent to Hollybank Cottage, Long Copse Lane, Emsworth.

Objection to proposed development on behalf of Dr and Mrs D Mason.

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9th April 2016

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1 Introduction

- 1.1.1 I have been instructed by Larcomes LLP Solicitors of Portsmouth on behalf of Dr and Mrs Mason who reside at Hollybank Cottage, immediately adjacent to the application site. I was instructed to undertake a professional appraisal of the proposed development and advise whether the application should be refused or approved.
- 1.1.2 I undertook this appraisal and advised that in my professional opinion planning permission should be refused. I have been asked by my clients to set out the reasoning for arriving at this judgement and this report sets this out.
- 1.1.3 In view of the conclusions I have reached I would be grateful if you would regard this report as a formal objection to the proposed development.
- 1.1.4 In the remainder of this report I set out various contextual points, and which include a view on what matters comprise the issues of determining significance. This context is then followed by a consideration of these issues in turn, whereby they are each related to the material provisions of the development plan and to any other material considerations. I then present my conclusions. Appendices set out material provisions of the development plan and extracts from other documents relevant to my analysis. Whilst the policies will be well known to officers it is considered to be of assistance to others to have the relevant policies appended to this report.

2 Context

2.1 Key Site Features

- 2.1.1 The site has an area of about 0.36 hectares (less than the 0.8 ha reported in the application form) and lies on the north side of Long Copse Lane. For much of its length Long Copse Lane is a narrow rural lane, barely wide enough for two vehicles to pass, and mostly has a rural character typical of farmland.
- 2.1.2 Where housing is evident, mainly to its western end, this is for the most part conventionally

designed housing from the interwar period. Closer to the urban area within Havant the character on the southern side changes to wholly suburban in character. However visually this suburban character area is separated from the vicinity of the application site where the rural character prevails.

- 2.1.3 A field diagonally opposite the application site is rough grassland and is shown on the Council's Proposals Map (see Appendix 3) as a Site of Importance for Nature Conservation. Other land south of the application site is open land under development as a Green Space (indicated on the Proposals Map).
- 2.1.4 To the west the site adjoins Hollybank Cottage, which is a two storey dwelling with habitable room windows which overlook the application site at both ground and first floor. With this exception the site is surrounded by open land having a countryside character and appearance. Elevated parts of the South Downs National Park are clearly visible from the vicinity of the application site, and it will be evident from this that the reverse will apply.
- 2.1.5 Shops, a primary school and a doctor's surgery are located in Westbourne about 500 metres distance from the application site.

2.2 Key Features of the Proposed Development

- 2.2.1 The site lies a materially higher level than the road, and currently contains a stable block, a mobile home, another caravan and a dog kennel. It is the writers opinion that none of the buildings currently on site have planning permission.
- 2.2.2 The reason for tabling this view relates to the original 2010 permission which embraced both the field subject of the current application together with the field immediately to the east. The stable block shown on the plan at that time was located within the field to the east. The same site plan was used in the 2014 application /appeal for the extension to the stable block and is subject to the same error of siting. The buildings that subsist today do not have the benefit of a planning permission.
- 2.2.3 It is proposed to layout two curtilages within the site for the stationing of permanently

occupied mobile homes, together with amenity buildings and parking areas. These will be sited along the eastern boundary but will be visible through the entrance drive, and through the hedgerow which adjoins Long Copse Lane to the east of the site.

2.3 Determining Planning Applications

- 2.3.1 Planning applications are to be determined by virtue of the relevant Acts of Parliament on the basis of a determination in accordance with the provisions of the plan, unless there are material considerations which determine otherwise.
- 2.3.2 The material statutory policies are to be found in the Havant Core Strategy (2011) and the Site Allocations Plan (2014).

2.4 Interpreting and Applying Policies

- 2.4.1 It is settled case law (*Tesco Stores Ltd v Dundee City Council* [2012] UKSC) that decision makers should properly interpret relevant policies in the application of their duty to determine an application in accordance with the provisions of the development plan unless material consideration determine otherwise. In consideration of this I have appended to this submission the material policies and where appropriate elsewhere in this document I seek to interpret the policies correctly.

