



Department for
Communities and
Local Government

Gemma Care
Barton Willmore
The Blade
Abbey Square
Reading RG1 3BE

Our Ref: APP/W1715/A/14/2228566
Your Ref: 21288/A3/MU/RS/dw

Date: 9 November 2016

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY HALLAM LAND MANAGEMENT LTD, LAND WEST OF HAMBLE
LANE, HAMBLE, HAMPSHIRE SO31 4BT
APPLICATION REF: O/13/73479**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Chase MCD, DipArch, RIBA, MRTPI, who held a public local inquiry on 23-30 June 2015 into your client's appeal against the decision of Eastleigh District Council to refuse outline planning permission for up to 225 residential units plus a 60 bed care home and 40 extra care units, along with the provision of public open space and woodland, improvements to Hamble Station including new car parking, station kiosk/farm shop/café and a public transport interchange with taxi and drop off facilities along with all associated landscaping and access, in accordance with application number O/13/73479, dated 24 October 2013.
2. On 24 June 2015, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 150 units or on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss your client's appeal. A copy of the Inspector's report (IR) is

Department for Communities and Local Government
Phil Barber, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 44 42853
Email: PCC@communities.gsi.gov.uk

enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

4. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and the environmental information before the inquiry opened. Having taken account of the Inspector's comments at IR5, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the inquiry

5. Following the close of the inquiry, the Secretary of State received a representation submitted by Eastleigh Borough Council dated 15 April 2016 about the Court of Appeal judgment in the cases of *Suffolk District Council v Hopkins Homes Ltd* and *Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government* [2016] EWCA Civ 168. On 15 April 2016 the Secretary of State wrote to parties to give them the opportunity to submit comments on this representation and, on 16 May 2016 he circulated the representations he had received.
6. Further representations, dated 17 and 23 June 2016, from Eastleigh Borough Council were received. On 29 June 2016 the Secretary of State wrote to parties to give them the opportunity to submit comments on these representations. On 20 July 2016 he circulated the representation he had received.
7. The Secretary of State has also received representations from Barton Willmore dated 13 October 2016 and from Eastleigh Borough Council dated 3 November to which he has given careful consideration. The Secretary of State has also received other representations, set out at Annex A, to which he has given careful consideration. He is satisfied that the issues raised do not affect his decision, and no other new issues were raised to warrant further investigation or necessitate additional referrals back to parties.
8. In reaching his decision, the Secretary of State has taken account of all the representations and responses referred to in paragraphs 5 – 7. Details of these representations are at Annex A. Copies are not enclosed with this letter but will be provided on application to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case, the development plan comprises the Eastleigh Borough Local Plan Review (2001-2011) adopted in 2006, and the Hampshire Minerals and Waste

Plan, adopted in 2003. The Secretary of State considers that the development plan policies most relevant to this appeal are 1.CO (which seeks to protect and enhance the countryside outside a designated settlement by restricting development to identified categories of 'development'; 3.CO (which protects local gaps separating smaller settlements); transport policies 100.T, 101T and 102T; to affordable housing policy 74H, and to infrastructure policies 147.OS and 191.IN.

11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and associated planning guidance ("the Guidance") and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

The Draft Plan and the Emerging Plan

12. The Secretary of State notes that the draft plan, the Eastleigh Borough Local Plan 2011-2029, was found unsound by the Examining Inspector in February 2015 for reasons including an inadequate supply of housing land in the first 5 years and inadequate provision for affordable housing. That plan has not actually been withdrawn, but it is unadopted and the Secretary of State affords it very little weight. The emerging local plan, the Eastleigh Borough Local Plan 2011-2036, is only at Issues and Options stage and in terms of paragraph 216 of the Framework, the Secretary of State also affords it very little weight.

Main issues

13. The Secretary of State agrees that the main material considerations in this case are those set out by the Inspector at IR88.

The Policy Context

14. The Secretary of State has given very careful consideration to the Inspector's remarks at IR90-100. He too considers that Policy 1.CO is a relevant policy for the supply of housing, and having regard to paragraph 49 of the Framework, he agrees it is out-of-date for this reason (IR91).
15. By comparison, the Inspector finds that policy 3.CO has the specific intention of protecting a limited area of the Local Gap and considers the appellant's approach in not putting it forward as a policy for the supply of housing in terms of paragraph 49 of the Framework is consistent with case law (IR92). The Secretary of State acknowledges that the Inspector's comments (IR93-100) reflected the uncertainty at that time of the case-law position on what constitutes a Housing Land Supply policy pending the Court of Appeal's judgment in *Suffolk Coastal DC v Hopkins Homes Ltd* and *Richborough Estates Partnership LLP v Cheshire East BC* [2016 EWCA Civ 168]. Since the Inquiry closed, judgment was handed down on 17 March 2016.
16. In line with the interpretation of paragraph 49 of the Framework in that judgment, and contrary to the Inspector's view in the appeal, the Secretary of State has concluded that Policy 3.CO is a relevant policy for the supply of housing. Having regard to paragraph 49 of the Framework, and in the context of less than 5 years' housing land supply, the Secretary of State has accordingly concluded it is out-of-date.

17. The Secretary of State has considered carefully the Inspector's analysis at IR93-100 on the matter of whether Policy 3.CO would be out of date through no longer meeting the development needs of the Borough, and whether there is justification for reducing the weight applied to that policy. The Secretary of State acknowledges that its weight should be reduced because he has found it to be out-of-date, but taking into account its consistency with the Framework, its role in protecting the Local Gap and the limited shortfall in housing land supply he concludes that he should still afford significant weight to Policy 3.CO.

Character and Appearance, and Role of the Local Gap

18. For the reasons set out in IR101-105, the Secretary of State agrees with the Inspector that whilst the site does not demonstrate any special landscape quality, its function in forming part of a Local Gap is served by its openness. The Secretary of State notes that the site is not within a settlement, nor is it a natural extension of any settlement. He agrees with the Inspector that its central location would increase the impact of the loss of openness on the setting of the surrounding towns. Like the Inspector, the Secretary of State finds that its loss would harm the character and appearance of the countryside to the extent of undermining its role in separating communities, and would contribute to their coalescence and loss of independent identity, contrary to the objectives of Policy 3.CO (IR106).

The Benefits of the Proposal

19. The Secretary of State notes the Inspector's comment (IR108) that at the time of inquiry the Council were not able to demonstrate more than a four and a half years supply of deliverable housing land, and that there is evidence of an existing need for affordable housing. Whilst the Secretary of State notes that the Council are now of the view that they are able to demonstrate a 4.86 year supply, he agrees with the Inspector that the provision of up to 225 homes, 35% of which would be affordable, would be a significant advantage arising out of the scheme, and it would help to meet the objectives of the Framework by boosting significantly the supply of housing and delivering a wide choice of high quality homes. The Secretary of State notes too that the choice of accommodation would also be boosted by the provision of 100 care and extra care spaces (IR109).

20. The Secretary of State agrees with the Inspector that the incorporation of a parking area, drop-off point, and other facilities at Hamble Station would be a significant benefit (IR110). He accepts the Inspector's view that the alternative scheme would go some way to securing the same advantages, but it would not be of the size, nor have the expansion potential, of the appellant's proposal (IR111).

21. Like the Inspector, the Secretary of State recognises that (IR112) the proposal would provide other potential benefits including the provision of public open space on the site; ecological enhancement; highway improvements in Hamble Lane; and the contribution of an estimated £13m per annum to the local economy, as well as the employment and investment arising out of the care homes and construction programme.

Other matters

22. The Secretary of State notes that local residents are concerned about the proposal exacerbating the high traffic levels and periods of congestion on Hamble Lane (IR113). However, there is overall agreement by the parties that, subject to a range of off-site highway improvements and adoption of a Travel Plan, the impact of the development could be adequately mitigated, as confirmed in the Transport Statement of Common Ground.
23. Similarly, the Secretary of State finds no reason to consider that the range of obligations within the Section 106 Agreement would not adequately overcome any shortfall in the local infrastructure, nor that matters such as the impact on habitats, and the risk of flooding, could not be resolved by the use of conditions (IR114). He notes too that issues of design and local residential amenity would form the subject of reserved matters decisions. Furthermore, the Council raised no objection on the basis of harm to the setting of Listed Buildings or other heritage assets.