2.5 Issues of Determining Significance

- 2.5.1 Having regard to the provisions of the development plan and the nature of the site, its surroundings and the scope of the proposed development as set out in the planning application it is considered that the issues of relevance to the determination of the application can be considered under the following headings:

1. Need for the Development.
2. Effect on the Character of the Area.
3. Impact on the Amenities of the Locality.
4. Availability of Facilities
5. The Significance of the Existing Use.
6. Equine Welfare.
7. Nature Conservation matters.

2.5.2 The above matters are addressed in the following section.

3 Consideration of Determining Issues

3.1 *Need for Development*

3.1.1 Need for Gypsy accommodation is addressed in both the Core Strategy and the Site Allocations plan..

3.1.2 Policy CS10 of the Core Strategy delegates allocation of Travellers to the Sites Allocation Plan, the quantum of sites being determined by the sub regional assessment of need. The Site Allocations plan notes that there is no assessed need for the period up to 2027, and in this context does not make any allocations. In supporting text, but not part of policy, and therefore not subject to the rigours of Section 38 of the Planning and Compulsory Purchase Act 2004, it is noted that any applications that come forward should be assessed taking account of the criteria set out in Policy CS10. The key elements of these criteria in the instant case are those relating to impact on residential amenity, and location a reasonable distance from facilities.

3.2 *Effect on Character of Area*

3.2.1 The proposed development introduces into the open area of which it forms part an alien form of structures which will be visible from the nearby vicinity (the road, the adjoining house and other adjoining land. It may also be visible from elevated points within the National Park. The site adjoins, on the opposite side of the road, an area designated in the Allocations Plan, as a Green Space.

3.2.2 Policy CS 13 requires that development is permitted only where it does not adversely affect Green Infrastructure. Policy AL2 of the Site Allocations Plan defines the area containing the application site as one of the undeveloped gaps with development in these gaps limited to development not undermining the separation function of the gaps. Exceptions are small scale householder development, development having an overriding public need not met elsewhere, and NPPF defined rural exception development. None of these exceptions apply in this case.

- 3.2.3 The NPPF (paragraph 55) seeks to avoid development of isolated houses within the countryside. By implication in the absence of any special justification such development falls outside the Government's definition of sustainable development. For this reason the support tendered by policy AL1 does not apply in the instant case.

3.3 Impact on Amenities of the Locality

- 3.3.1 Dr and Mrs Mason as the occupiers of Hollybank Cottage already suffer from noise nuisance as a result of the existing (unauthorised) use of the application site.
- 3.3.2 The proposed development would, if granted planning permission, render lawful that which is presently not lawful, and compound this by the addition of further permanent and transient structures which are of wholly out of character with the locality and prejudicial to the amenity of the area..
- 3.3.3 Other users of the lane (dog walkers, recreational walkers, cyclists and motorists) and other land in the vicinity, including the Green Space opposite, will all experience at times the amenity losses experienced by the Masons.
- 3.3.4 Should the criteria offered by the explanatory memorandum of the Site Allocations Plan (paragraph 2.34) be considered to apply then the current application would fail the amenity test.

3.4 Availability of Facilities

- 3.4.1 Local facilities are available in Westbourne. Whilst at a distance of 500 metres, this is reasonable in distance terms it is unlikely to be considered reasonable for pedestrians and cyclists for much of the length as Long Copse Lane is narrow, without pavements and not conducive to walking or cycling, especially on dark or rainy occasions as will prevail for significant periods of time. The facilities are most likely to be reached using cars, and given the thrust of the National Planning Policy Framework in achieving a pattern of development which does not rely on the private car it is considered the availability of facilities to this site falls outside the definition of reasonable. The criteria of CS10, so far

as they may fail to be applied, are not met, and the application therefore fails to clear this hurdle.

3.5 The Significance of the Existing Use

- 3.5.1 The Design and Access Statement appears to make much of the existing use of the site rendering it a 'brownfield site'. For reason I have already set out the present use is not sanctioned by any planning permission, and thus cannot be considered to fall within the definition of 'brownfield'
- 3.5.2 Notwithstanding this the definition of 'previously developed land' in the NPPF makes it clear that where it falls to be utilised in decisions it should not be assumed that the whole of the curtilage is rendered suitable for development. .

3.6 Equine Welfare

- 3.6.1 In the 2014 appeal decision reference is made to the failure of the site considered then to meet national standards for equestrian welfare. At that appeal little weight was accorded to the issue as it involved only consideration of an extension to the previously authorised stable block on the adjoining land.
- 3.6.2 No information has been submitted in relation to the impact of the proposed development on equine welfare. However it is evident that the proposed permanent mobile homes will consume a large part of the existing pasture.
- 3.6.3 The "Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids" DEFRA 2009 sets out a code which is to be used in assessing Court Proceedings should be affirmed in cases brought under the Animal Welfare Act 2006. On space standards for pasture the following applies:-

"Pasture

1.2 The area of pasture required per horse will depend on the type of grass, ground conditions, time of year, type of horse and degree of pasture management employed. As a general rule, each horse requires approximately 0.5 – 1.0 hectares (or 1.25 to 2.5 acres) of grazing of a suitable quality if no supplementary feeding is being provided. Each donkey requires a minimum of 0.2 – 0.4 hectares (a half to one acre). A smaller area may be adequate where a horse is principally housed and grazing areas are used only for occasional turnout."

- 3.6.4 The application contains no information concerning equine welfare and the related grazing

needs but the above Government publication points to the need to secure further information from the applicant before a drastic reduction in pasture facility can be sanctioned.

3.7 Nature Conservation Matters.

- 3.7.1 The application site has on the opposite side of the road a site designated on the proposals map as a Site of Importance for Nature Conservation (SINC).
- 3.7.2 The submitted planning application shows no indication of how the proposed development takes account of the special status accorded to land on the other side of the road, and no analysis of impact is presented.
- 3.7.3 Policy CS11(3)(iii) requires particular regard to be paid to nature conservation designations, including SINC's, and in the absence of information allowing the exercise of that regard no planning permission should be forthcoming.
- 3.7.4 The NPPF (paragraph 118) requires LPAs to aim to conserve and enhance wildlife and biodiversity, and the relevant paragraph implies that the level of harm needs to be assessed in order to carry out this measure of sustainable development.

4 Discussion and Conclusions

- 4.1.1 The application site lies in an area where protection of the open countryside is the prevailing policy. The development would materially undermine the open character of the area and therefore there is conflict with policies CS17 and AL2 which steer development needs away from such areas.
- 4.1.2 Policy CS 16 requires good design, and it is almost an axiom that in a rural area prefabricated mobile homes and temporary caravans fail to meet the test of good design. Policy AL1 renders support for sustainable development but as a residential development isolated in open countryside the proposal fails to meet the Government's test of the meaning of sustainable development and it therefore follows that the support potentially available under AL1 does not subsist.

- 4.1.3 The criteria of Policy CS 10 cannot be engaged through planning policy but is engaged by the text of the Site Allocations plan which falls to be applied where a need is unsatisfied. For permanent traveller accommodation there is no need as evidenced by the joint study by several local planning authorities. Even if it were engaged there are criteria that are not met and this therefore points to the application being refused
- 4.1.4 Having regard to the above the Council are invited to refuse planning permission.