Loss of Agricultural land

24. The Secretary of State notes that the site is largely composed of Grade 2 and 3a agricultural land, although only half the site would be developed. However, like the Inspector (IR115), he considers that because of the nature of the proposals, it is unlikely that the retained open space would ever be suitable for arable farming. The Secretary of State notes that the Inspector considers it is not possible to give this loss substantial weight. Whilst the Secretary of State considers that it would not be appropriate to give this loss substantial weight, having considered paragraph 112 of the Framework and the large loss of agricultural land, the Secretary of State attaches moderate weight to the loss of "best and most versatile" agricultural land.

Sustainability

25. In terms of sustainability, the Secretary of State agrees with the Inspector's conclusion (IR116) that, when assessed against the policies in the Framework taken as a whole, the supply of market and affordable housing, along with care facilities, would make a significant contribution to meeting the social role of sustainability, complemented by the provision of public open space (although he acknowledges the latter is at the expense of the loss of the rural character of the public footpath crossing the site). Furthermore, he agrees that the additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall. In addition, he recognises, like the Inspector, the environmental and community benefits arising out of the station improvements identified at paragraphs 20 - 21 above. For the reasons given by the Inspector at IR117, the Secretary of State concludes that, on balance, this is a reasonably sustainable location in terms of accessibility.

Planning conditions

26. The Secretary of State has given consideration to the Inspector's analysis at IR77- 80, the recommended conditions set out at the end of the IR and the

reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing the appeal.

Planning obligations

27. Having had regard to the Inspector's analysis at IR81-84, the planning obligations dated 30 June 2015, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion at IR84 that the obligations comply with the tests in Regulation 122 of the CIL Regulations, except in two respects: a contribution to public art, and a requirement to prepare an Employment and Skills Management Plan. In the case of public art, the Secretary of State agrees with the Inspector that this requirement amounts to an extraneous benefit of the scheme, rather than addressing a harm which might arise out of it. Similarly, he agrees that the Employment and Skills Management Plan serves a wider planning benefit rather than being necessary for the development to proceed.
28. Turning to CIL Regulation 123, he notes that the Council's schedule indicates that all the obligations comply with the tests in Regulation 123 of the CIL Regulations and, like the Inspector, he finds no evidence to disagree with this (IR85). The Secretary of State notes the Inspector's comments at IR86 about whether the Community Infrastructure Contribution should be reduced to reflect the benefit of providing the new station car park and facilities, and for the reasons given by the Inspector, agrees that an appropriate reduction in the contribution would be justified. Given his reasons for dismissing the appeal and refusing planning permission, which do not relate to the obligations and would not be overcome by them, he has not considered it necessary to seek an update from the Council on these matters.

Planning balance and overall conclusion

29. For the reasons given above, the Secretary of State concludes that the proposal is not in accordance with the development plan policies 1.CO and 3.CO and is not in accordance with the development plan as a whole. He has gone on to consider whether material considerations indicate that the proposal should be determined other than in accordance with the development plan.
30. The Secretary of State notes that in their letter of 23 June 2016, the Council updated their position on the supply of deliverable housing land, now claiming to be able to demonstrate a 4.86 year supply. In the absence of a 5-year housing land supply, and having concluded that policies 1.CO and 3.CO are relevant policies for the supply of housing, the presumption in favour of sustainable development is engaged, meaning that permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits.

31. He considers that the provision of market and affordable housing in an area with an acknowledged shortfall, along with care facilities in this case carries substantial weight in favour of the development. The additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall, to which he gives moderate weight. The environmental and community benefits arising out of the station improvements carry moderate weight in favour of the proposal.
32. Set against the identified positive aspects is the environmental and social damage which would arise out of the loss of the gap between the surrounding settlements, involving the physical intrusion into an area of countryside, and contributing to the coalescence of those settlements, and loss of independent identity. The Secretary of State considers that this would be contrary to those policies of the Framework which apply the principle of recognising the different roles and character of different areas, and this carries significant weight against the proposal. He further considers that the loss of "best and most versatile" agricultural land carries moderate weight against the proposal.
33. The Secretary of State also considers that the appeal site performs a function which is specific to its location and which would be permanently undermined by the development.
34. The Secretary of State considers overall that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.
35. The Secretary of State has taken into account the wide range of judgments and appeal decisions referred to in the inquiry and the post-inquiry representations but, having considered all the matters raised, he concludes that none is of such weight as to alter the balance of his conclusions.
36. Overall he concludes that there are no material considerations which indicate that he should determine the case other than in accordance with the development plan. The Secretary of State therefore concludes that your client's appeal should be dismissed.

Formal Decision

37. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for up to 225 residential units plus a 60 bed care home and 40 extra care units, along with the provision of public open space and woodland, improvements to Hamble Station including new car parking, station kiosk/farm shop/café and a public transport interchange with taxi and drop off facilities along with all associated landscaping and access, in accordance with application number O/13/73479, dated 24 October 2013.

Right to challenge the decision

38. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the

date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

39. A copy of this letter has been sent to Eastleigh Borough Council. A notification letter/e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

Richborough Estates

**Planning Appeal – Residential development, land west of Hamble Lane,
Hamble, Hampshire**

Post-inquiry Representations

NAME OF PARTY	DATE OF LETTER / E-MAIL
Michael Rushin	06 October 2015
Gerry Barron-Fox	31 October 2015
Beverley Birks	03 November 2015
Gerry Barron-Fox	05 November 2015
Caroline Sainsbury	06 November 2015
Maria Hutchinson	06 November 2015
Jonathan Brothers	06 November 2015
Elaine Soffe	06 November 2015
Beverley Birks	07 November 2015
Kirsty Cartwright	07 November 2015
Martin Amy	09 November 2015
Rebecca Powell	07 November 2015
Peter Hyde	07 November 2015
Marion Inglis	07 November 2015
Dorothy Jones	07 November 2015
Anthony Parkinson	07 November 2015
Dr Stephanie Merry	07 November 2015
Brian Sandom	07 November 2015
Rosie Sparshatt Worley	07 November 2015
Chris Watling	07 November 2015
Mrs K Yorath	07 November 2015
Gary Munday	08 November 2015
Robert & Susan Wallace	08 November 2015
Frances de Courcy Stevens	09 November 2015
Jeremy Edwards	09 November 2015
Jennifer Gatland	09 November 2015
James Ross	09 November 2015
John Wynar	09 November 2015
Sharon Freeman	10 November 2015
Fay Robinson	10 November 2015
Lucy Briggs	11 November 2015
Teresa Hatt	11 November 2015
Chris Watling	11 November 2015
John Hawkins	12 November 2015
Heidi Hawley	12 November 2015
Dianne Hussey	12 November 2015
Siân Ireland	12 November 2015
Kerry Page	12 November 2015
Penny Stone	12 November 2015
Chris Ackland	12 November 2015

Helen Hirst	13 November 2015
Sally Schofield	13 November 2015
Nick O'Donnell	13 November 2015
Charlotte Philpin	14 November 2015
Kerry Pitches	16 November 2015
Alastair Garrod	16 November 2015
Kevin James	17 November 2015
Suzanna Fielding	18 November 2015
Caroline Pulford	18 November 2015
Toby Mackay	19 November 2015
Anthony Maddison	20 November 2015
Ian Hart	22 November 2015
Mrs H Greenham	23 November 2015
Sally Bennett	25 November 2015
Patricia Bartley	26 November 2015
Sharon Freeman	26 November 2015
Cathy Maden	27 November 2015
Suzanne Rogers	03 December 2015
Martyn Clare	03 December 2015
Ruth Harding Parish Smith LLP Solicitors, obo Eastleigh Borough Council	15 December 2015
Mark Utting Barton Willmore	24 March 2016
Julia Davies Eastleigh Borough Council	6 April 2016
Julia Davies Eastleigh Borough Council	15 April 2016

Representations received in response to the Secretary of State's letter of 15 April 2016

Cllr David Airey	26 April 2016
Brendan Gibbs Parish Council of Hamble-le-Rice	4 May 2016
Suzy Hamel Borough Councillor for Hamble and Butlocks Heath	4 May 2016
Mark Utting Barton Willmore	5 May 2016
Kitty Budden Eastleigh Borough Council	11 May 2016
Claire Campbell-Best Eastleigh Borough Council Enclosing one from John Forder, Hound Parish Council	12 May 2016