PDW/1076

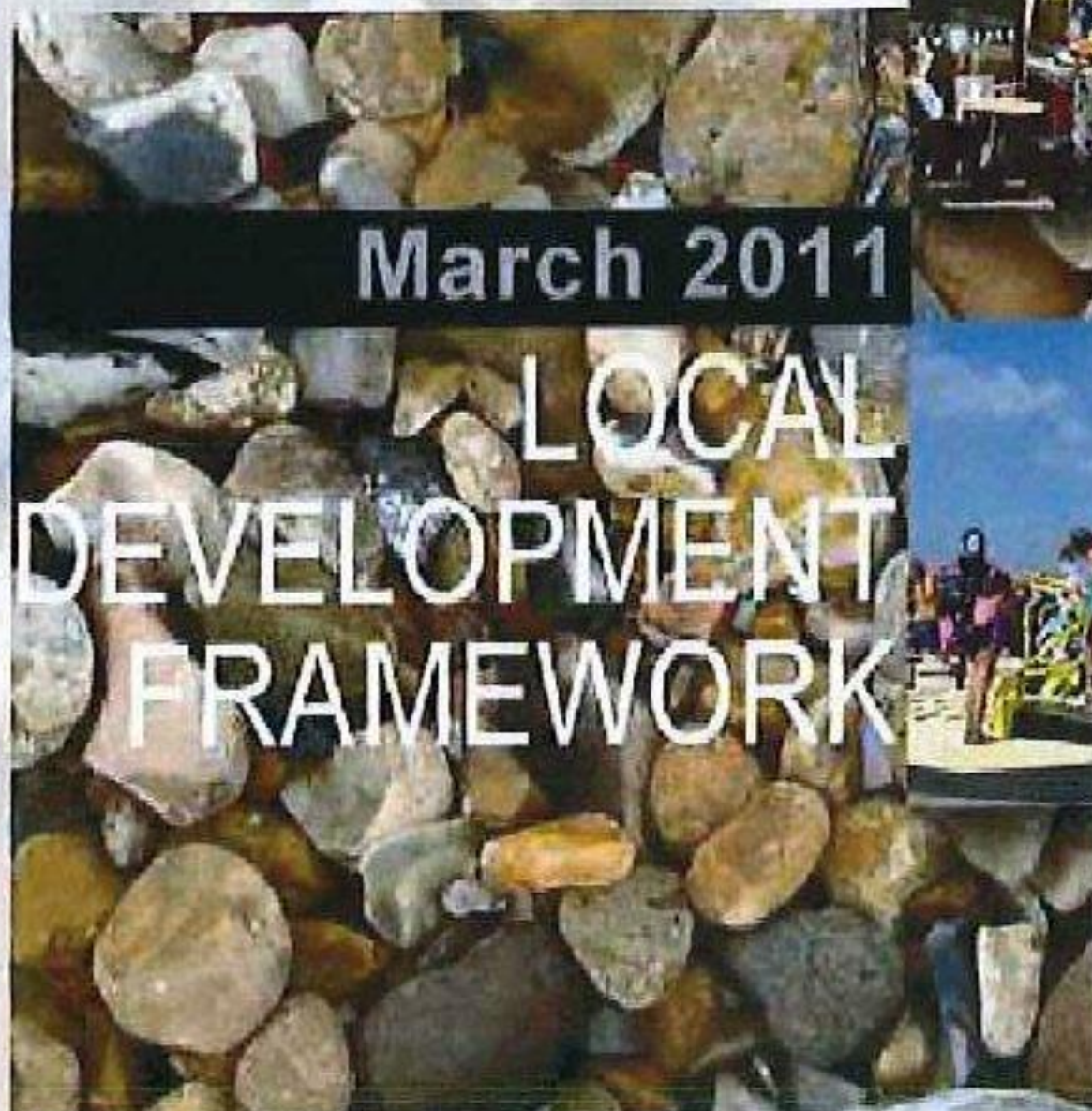
9th April 2016

Appendix 1 Extracts from Havant Core Strategy

REGULATION 25
REGULATION 27
SUBMISSION
ADOPTION



Havant Borough Core Strategy



Policy CS10 Gypsies, Travellers and Travelling Showpeople

The council will allocate sufficient sites in the Development Delivery (Allocations) Development Plan Document to accommodate the needs of Gypsies and Travellers and Travelling Showpeople based on the information contained in the Hampshire and Isle of Wight Gypsy and Traveller Accommodation Assessment updated as necessary and current government requirements.