Representations received in response to the Secretary of State's letter of 16 May 2016

Emma Fellowes Barton Willmore	24 May 2016
----------------------------------	-------------

Other representations received since the Secretary of State's letter of 16 May 2016

Julia Davies Eastleigh Borough Council	24 May 2016
Kitty Budden Eastleigh Borough Council	20 June 2016
Liz Harrison Eastleigh Borough Council	23 June 2016

Representations received in response to the Secretary of State's letter of 29 June 2016

Mark Utting Barton Willmore	19 July 2016
--------------------------------	--------------

Further representations received

Robin Shepherd Barton Willmore	13 October 2016
Kitty Budden Eastleigh Borough Council	3 November 2016

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by John Chase MCD DipArch RIBA MRTPI

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

Date: 26 August 2015

TOWN AND COUNTRY PLANNING ACT 1990

EASTLEIGH BOROUGH COUNCIL

APPEAL BY

HALLAM LAND MANAGEMENT LTD

Richborough Estates

Inquiry held on 23 to 30 June 2015

Land West of Hamble Lane, Hamble, Hampshire, SO31 4BT

File Ref: APP/W1715/A/14/2228566

File Ref: APP/W1715/A/14/2228566

Land West of Hamble Lane, Hamble, Hampshire, SO31 4BT

- 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 Hallam Land Management Ltd against the decision of Eastleigh Borough Council.
- The application Ref O/13/73479, dated 24 October 2013, was refused by notice dated 17 July 2014.
- The development proposed is up to 225 residential units plus a 60 bed care home and 40 extra care units, along with the provision of public open space and woodland, improvements to Hamble Station including new car parking, station kiosk/farm shop/café and a public transport interchange with taxi and drop off facilities along with all associated landscaping and access.

Summary of Recommendation: That the Appeal be Dismissed

Procedural Matters

1. Document references (in bold italic) relate to the schedule at Annex 2.
2. The planning application was made in outline, with all matters reserved except access. It was accompanied by a range of reports and illustrative plans, identified as 'application documents' in Annex 2.
3. The Council refused the planning application on the grounds that it would 1) be a piecemeal form of development which would have an urbanising impact on land outside a settlement and would diminish a Local Gap, 2) harm road safety and the operation of the transport network, 3) lead to the sterilization of mineral resources, 4) cause the loss of Grade 2 and 3a agricultural land, 5) have a potentially adverse impact on dormice, 6) fail to secure affordable housing, 7) create pressure on existing facilities and infrastructure without adequate mitigation, and 8) result in a recreational impact on the Solent and Southampton Water Special Protection Area. The decision notice is at **CD114**.
4. Following discussions between the main parties, and the submission of further information, it was agreed that reasons for refusal 2, 3, 5, 6, 7 and 8 could be adequately resolved by provisions in a planning agreement or by planning conditions. A completed agreement under Section 106 of the Town and Country Planning Act 1990 is contained at **A012**, and recommended planning conditions are at Annex 3. Reasons 1 and 4 remain outstanding.
5. The appellants prepared an Environmental Statement (separately bound with appendices), in accordance with the EIA Regulations. The Planning Inspectorate Adequacy Check against the requirements of Schedule 4 of the Regulations (**APPO05**) found the Statement to be satisfactory. The environmental impact of the development is considered in this report.
6. The appeal was recovered by the Secretary of State because it involves proposals for residential development of over 150 units or on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.
7. The Inquiry took place on 23, 24, 25 and 30 June 2015, with the site visit on 26 June.

The Site and Surroundings

8. Descriptions of the site and its surroundings are contained at Section 2.0 of the Statement of Common Ground (**CD005**), at Section 2.0 of Mr Shepherd's proof of evidence (**CD001**), and Section 3 of Ms Harding's proof (**CD217**). Drawing 21288.13E (**CD146**) shows the site boundary, whilst the wider area is indicated on plans at Appendix 3 to Ms Harding's proof (**CD217**) and Appendix 1 of Ms Toyne's proof (**CD002**), which also includes, at Appendices 2 and 3, photographs of the site and its context.
9. In summary, the site is an area of open pasture land of about 22.64ha, relatively flat and featureless, in the central part of the Hamble Peninsula, lying between the Hamble River and Southampton Water. The area is described in the Hampshire County Character Assessment (**CD064**) as part of the coastal plain, both open and enclosed, with a gently undulating and flat landform, a central area of farmland, but a suburban feel to much of the area. The Landscape Character Assessment for Eastleigh Borough, 2011 (**CD063**) places the site within Hound Plain, where the predominant characteristic is openness, albeit with some elements of urban fringe. The site is surrounded by the settlements of Bursledon, Netley and Hamble to the north, west and south, respectively.
10. There is a range of development in the immediate vicinity, of varying degrees of intensity. On the western boundary is the suburban area of Hound, a residential extension of Netley, and to the east Hamble Lane, the main road serving the peninsula, on the opposite side of which is a row of housing, a medical centre, and a community college to the rear. The land to north and south is more extensive in character, with the southern boundary defined by the West Coast Railway Line, including Hamble Station, a small halt without buildings or vehicle access. Beyond this is a garage, Police Training Centre, set within landscaped grounds, and the Royal Victoria Country Park (listed as a grade II historic park and garden). Similarly, the northern side has a mainly open character, with a cemetery and ecological park, but with a scattering of buildings, including the Church of St Mary (listed II*), farm buildings, and Hound Manor (listed II). A public footpath crosses the site between Hound and Hamble Lane.

Planning Policy

11. The development plan is the Eastleigh Borough Local Plan Review (2001-2011) ('Local Plan') (**CD020B**), adopted 2006, and the Hampshire Minerals and Waste Plan, adopted 2003 (**CD083**). The site falls outside a designated settlement in the Local Plan, being subject to policy 1.CO, which seeks to protect and enhance the countryside by restricting development to i) agriculture, ii) outdoor recreation, iii) public utility service or extension of an education or health facility, or iv) development which meets the criteria of other policies in the plan. It lies within the Bursledon, Hamble, Netley Abbey Local Gap, where Local Plan policy 3.CO protects the separate identities of smaller settlements by granting permission only for appropriate development which i) could not be acceptably located elsewhere, and ii) would not diminish the gap, visually or physically.
12. These were the principal Local Plan policies discussed at the Inquiry, but the Council's decision notice (**CD114**) also refers to transport policies 100.T, 101T and 102T, to affordable housing policy 74H, and to infrastructure policies 147.OS and 191.IN. The Statement of Common Ground (**CD005**, para 5.7)

draws attention to 59.BE (design criteria) and 33.ES (air quality). Mineral resources are safeguarded by policy 15 of the Hampshire Minerals and Waste Plan.

13. A replacement local plan is in the course of preparation, entitled the Eastleigh Borough Local Plan (2011-2029) (**CD020**). The Council's decision notice refers to a number of policies from the Revised Pre-submission Version, which went to public examination in 2014. However, the Inspector's Report of February 2015 identified shortcomings in the plan which were sufficient to recommend that it should not be adopted, and the Council acknowledge¹ that extremely little weight can be attributed to its policies.
14. Other policy documents, outside the development plan, include the Partnership for Urban South Hampshire (or PUSH) Strategy, dated October 2012 (**CD054**). Policy 15 refers to the designation of gaps, which are necessary to retain the open nature and sense of separation between settlements, but that their boundaries should not preclude provision for development proposed by the Strategy, and they should include no more land than necessary to maintain visual and physical separation. Both Hound and Hamble Parishes have produced plans (**CD021** and **CD022**), reflecting the results of opinion surveys in the local area. There is general support for the maintenance of open space and gaps around the existing settlements. A range of supplementary planning documents are at **CD15-CD19**, including those concerning Affordable Housing, Planning Obligations and Accommodation for Older People. These, and other policy documents with a bearing on the appeal proposal, are referred to in Section 5.0 of the Statement of Common Ground (**CD005**).
15. Section 5.0 of the Statement also sets out those paragraphs of the National Planning Policy Framework (NPPF) which are agreed to be of particular relevance to the appeal, being 14, 17 (sections 6, 7 and 11), 47, 142, 144, 152, 186, 187, 188-192, 196, 197, 203, 206 and 215-216.