Criteria for the location of such sites that are likely to be a mix of temporary and permanent sites dependant on need must take account of the following issues to ensure that:

- 1. There is no unacceptable adverse effect on the amenities of nearby residential and/or business uses.**
- 2. The site has a satisfactory means of access and adequate parking provision and turning space to accommodate the occupants.**
- 3. The traffic from the site is not generated on a scale which is inappropriate to the locality and which is likely to cause a hazard to road safety.**
- 4. The site is capable of accessing utilities; and is located within a reasonable distance from local facilities such as schools, welfare and health services and is capable of being serviced by refuse collection and recycling services.**
- 5. The site is not located in an area at high risk of flooding, does not damage the historic environment or nature conservation interests and suitable mitigation against any contamination can be carried out prior to occupation.**

Policy 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.
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.
3. Has particular regard to the following hierarchy of nature conservation designations within the borough (as Identified on the Proposals Map):
 - (i) Special Protection Areas (SPA), Special Areas of Conservation (SAC) and Ramsar [International].
 - (ii) Sites of Special Scientific Interest (SSSI) and National Nature Reserves [National].
 - (iii) Sites of Importance for Nature Conservation (SINC), Local Nature Reserves (LNR), other Ancient Woodland not identified in (ii) above [Local].
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.
5. Supports an ongoing programme of survey of habitats and species and designation of Sites of Importance for Nature Conservation.
6. Incorporates partnership working with conservation organisations to improve public understanding of biodiversity and to manage public access to designated sites, particularly on the coast, to reduce harm to nature conservation interests.
7. Incorporates partnership working with landowners and developers to ensure land management practices restore, enhance and where appropriate create new valued landscapes, habitats and their soil structure, particularly the ancient woodland remnants of the Forest of Bere and coastal salt marsh.
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.
9. Maintains undeveloped gaps between the settlements of Emsworth/Havant; Havant/Waterlooville; Havant/Portsmouth; Emsworth/Westbourne and Leigh Park/Rowlands Castle as shown on the Proposals Map.
10. Protects the best and most versatile agricultural land that has the greatest potential for local food security.
11. Responds to the emerging evidence from the Solent Disturbance and Mitigation Project, the published recommendations, and future related research.

Policy CS13 Green Infrastructure

Development will be permitted that:

- 1. Maintains and manages the network of green infrastructure identified at the sub regional and local levels.**
- 2. Incorporates, where appropriate, improvements to existing green infrastructure through the restoration, enhancement or creation of additional resources.**
- 3. Does not undermine the functional integrity of the green infrastructure.**
- 4. Creates, where appropriate, new green infrastructure (including access management measures) either through on site provision or financial contributions.**

Development proposals that adversely affect green infrastructure will not be permitted unless superior alternative provision can be provided or where it is part of a service provider's plans to provide improved local services in equally accessible locations.

Green infrastructure sites will be allocated in the Development Delivery (Allocations) Plan.

Policy CS16 High Quality Design

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;
 - 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;
 - 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;
 - 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; and
 - e) The development does not cause unacceptable harm to the amenity of neighbours through smell, the loss of privacy, outlook, noise and overlooking.
2. Produces a positive relationship between buildings, street and spaces both existing and proposed, where:
 - a) The layout of the development reduces opportunities for crime and antisocial behaviour; contributes to improving community safety; and makes provision for the management and maintenance of the development;
 - b) New streets are not dominated by vehicular traffic;
 - c) The layout of the development is legible, meaning it is easy to orientate oneself and move through.
3. Contributes to the improvement of the public realm close to the development, particularly sites close to town, district and local centres and other priority regeneration areas by using high quality hard and soft landscape material and street furniture; and where development is of a significant scale or prominence makes provision for public art.
4. Is inclusive by considering the needs of those with disabilities, ensuring safe and convenient access for all; and integrating affordable and supported housing with market housing through tenure blind design to minimise social exclusion and promote social integration.
5. Maximises opportunities for mixed use developments, particularly in town and district centres; and encourage higher densities (50+ dwellings per hectare) where appropriate.
6. Mitigates negative environmental impacts through sustainable design and construction methods, resource efficiencies, particularly water and the provision of facilities for waste recycling.
7. Adapts to the changing needs of the users and the changing climate over the lifespan of the building.

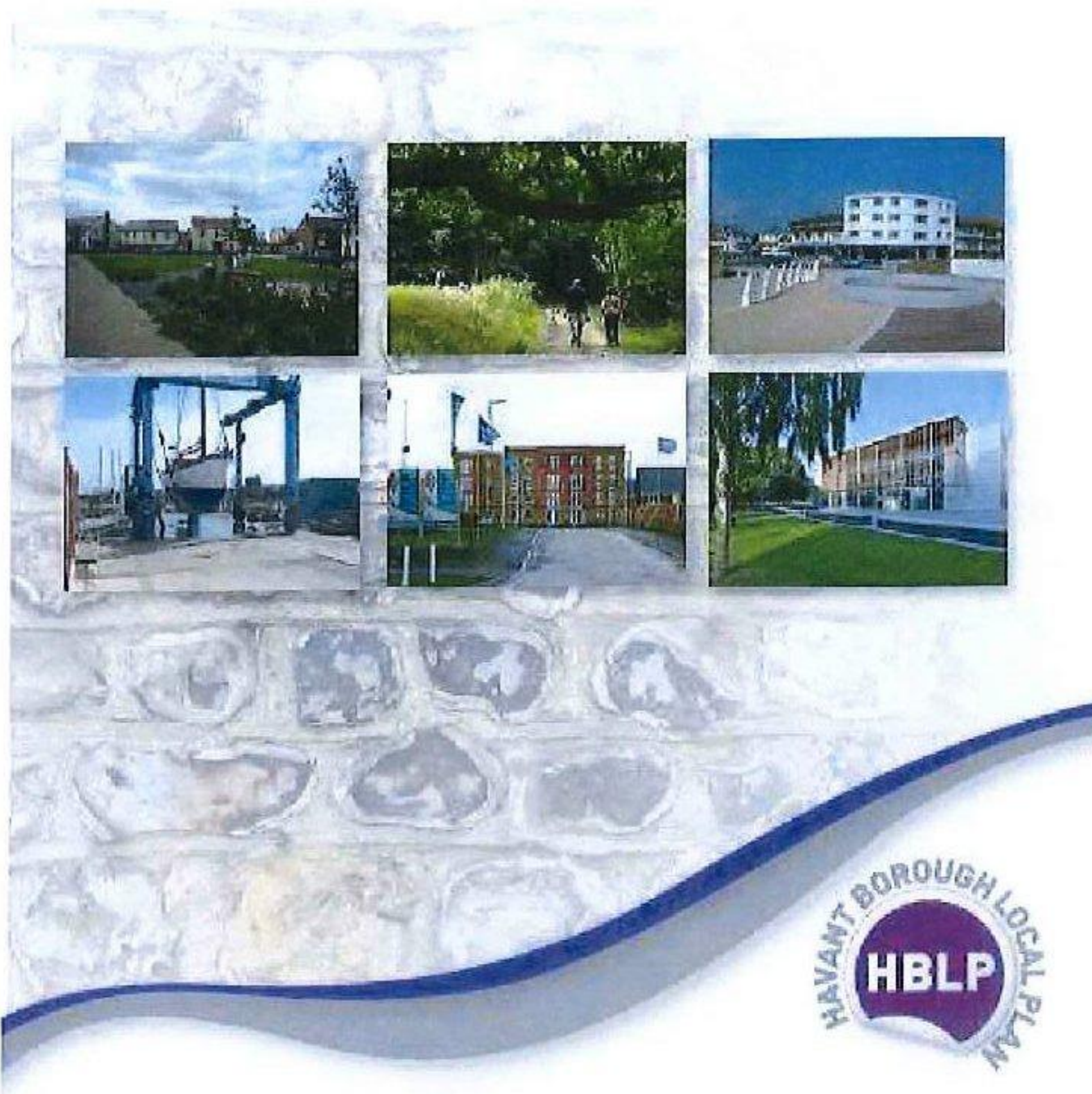
Policy CS17 Concentration and Distribution of Development within the Urban Areas

Development will be permitted that makes the most effective use of land in the borough by granting planning permission that:

1. Concentrates new housing, employment, retail, leisure and other development within the five urban areas of Havant, Leigh Park, Waterlooville, Emsworth and Hayling Island, as shown on the Proposals Map.
2. Prioritises development on previously developed land, including redundant, derelict or underused land and buildings within the urban area.
3. Broadly distributes the new housing and employment development in the five areas of the borough as indicated on the Spatial Distribution Map (Key Diagram).