The Proposals

16. Section 3.0 of the Statement of Common Ground contains a summary of the proposals. They amount to a development of up to 225 dwellings, from 1 to 5 bedrooms, a 60 bed care home and 40 bed extra care facility, along with a new station car park and drop-off facility, and a building housing a station kiosk, farm shop, café and toilets. An illustrative site layout, drawing 21288.28P (**CD163**), indicates that the new residential development is proposed across the south east quadrant of the site, with land to the north and west retained as open space. 11.18ha of the open land would be dedicated for public use, including the creation of new woodland adjacent to the housing in Hound. Accommodation for 100 cars is shown adjacent to Hamble Station, with adjoining land kept available for a further 150 parking spaces if found to be required. There would be a system of estate roads, taking access from a new roundabout junction onto Hamble Lane. The access arrangements form part of the application, and are shown on drawing 1301-62.Fig 6.1C (**CD153**).

¹ Ms Harding's proof of evidence **CD 217**, para 6.24

Other Agreed Facts

17. The Statement of Common Ground (**CD005**) sets out the matters not in dispute at Section 6.0. They include an acknowledgement that the Local Plan is out of date to the extent that it does not plan for development beyond 2011; that the heritage assets in the area would not be detrimentally affected by the proposals; and that noise, contamination, air quality, biodiversity, flood risk, and sustainability measures could be adequately dealt with by planning conditions. Similarly, affordable housing, protection of the Solent and Southampton Water Special Protection Area (SPA), education and health provision, and a range of infrastructure and open space requirements, could be secured with a planning agreement.
18. The Transport Statement of Common Ground (**CD006**) indicates that objections to the scheme on highway grounds would be resolved by an obligation to prepare a Travel Plan and to contribute to the cost of highway improvements in the locality, necessary to mitigate the impact of the development. The Five Year Housing Land Statement of Common Ground (**CD007**) accepts that the Council are not currently able to demonstrate a five year housing land supply, whilst the Minerals Statement of Common Ground (**CD008**) records that objections to the scheme on the ground of impact on mineral resources would be overcome by a suitably worded condition concerning the recovery of material during construction.

The Case for the Council

19. The following is a summary of the Council's closing submissions. The full text may be read at **CO08**.
20. The site is entirely located within the countryside defined in Local Plan Policy 1.CO and in the local gap designated by Policy 3.CO, intended to protect the site from the kind of development proposed, which would result in an isolated island of housing and residential care homes. It is clear that the development would not comply with the restricted range of uses permitted by Policy 1.CO and that it would inevitably diminish the gap separating the settlements of Bursledon, Hamble and Netley Abbey, both physically and visually, contrary to 3.CO.
21. A preliminary issue arises as to whether these policies should be considered out of date, either i) because they are deemed to be policies for the supply of housing in terms of NPPF para 49, in the absence of a five year housing land supply, ii) because of the age of the plan, or iii) for any other reason. Otherwise they must be considered up to date, in which case the statutory procedure² requires that the proposal must be refused because of breach of Policies 1.CO and 3.CO unless material considerations indicate otherwise. The alternative approach in NPPF para 14 is not engaged.
22. As to whether Policies 1.CO and 3.CO are to be considered as relevant policies for the supply of housing in terms of NPPF para 49, the Council acknowledge that they are not currently able to demonstrate a 5 year housing supply, as required by NPPF para 47. The Cheshire East judgement (**CD045**, 51-57, 62) confirms that the reference in NPPF para 49 applies to policies relevant to the

² Section 38(6) of the Planning and Compulsory Purchase Act 2004

- site, not to the supply of housing, and that the natural meaning of these words would not include those policies which have the indirect effect of restricting housing development. It notes that the need for housing is not the only consideration in national planning policy, the protection of the natural environment being a key dimension of sustainable development, and that it was unlikely that the NPPF intended to treat such policies as out of date merely because they would have the indirect effect of restricting housing in identified areas without consideration of their wider planning purpose. Policies could not be simultaneously out of date and up to date, nor both policies for the supply of housing and not for the supply of housing. They must be one or the other.
23. At an appeal at Knowle Lane, Fair Oak (**CD212**) the Council conceded that Policy 1.CO should be treated as out of date by virtue of restricting housing development, but this no longer remains their view, following the Cheshire East case. They note that it is a policy that resists not only housing, but inappropriate commercial or retail development in the countryside. It appears in the countryside chapter of the Local Plan, which has the objectives to protect the countryside from inappropriate development whilst improving access and recreational facilities and managing areas where agriculture may be in decline. Policy 1.CO goes far beyond restricting the location of housing. The position is even clearer with respect to Policy 3.CO, and the appellants are no longer arguing that this is a policy for the supply of housing. Neither policy can be considered out of date in terms of NPPF para 49.
 24. Contrary indications in the officers' committee report (**CD089**) were written some 9 months before the Cheshire East judgement was issued, and the Council have reappraised their position in response to the new legal authority. In addition, the Statement of Common Ground (**CD005**) makes clear that the Local Plan is out of date only to the extent that it did not plan for development beyond 2011, and housing delivery policy 70.H was not saved. The Council are not of the view that the plan is out of date in its entirety. On the contrary, Policies 1.CO and 3.CO apply with full statutory force.
 25. Turning to the second ground on which the policies may be found to be out of date, this cannot simply be because of the age of the plan. They can only be rendered out of date by age where they have become inconsistent with national policy, as set out in NPPF paras 211 and 215 (see Wynn-Williams (**CO12**), paras 34-36). In this respect, the aims of policies 1.CO and 3.CO are entirely consistent with the core planning principles set out in NPPF para 17, and with the policies in NPPF paras 61, 109, 156 and 157.
 26. NPPF para 17 states that planning should be "...genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area...". The Hamble Parish Plan (**CD022**) sees the protection of gaps between settlements as preserving community identity. In this it reflects the unanimity of opposition to the proposal in the statements of local residents to the Inquiry, and by the 490 letters of objection to the initial application.
 27. NPPF para 17 goes on to state that planning should "...take account of the different roles and character of different areas, promoting the vitality of our main urban areas, ...recognising the intrinsic character and beauty of the countryside ...". Policy 1.CO protects the countryside from inappropriate

- development, whilst 3.CO has the specific role of preserving the identity of individual settlements by preventing their coalescence. In addition, NPPF para 17 identifies a need to contribute to conserving and enhancing the natural environment and reducing pollution.
28. Policies 1.CO and 3.CO also accord with the objective of NPPF para 61 to address the connections between people and places and the integration of new development into the natural, built and historic environment, and the need to protect and enhance valued landscapes in NPPF para 109. NPPF para 156 requires policies to deliver the conservation of the natural environment, including landscape, whilst para 157 concerns the need to "...identify land where development would be inappropriate, for example because of its environmental or historic significance".
 29. Overall, Policies 1.CO and 3.CO are not out of date in terms of NPPF para 49, having regard to the conclusions of the Cheshire East case; are consistent with the NPPF, and, accordingly, not out of date by reason of the age of the plan; and there is no other basis to support the conclusion that they should be considered out of date.
 30. In these respects, the Taylor Wimpey Appeal Decision Letter (**CDO42**) concerning development on land at Hamble Lane, Bursledon, has been overtaken by the subsequent legal authorities. Its conclusion that the relevant policies were not determinative, because despite consistency with the NPPF, their spatial application was out of date in relation to the objectively assessed development needs of the Borough, would not be supported by the Wynn-Williams (**CO12**) and Cheshire East (**CD045**) judgements.
 31. Rather, the test in the second part of NPPF para 14 is not triggered. The development plan is not absent or silent, nor are relevant policies out of date. In these circumstances the appeal must be determined in accordance with Policies 1.CO and 3.CO unless material considerations indicate otherwise. It is accepted that a balance must still be struck between factors militating against the development and those in favour, but only against the statutory imperative of Section 38(6) of the Planning and Compulsory Purchase Act 2004. In this respect, the housing shortfall is a relevant material consideration, and a weighty one given the NPPF policy to boost significantly the supply of housing. However, it does not have the same weight as development plan policy, a matter made clear in the Colman Judgement (**CD209**, para 23). South Northamptonshire (**CO11**, para 20) notes that, while material considerations may outweigh the requirements of the development plan, initially it is the plan which receives priority, with the scales not starting off in even balance.
 32. In physical terms, the proposal amounts to an island of isolated urban development in the middle of the designated local gap separating Bursledon, Hamble and Netley Abbey. It would lead to its significant erosion: visually, physically and irreversibly. Indeed, the application concedes that it would result in a reduced gap, but seeks to justify this by reference to landscape mitigation. However, Policy 3.CO does not provide for mitigation measures to compensate for the loss of gap, because, by definition, it is an area of open space. The gap does not necessarily have any special landscape quality, rather its importance lies simply in it being predominantly undeveloped, contributing to the perception of leaving one settlement before entering another. In this respect, there is no