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.

Appendix 2 Extracts from Havant Site Allocations Plan



Havant Borough Local Plan (Allocations) Adopted Version

July 2014

Havant
BOROUGH COUNCIL

Cleaner, Safer,
More Prosperous

Policy AL1 Presumption in Favour of Sustainable Development

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). It will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this local plan will be approved without delay, unless material considerations indicate otherwise.

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; or
2. Specific policies in the NPPF indicate that development should be restricted.

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.

Land outside the defined urban area on Hayling Island is 'non-urban' rather than undeveloped gap. Development of exceptional affordable housing in the non-urban areas of Hayling Island is not considered appropriate or necessary and is likely to be refused planning permission.

Policy AL8 Local Green Spaces

Planning permission will be granted for development proposals that protect or enhance the Local Green Spaces, as shown on the Policies Map.

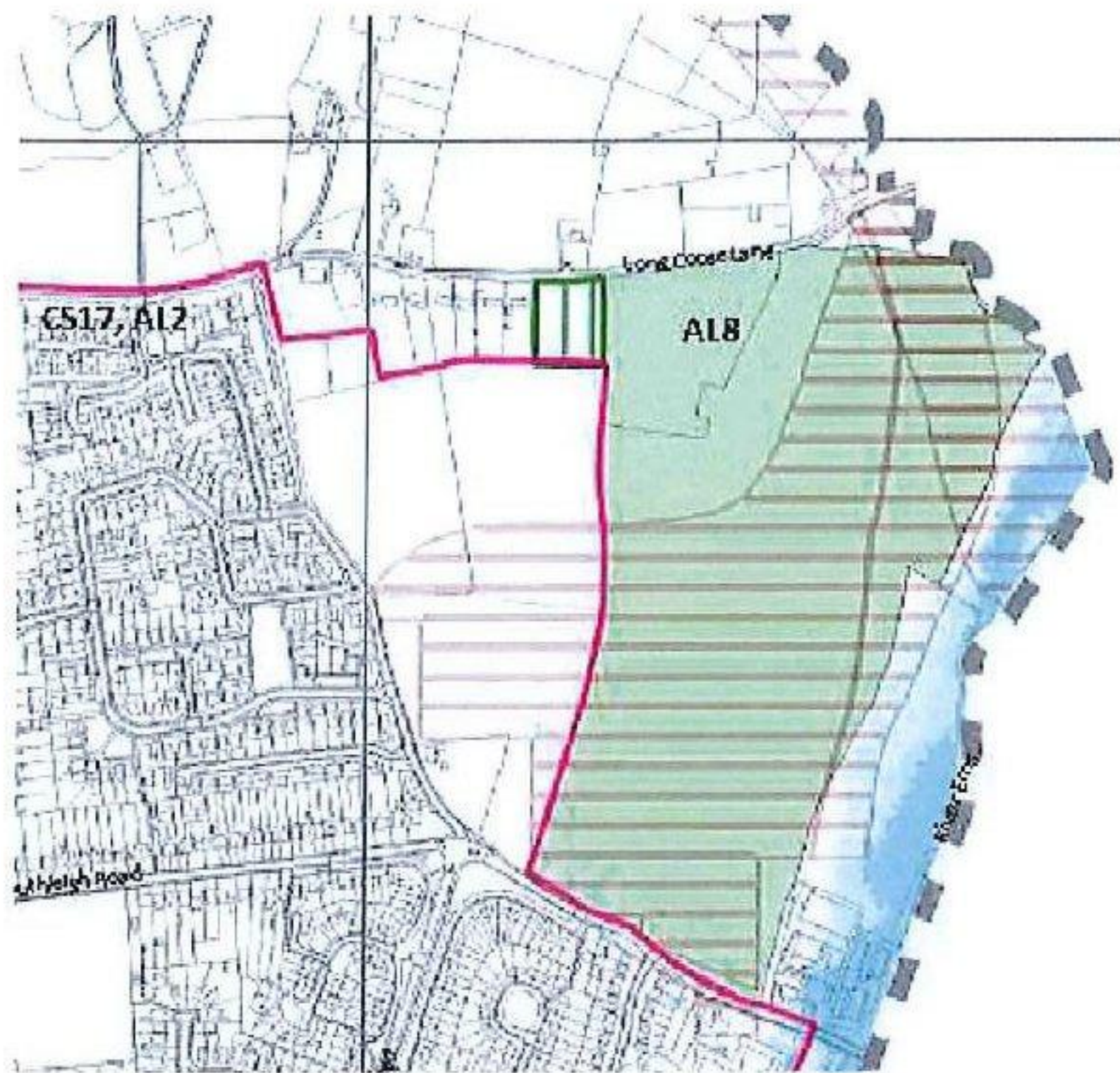
Development proposals that would be harmful to these Local Green Spaces will not be permitted other than in very special circumstances.