- support in the Local Plan for local gaps being more important than strategic gaps. They both have the role of separating the settlements to which they refer. They meet the objectives set out in Policy 15 of the PUSH non-statutory regional plan (**CD054**) by avoiding urban coalescence, whilst including only land necessary for this purpose, and without precluding development in other areas. Over an extended period, opportunities have been taken to enhance the green infrastructure and countryside access, with a range of footpath trails and the Hound Corner Ecology Park.
33. Residents speaking to the Inquiry gave the community view of the value of the land, noting that it was the only area separating the surrounding villages, with their different and individual characters, and that users of the footpath appreciated its tranquil, rural character.
 34. Development in this location would undermine the primary purpose of the gap designation, and no attempt to soften the impression with new planting would mitigate for the loss of openness. In addition, development in this central location would threaten the future of the gap as a whole by rendering any other site with the gap virtually indefensible, leading to the urbanisation of the entire Hamble Lane corridor.
 35. Whilst the function of the gap does not require any special landscape quality, the development would, in fact, cause significant and adverse landscape impact, the extent of which has not been accurately assessed in the appellants' LVIA. In establishing the existing, visual baseline, it is noted that the site forms part of Character Area 13 Hound Plain in the Borough's Landscape Character Assessment (**CD063**), where the dominant quality is openness, with key issues including the contribution to separating settlements, and the pressure for development. It is publicly accessible by the footpath crossing the site, and visible from other areas, including registered and informal footpaths on adjoining land. The Council's landscape evidence draws attention to the number of viewpoints available, from which the loss of openness would be apparent. It is not accepted that the claimed benefits of the proposal, including consolidating existing development and providing recreational features and landscape would compensate for this loss. Nor is it accepted that the proposed development would provide a sense of arrival in Hamble; rather it would reinforce the urbanisation of the gap by extending the small scale cluster of development outside the village. The impact would not be adequately mitigated by being partially concealed by planting, and the proposed woodland planting would not provide an adequate separation of the development from the adjacent housing in Hound.
 36. There is no presumption in favour of unsustainable development, and the decision process set out in NPPF para 14 applies only if the development is sustainable [William Davis, **CD105**, para 46]. The planning system must achieve all three of the roles of sustainability set out in NPPF para 7 but particular weight may be given to a specific factor [see Dartford, **CD126**, para 46], which, in this case, would apply to the need to meet the environmental objectives set out in Policies 1.CO and 3.CO.
 37. Whilst it is accepted that the appeal site has a number of locational advantages, including the adjacency of Hamble railway station, and accessibility to bus services at the adjoining road intersection, it is important to remember that it

- falls outside any established settlement, with limited local facilities within walking distance. The nearest convenience store is 15 to 20 minutes away, with a wider range of facilities about 1.4 or 1.7 miles distant in the village centres. Nor can great weight be given to the appellants' assertion that Hamble is a net importer of labour, so that new housing would diminish the need for travel. 78% of Hamble residents currently travel outside Hamble for work, and there is no evidence that commuting patterns would be different for this development.
38. Finally, in terms of sustainability, reference is made to the view expressed in Bloor Homes (**CD210**, para 179) in which the damage caused to the character and appearance of a green wedge, and its role in separating settlements, would prevent it being considered as a sustainable form of development within the wide scope drawn for that concept in NPPF paras 18 to 219. Whilst accepting that all decisions on sustainability are for the judgement of the decision maker (Cheshire East, **CD045**, para 22-24) it follows that, if the development is deemed to harm the function of separating settlements or the amenity of footpath users, then there are grounds to consider it unsustainable, quite apart from the breach of the development plan.
39. Regard is had to the potential benefits of the proposal. There would be economic advantages, including those arising out of the jobs and investment of the construction phase, and the care home employment. There would be the environmental benefits of public open space and additional landscape planting (with the proviso that the latter is only offered to offset the visual impacts of the development, and that neither would make up for the loss of openness). The provision of car parking at Hamble Station would improve access and encourage the use of public transport, but it should not be of such a scale as to attract traffic from the surrounding area, with the proposal being significantly larger than that at Netley Abbey Station. The Council are investigating the feasibility of an alternative facility on land belonging to Hampshire County Council on the south side of the railway, including proposals to use an existing junction to avoid access problems on Hamble Lane. There is no reason to consider that the appellants' proposals would improve the environment of Hamble Station.
40. The contribution to meeting the housing need is a notable social benefit. However, with respect to the care units, they would be some distance from local facilities, and there is a wide range of provision in the locality, including 27 new flats on Hamble Lane, and a 65 bed care home has recently opened in Netley Abbey. In other respects, the housing land supply position is not a licence for unsustainable development in inappropriate locations, as is made clear in a number of ministerial letters, including the Planning Update Prior to the General Election of March 2015 and the associated Planning Advisory Service Statement (**CD194**). In this case, the development is contrary to Local Plan policy, faces significant local objection, and the Council are actively taking initiatives to meet the housing shortfall in more sustainable locations.
41. In conclusion, therefore, the proposal is contrary to development plan policies which are not out of date, and is not the sustainable form of development for which there is a presumption in favour. Even if the presumption in NPPF para 14 was engaged, the negative aspects of the scheme, including the landscape impact and the loss of openness, would significantly and demonstrably outweigh the benefits.

The Case for the Appellants

42. The following is a summary of the appellants' closing submissions. The full text may be read at **A014**.
43. The Council's case in both submissions and evidence has focussed on matters of legal approach and to countering an argument which is only peripheral to the appellants' case, and which does not arise out of the Officers' Committee Report. In fact, the legal and policy context is relatively straight forward: it is axiomatic that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Its origins lie in the statutory framework for the adoption of development plans and the lengthy process of consultation and independent examination which precedes it. Such a plan has the provenance and authority to be the starting point for planning decisions. However, problems arise when the process of adoption falls behind, and planning applications are in danger of being tested against policies which have lost their currency and fail to reflect present needs and priorities. Far from deserving greater authority, such plans must logically deserve less.
44. By 2010 many Councils were woefully behind the process of adoption and it was one of the express aims of the NPPF to reinforce the importance of up to date plans³. After an initial 12 month period of grace, only due weight is to be given to policies according to their degree of consistency with the NPPF⁴, which includes express provision for the approach to be taken where relevant policies are out of date⁵. In these circumstances, planning permission is to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. By this means, out of date development plan policies which do not reflect current needs and priorities are not permitted to frustrate the delivery of sustainable development.
45. This process does not bypass or override the development plan; nor could it. Rather, it sets up a presumption in favour of granting permission in a given set of circumstances following a carefully structured balancing exercise. Limited weight would continue to be accorded to any development plan policies with which the proposal is in conflict as part of the weighing of adverse impacts. However, it is unlikely that any significant weight would be attached to the mere fact of breach of an out of date policy⁶.
46. A policy may be out of date on its merits simply by virtue of its age and inconsistency with the NPPF. It is submitted that this must be the primary route by which a policy is to be regarded as out of date, but the NPPF also makes a provision in para 49 for policies to be considered out of date when they are a relevant policy for the supply of housing, and where the planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Whilst Cheshire East (**CD045**) was concerned with a finding in respect of the second (para 49) route, the judgement acknowledged the more general (and the

³ NPPF para 209

⁴ NPPF para 215

⁵ NPPF para 14

⁶ It is not clear what is meant in Cheshire East (**CD045**, para 62) by "effectively disapplied in its entirety".

appellants would say primary) approach through NPPF para 215, which is described as “a more nuanced approach to the treatment of out of date policies than para 49, with its sole focus on the supply of deliverable housing sites”. NPPF para 215 is potentially of general application to policies in a pre-NPPF plan.