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Update on the Council approach to meeting the accommodation needs of Travellers

- 2.31 Policy CS10 of the Core Strategy sets out the criteria which need to be considered for the appropriate location and development of permanent and temporary Gypsy, Traveller and Travelling Showpeople accommodation. The policy also states that Allocations Plan will identify and allocate any sites required. Havant Borough Council has undertaken work that has identified that there is no need for permanent accommodation for Gypsies and Travellers. It is still progressing work on finding appropriate sites with neighbouring authorities for transit sites for Gypsies and Travellers, and sites for Travelling Showpeople. Until this work is concluded Policy CS10 should be used to determine the appropriateness of any sites that might come forward through the planning application process.
- 2.32 The Traveller Accommodation Assessment for Hampshire 2013 is part of the evidence base to this plan. It aims to understand the current and future accommodation needs of Gypsies, Travellers and Travelling Showpeople in the Borough, in accordance with government planning policy for Traveller Sites. The assessment was carried out on behalf of a partnership of local authorities across Hampshire, including Havant Borough Council, East Hampshire District Council, Eastleigh Borough Council, Fareham Borough Council, Gosport Borough Council, New Forest District Council, New Forest National Park Authority, South Downs National Park Authority, Test Valley District Council and Winchester City Council.
- 2.33 The assessment considered the need for additional 'pitches' but concluded that there is no identified need for permanent Gypsy and Traveller pitches in Havant Borough up to 2027. A Gypsy, Traveller and Travelling Showpeople residential pitch may comprise one or more units; separate mobile homes, touring caravans, or other accommodation structures shared by one or more families.
- 2.34 The assessment identified a need for 47 transit pitches for Gypsy and Travellers across the study area. It recommends that the 'East Hampshire' authorities of Havant, Fareham, Winchester, Gosport and East Hampshire work together to meet a target of 29 pitches in their area up to 2027. Havant Borough Council is currently working with these authorities to understand where this accommodation should be located. If there is a need to accommodate transit pitches in Havant Borough, then the accommodation will be allocated as part of the review of the local plan. If there is an urgent need to find this accommodation, then application for development should be considered in accordance with the criteria set out in Policy CS10.
- 2.35 In addition to the need for Gypsy and Traveller accommodation, the assessment identified a need for 25 pitches for Travelling Showpeople across the study area up to 2027. It recommends that the 'East Hampshire' authorities work together to accommodate a target of 16 pitches in their area up to 2027. Havant Borough Council is currently working with these authorities to understand where this accommodation should be located. If there is a need to accommodate Travelling Showpeople pitches in Havant Borough, then the accommodation will be allocated as part of the review of the local plan. If there is an urgent need to find this accommodation, then application for development should be considered in accordance with the criteria set out in Policy CS10.

Appendix 3: Extract from Proposals Map (at 7th April 2016)



-  (ALB) Local Green Spaces
-  (CS11.3) Site of Importance for Nature Conservation (SINC)
-  (CS17) (AL2) Concentration and Distribution of Development within the Urban Areas/Urban Area Boundaries
-  Hampshire Minerals & Waste Plan (HMWP)
-  Havant Borough Boundary