47. The age of a plan is not, of itself, sufficient to establish that a policy is out of date, but can be a highly relevant factor when determining whether there is provision for current needs, especially in relation to policies with a spatial element which covers land which was not, at the time of adoption, required for development. Where there is a dependence on green field sites to meet development needs, and sufficient provision has been made for the period of the plan, it is inevitable that the balance of the local authority area will have been washed over by various types of protective designation. Such designation should be reviewed to avoid inhibiting future development, leading to the adoption of a replacement plan on expiry of its predecessor. However, where that process is stalled, or significantly behind schedule, the application of restrictive policies in a time expired plan can thwart the delivery of urgently needed development and, as such, is highly likely to be inconsistent with the principle of the NPPF, with its objectives to drive and support sustainable development to meet the country's needs and to respond positively to opportunities for growth⁷. The NPPF recognises the intrinsic character and beauty of the countryside, but cannot sensibly do so to the exclusion of its other objectives. A policy would plainly be out of date on its merits if its spatial application would risk defeating the delivery of sustainable economic development as advocated by the NPPF.
48. Because a policy is out of date does not mean that it is to be ignored and treated as irrelevant. The consequences of any breach of it are capable of being weighed as adverse impacts, but the mere fact of a breach should not normally attract significant weight, where the policy is out of step with national policy in the NPPF.
49. The Council's case is founded on alleged conflict with Policies 1.CO and 3.CO, which are contained in a plan which is nearly 10 years old, was originally proposed in its present form 13 years ago, and which made no attempt to provide for development needs after 2011. It means that development requirements have been completely unaddressed for the last 4 years, let alone the next 10 years, and the proposed replacement plan has been declared unsound by the Examining Inspector, largely for failing to make provision for sufficient new housing for Eastleigh. The new plan is not expected to be adopted before 2017, with the earliest predicted date for a revised draft being December 2015⁸. In the meantime, the Council acknowledge that the unsound draft plan should attract extremely limited weight⁹.
50. It is plain that the Council cannot rely on ten year old policies to deny development which is needed now, and this analysis has been adopted by various parties required to consider the proper approach to development in

⁷ NPPF para 17, first and third bullet points

⁸ Evidence to Inquiry by Cllr House

⁹ Ms Harding proof, Doc **CD217**, para 6.24

Eastleigh. Firstly, an appeal for residential development at Hamble Lane, Bursledon (**CD042**), in April 2014, found, at para 4, that the Local Plan was clearly out of date to the extent that it did not plan for development beyond 2011. It was noted that, despite the consistency with the NPPF of Policies 1.CO and 2.CO (a similar policy to 3.CO, concerning strategic gaps), their spatial application was out of date and must be altered to meet the needs of the Borough. The decision went on to record that permission had been granted for 900 homes in countryside, including sites within the strategic gap, concluding that the policies were out of date, both because of a shortfall in terms of the Council's housing land supply, and because of the restrictions imposed by their spatial application. The policies could not be accorded significant weight and the appeal was determined in accordance with NPPF para 14.

51. Secondly, the Council's own case officer and head of development control reflected the same considerations in the committee report of this appeal application (**CD089**), concluding that the policies were out of date and para 14 of the NPPF engaged. Thirdly, the examination into the draft Local Plan has found it to be unsound because of inadequate provision for development needs, with the Inspector identifying concerns about the justification for defining extensive gaps as a constraint policy (**CO06**, para 34), with no rigorous or comprehensive evidence basis for the location or extent of the designated areas (**CO05**, para 9). The corollary of this finding is that the historic designations of the gaps are time expired, and must be regarded as out of date in the present appeal.
52. There are, therefore, three highly authoritative pronouncements that the relevant policies are out of date on their merits, quite independently of the application of NPPF para 49. The first of these, the Hamble Lane, Bursledon, appeal is indistinguishable in its context from the present case, and it is well established case law¹⁰ that like cases should be decided in a consistent manner, for the benefit of all parties, and to secure public confidence in the development control system. Inspectors should have regard for this need for consistency and, when exercising their own judgement, must give reasons for departing from the conclusions of a previous decision.
53. The Council ignore the significance of the three determinations set out above, other than to suggest that the Bursledon appeal and the Council's committee report were prepared prior to the Cheshire East Judgement. The Council's case is based on the finding that it was unlikely to have been the Minister's intention that policies protecting the environment should be treated as out of date solely on the ground that their indirect effect was to restrict the supply of housing, without consideration of the wider planning purpose. However, this Judgement is plainly addressing the interpretation of NPPF para 49, rather than the 'primary' route by which a policy is treated as out of date on its merits, as set out above, (although it is referred to briefly in paras 55, 67-70, **CD045**). The Council are incorrectly conflating the two routes, and a proper interpretation of para 54 of Cheshire East does not support their case. Rather, the findings in the three examples given above are robustly reasoned, based on common sense, and are a legally accurate approach. In any event, it is noted that para

¹⁰ Fox Strategic Land, **A013**, para 145

- 54 is to be considered by the Court of Appeal later this year, with permission to appeal granted on the grounds that there is a real prospect of success.
54. Whilst the appellants do not rely on NPPF para 49, it is, nonetheless, the case that Policy 1.CO is precisely the type of counterpart policy envisaged in South Northamptonshire (**CD106**, para 47).
55. The consequence of the above submissions is that 1.CO and 3.CO are out of date on their merits, that NPPF para 14 is engaged, and that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
56. The Council argue that the scheme is not sustainable, and therefore NPPF para 14 has no application, with reliance being placed on the conclusions of William Davis (**CD105**). However, it is not permissible to apply the conclusions of this case to the present appeal, and it is not accepted that there is a necessity to carry out a prior test of sustainability before applying NPPF para 14. The balancing exercise envisaged by this paragraph takes place against the policies in the NPPF taken as whole, necessarily requiring consideration of the full range of facets of sustainable development. Cheshire East accepts that sustainability may be assessed after consideration of the weight to be applied to the development plan and housing supply (**CD045**, para 21), and that the question of sustainability is a planning judgement, which is not required to follow decisions reached under different circumstances (para 24). Judgement is case specific, within the principles set out in the NPPF.
57. In considering the benefits of the case, it is important to note that the site has been identified because its location, being at the intersection of Hamble Lane, the busy spine road of the peninsula, and the Southampton to Portsmouth railway line. Hamble is an unusual settlement for its size in that it supports very substantial employment, 91% of which is taken by in-commuters, the majority from Southampton. On the other hand, 78% of residents currently commute out of Hamble for work¹¹. The flows of traffic on Hamble Lane are such that the northern end is designated as an Air Quality Management Area (AQMA).
58. Despite this, nothing has been done to divert road trips along Hamble Lane to rail. There is no parking at Hamble Station, nor even a safe drop-off point. In this context, Netley Station is an entirely different location and provides no guide to the potential take up of parking at Hamble to achieve modal shift. The proposals, which have been prepared in consultation with Network Rail and Southwest Trains, include a proper car park, bus interchange, and station facilities to attract journeys presently made on Hamble Lane and the M27, at no cost to the public purse, with the potential for further expansion if needed. Out-commuters would have convenient parking, in-commuters would be able to continue their journey by bus, taxi, cycle or foot.
59. In addition, the scheme would fund, or part fund, junction improvements on Hamble Lane which, along with the station proposals, would have the potential

¹¹ Mr Shepherd's proof (**CD001**, paras 2.11, 2.12) indicates 4,547 jobs in 2011, and that there are 2,652 dwellings in Hamble.

to diminish air pollution by reducing congestion. The AQMA Action Plan (**CD025**) expressly identifies these schemes amongst its priorities.

60. The Council's attempt to distract from these comprehensive proposals by resurrecting a long neglected scheme for only 30 car spaces to the south of the railway is beset with difficulties, with no planning permission, no highways safety audit, no costings and no funding. The present Option 5 (**CD189**) for instance, would involve a circuitous route to the station with junction difficulties, no facilities, nor any prospect of a bus interchange or convenient drop-off point.
61. The locational advantages are not limited to the proximity of the railway. Despite the drawing of the Hamble settlement boundary some way to the south, in practice the site is perceived as being part of Hamble, a matter best experienced on the ground. The 'Welcome to Hamble' sign lies before the proposed site access, and, in close proximity are Hamble College, including a community leisure provision, the Medical Centre, Hamble Primary School, Hamble Station, and Hamble Garage. A Co-op and post office are within a reasonable walking distance, and several bus stops are close by. The full extent of local facilities is shown at **CD004**, plan A1. The site has very good connectivity to a wide range of services and facilities clustered around it, contrary to the impression given in the Local Plan proposals map, which washes over these elements as if they are countryside.
62. The need for housing is demonstrated in Mr Usher's proof (**CD003**), which has not been challenged by the Council, and which reflects the conclusions of the Local Plan Examination that the draft is unsound for failing to make adequate provision. The Council accept that they cannot demonstrate a five year supply, the level being shown by the appellants to be 2.92 years, or 1.78 years if the need for affordable housing is included.
63. In addition, the development would bring employment and economic benefits associated with the construction and permanent jobs at the care home, along with the provision of extensive multi-functional green space and an ecologically diverse landscape, to link with the Royal Victoria Country Park to the south. There would be public access to informal recreation on at least 6 ha of the appeal site, with maintenance provided in perpetuity; a significant improvement in countryside access, which is presently limited to a single footpath.
64. Overall, these benefits are substantial both individually and cumulatively, according with a whole range of NPPF objectives, and plan positively and sustainably for the future of the area.
65. From the Council's reasons for refusal, only the effect on countryside and the local gap remains, other than a supplementary, 'make-weight', concern about the loss of agricultural land. It is accepted that the proposals would result in the loss of countryside, but restricted to the 9 ha to be developed. Eastleigh will not be able to meet its housing land requirements without the loss of significant areas of countryside, as defined in the Local Plan, and it is inevitable that there will be a change to the open and undeveloped character of such land. This is not, of itself, an adequate ground to resist the development when there is no 5 year land supply, nor an up to date development plan.
66. The countryside at the appeal site is generally unremarkable, with no special viewpoints nor natural features of note. It is not farmed other than as an urban

fringe, horsiculture site. The local gap designation washes across the site, but it is the clear implication of the Local Plan Examination (**CO05** para 9) that it would not be supported without a rigorous or comprehensive justification. The PUSH criteria (**CD054**, Policy 15) require that gap boundaries should not preclude provision for necessary development, with no more land than essential to prevent the coalescence of settlements. The Council have not carried out the exercise necessary to justify the gaps, and in the meantime there is an urgent, unmet need for residential land which cannot wait for such an exercise to be carried out. Hundreds of units have already been permitted in gap land, and Councillor House acknowledged that hundreds more will receive planning permission shortly.

67. The gap between Hamble and Bursledon would not be materially affected by the development, and, in assessing its impact on the gap between Hamble and Netley Abbey, the evidence of Ms Toyne is commended (**CD002**), including the continuum of views in Appendix 4. The process of leaving Hamble at the Hound Corner roundabout and proceeding down leafy Hound Lane towards Netley Abbey would be large unaffected. From Hound corner the northern end of the site would remain as open pasture, bounded to the south by the reinforced, historic hedge. Beyond that, and at other locations around the site, there would be glimpses of the new development, but their extent a function of the landscaping scheme to be submitted as a reserved matter. The site is plainly not prominent in important or high sensitivity viewpoints, as demonstrated in the LVIA and Ms Toyne's evidence.
68. The land forms part of Zone 9d Coastal Plain Open, but wrapped around for more than half of its boundary by the Coastal Plain Enclosed sub area. The effect of the development, and associated planting, would be to move the site into the Enclosed sub area, a characteristic not shared with other potential sites in the open Hound Plain. In visual terms, a clear and material change would only be noticeable along the footpath crossing the site from Hound Road Gardens to Hamble Station. Even in this case, a 200m gap would be maintained between the areas of development, sufficient to fulfil the gap function between Hound Road Gardens, as part of Netley Abbey, and the new housing, as part of Hamble. Whilst it is acknowledged that the site does not abut an existing urban edge, as defined in the Local Plan Proposals Map, it capitalises on the concentration of sustainable services, facilities and linkages which are present at or near to the site. Finally, the loss of a modest area of the best and most versatile agricultural land is recognised as an adverse impact, but not one to which any great weight should be attached. No other adverse effects have been identified by the Council.
69. Therefore, this proposal must be assessed by reference to NPPF para 14, and, when weighing the adverse impacts against the benefits, the scales fall clearly on the side of allowing the appeal. Any adverse impacts are localised and limited, and not such as to distinguish this site from other greenfield land which will be required if Eastleigh is to meet its housing needs. On the other hand, there are very real and tangible benefits, including the delivery of an attractive station to correct the present unsustainable movement patterns in the Hamble Peninsula, alongside the provision of urgently needed housing.

The Case for Third Parties giving Evidence at the Inquiry

70. A number of County, District and Parish Councillors made presentations to the Inquiry, along with other interested parties, including local residents, all opposing the proposal. A schedule of appearances is shown at Annex 1, with written statements at **B001-0015**. The following is a précis of the main points.
71. The villages of Hamble, Bursledon and Netley have developed differently, within their own historical context. The site forms part of the open land which separates those settlements and maintains that distinctive character. The appeal proposal would not form part of those communities, but would amount to a detached urban area within the gap between them, increasing the likelihood of the further development of the Hamble peninsula and the growth of a sprawling conurbation. Whilst it is accepted that the land does not have a high landscape value, it remains as a recreational resource, with users of the footpath across it being sufficiently separated from the road and surrounding development to enjoy the tranquillity of the countryside, and the wildlife it supports.
72. Government recognises¹² that the NPPF is not intended to allow uncontrolled development, but gives weight to selecting appropriate locations which maintain sustainability. The Council have been proactive in seeking suitable land which meets this objective, whilst ensuring that the gaps between settlements are adequately retained. This is not a suitable location for new housing, nor for care home facilities, which would be remote from some services and where there is already suitable alternative accommodation in the area.
73. A major concern is the impact of further development on traffic congestion on Hamble Lane, which is reducing accessibility in the peninsula to the extent that existing businesses are considering relocation, and which leads to excessive pollution, as recognised by the establishment of an AQMA, as well as a loss of road safety. Local people, who are familiar with the road, do not share the Highway Authority's view that the proposed road upgrades would materially improve the situation, nor that the works would be likely to be forthcoming in the near future. There are also concerns about the safety of the proposed access position, adjacent to the railway bridge. The availability of local bus services has been overstated; there is only one route offering a regular, half hourly, service. The need for a station car park of the size proposed has not been proved, it would not operate as a park and ride facility, and could attract further traffic along Hamble Lane.
74. Other matters raised include the impact on existing infrastructure, such as schools, health provision, and utility services, which are presently over stretched and would not be able to meet the increased demand from the proposed new housing. There are safety issues arising out of the potential for an accident at the nearby oil depot.

Third Party Written Representations

75. The Planning Committee Report (**CD089**) notes at para 59 onwards that the planning application resulted in 490 letters of objection and 14 of support, with a further 26 letters of objection to revised plans. Approximately 20 letters of

¹² Extract from letter from Nick Boles MP dated 14/8/14 in doc **B006** pages 1&2

objection were sent to the Planning Inspectorate in response to the appeal application. In addition to the points set out above, the objections included reference to the nature of the indicative design proposals, with three storeys being inappropriate for this location, and that there would be a loss of residential amenity in the area. The affordability of the new housing was questioned, as was the effect of further road congestion on the local tourist industry. The development would result in the loss of high grade agricultural land, and an increased risk of flooding.

76. Amongst the factors put forward in support of the application it was noted that the location offers good access to the railway station and to employment opportunities in the area, that other parts of the Borough are having to accept new housing, that it would result in less environmental harm than development in Horton Heath, and that there would be a good mix of housing types.

Planning Conditions (in the event that the appeal is allowed)

77. The suggested planning conditions (**CO07**) were discussed at the Inquiry. As a result of that discussion, and taking account of the recommendations of the Planning Practice Guidance, a revised schedule is included at Annex 3. Bracketed numbers refer to the conditions in that schedule.
78. The approved access drawing is specified, for the avoidance of doubt and in the interests of proper planning (4), whilst the overall scheme should be in general accordance with the submitted illustrative plans to minimise the impact on its surroundings (5). It is likely that a project of this size would be developed in phases, so that prior agreement of a phasing plan is necessary to allow conditions to be applied to each stage of development (6). Details of highway construction (7) and surface water drainage (8) are needed to ensure the long term sustainability of the estate and, in the latter case, minimise the risk of flooding. Requirements to meet standards equivalent to BREEAM/Code for Sustainable Homes are provided to ensure a sustainable form of development, in accordance with the interim arrangements (9).
79. A Construction Management Plan (10) would minimise the impact on local amenity, as would restrictions on the burning of construction waste (12) and hours of operation (13). It is necessary to control the loss of mineral resources by requiring the use of material found during development (11), and conditions are needed to obtain an ecological mitigation plan (14) and to restrict periods of vegetation clearance (15) in the interests of protecting wildlife habitats. There should be adequate noise insulation of dwellings adjacent to the road and railway (16), and the control of noise generating plant (17), for the benefit of residential amenity. Vegetation to be retained should be adequately protected (18) for the appearance of the development, and archaeological interests would be served by a requirement to investigate and report on any finds (19). The nature of the new station facilities (21) and the time for their delivery (20) are controlled for the benefit of the transport system. To diminish the likelihood of a proliferation of communications equipment, harmful to the appearance the estate, there is a requirement for the prior agreement of a communications strategy (22).
80. Other suggested conditions concerning external materials, landscaping, footpath linkages, design features, and details of the station facilities involve aspects of the development which may be dealt with during reserved matters applications.

The diversion of public services and foul sewer arrangements are subject to other powers, and there is no clear evidence that a contamination survey is justified by the previous uses of the land.

Obligations (in the event that the appeal is allowed)

81. A completed agreement under Section 106 of the Town and Country Planning Act is contained at **A012**. In summary, it makes provision for affordable housing, for the station improvements, for the supply and maintenance of on-site open space, for off-site highway works and a travel plan, and contributions towards a range of infrastructure projects. Clause 21 indicates that there will be no requirement to meet any obligation which is found not to satisfy the requirements of Regulations 122 or 123 of the Community Infrastructure Levy (CIL) Regulations in the Secretary of State's appeal decision letter.
82. The need for the obligations is established by a range of Local Plan Policies, including 74.H (affordable housing), 147.OS (recreational open space), 165.TA (public art), 91.T (Hamble Station car park), 32-33.ES (air quality), 191.IN (infrastructure), and 100-103.T (transport), supported by Affordable Housing (**CD017**) and Planning Obligations (**CD018**) supplementary planning documents. In addition, a schedule prepared by the Council, justifying the need for the obligations, is included at **A011**, along with notes concerning public art and travel plan fees at **C009** and **C010** respectively. A letter from the Council at **A010** confirms their view that all the obligations meet the requirements of CIL Regulations 122 and 123.
83. In general, there are adequate grounds to consider that the development would place additional pressure on the existing infrastructure, including the road and transport system, education and health services, and community facilities, to justify the need for mitigation, as well as a requirement to provide and maintain recreational open space for the new residents and to contribute to the supply of affordable housing. Whilst there is limited information to support the specific sums involved, including those concerning supervision and maintenance, they do not appear out of keeping with the scale of the project.
84. The obligations would comply with the tests in Regulation 122 of the CIL regulations, except in two respects: a contribution to public art, and a requirement to prepare an Employment and Skills Management Plan. In the case of public art, the relevant policy, 165.TA, encourages developers to commission artwork, but falls short of creating an obligation to do so. Whilst the Obligations SPD refers to the positive effect of art in enhancing the environment, the requirement seems to amount to an extraneous benefit of the scheme, rather than addressing a harm which might arise out of it. Similarly, there is limited support for the necessity for an Employment and Skills Management Plan, which has the objective of providing employment within the local area. The Obligations SPD refers to the matter in relation to 'start up units', related only to business development. Again, it appears to serve a wider planning benefit, rather than being essential for the development to proceed.
85. With respect to meeting the terms of CIL Regulation 123, the Council's schedule (submitted at **A011**) indicates that all obligations would be in compliance, either because they are site specific, or because they relate to projects for which fewer than 5 contributions have been made. There is no direct evidence to counter this claim.

86. The Agreement leaves to the determination of the appeal decision whether the Community Infrastructure Contribution should be reduced to reflect the benefit of providing the new station car park and facilities, a point not agreed by the parties. Whilst station improvements are not directly referred to in the Obligations SPD, they would not be out of keeping with the general character of community infrastructure, and the necessity for a car park at Hamble Station is recognised in Local Plan Policy 91.T. An appropriate reduction in the contribution would seem to be justified.

Inspector's Conclusions

87. The numbers in square brackets refer to earlier paragraphs of relevance to the conclusions.

The Main Considerations

88. The following main issues were suggested to the parties at the Inquiry: i) the effect of the development on the character and appearance of the countryside and its role in separating settlements, and ii) whether any harm would be outweighed by the potential benefits of the development, including a supply of market and affordable housing, and the improvement of station facilities.
89. The Council's advocate questioned whether the issues gave adequate weight to the primacy of the development plan, but no alternative main issues were offered, and there was no substantial case that the suggested issues could not be properly considered in the context of Section 38(6) of the Planning and Compulsory Purchase Act 2004. Whilst a concern about the loss of agricultural land remains as one of the Council's reasons for refusal, it was clear from the evidence that this was not considered as a decisive point¹³, although it should be taken into account in the overall balance. No criticism was offered by the parties to its omission from the main issues. Other matters raised by third parties, and in particular a concern about the effect on road conditions, are noted but, for the reasons set out later, do not amount to main considerations in the appeal.

The Policy Context

90. The proposal would not fall within the specified uses in Local Plan policy 1.CO, and there is no suggestion that it would be acceptable by virtue of meeting the criteria of other policies in the Plan. Whilst there are different opinions about the impact of the development on the appearance of the area, there is no doubt that a development of this scale would diminish the Local Gap both physically and, to some degree, visually, contrary to policy 3.CO, even if it were shown that there were not other more acceptable locations. In these respects it would not comply with the development plan. Therefore, it is necessary to establish whether, and to what extent, the requirements of these policies would be outweighed by the provisions of the NPPF. It is the appellants' position that both policies are out of date, either by no longer meeting the development needs of the Borough, or by being for the supply of housing, where the Council cannot meet a five year land requirement, as set out in NPPF para 49. As such, planning permission should be granted unless any adverse impacts of doing so

¹³ See, for instance, the proof of Ms Harding (**CD217**) para 11.6

would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole¹⁴. [11, 20-21, 43-46]

91. Dealing first with the NPPF para 49 point, it is certainly the case that policy 1.CO falls within the countryside section of the Local Plan, with the intention of protecting and enhancing the rural area, and that the Cheshire East judgement (**CD045**) indicates that the definition of policies for the supply of housing should be limited to those which make provision for housing, rather than those which may restrict housing as a consequence of meeting other objectives. However, policy 1.CO is a general policy, applying to all land outside settlements. It is, in the terms set out in para 47 of the South Northamptonshire judgement (**CD106**), the counterpart, and therefore equivalent of, a housing supply policy by defining the location of development. Cheshire East (para 53) endorses this approach, noting that it is not open to inspectors to disregard distinctions between general policies to restrict development and those designed to protect specific areas and features. In this context, policy 1.CO is a general policy, rather than relating to a specific area or feature and, therefore, despite its location in the countryside section of the Local Plan, there are grounds to suggest that it amounts to a policy for the supply of housing in terms of NPPF para 49, and is out of date for this reason. [22-23, 54]
92. By comparison, policy 3.CO has the specific intention of protecting a limited area of Local Gap, for defined environmental reasons. The appellants do not put it forward as a policy for the supply of housing in terms of NPPF para 49, and this approach would appear to be consistent with the law on this point, including the judgements set out above, and with the conclusions of William Davis (**CD105**). [23]
93. The question arises whether 3.CO would, in any event, be out of date through no longer meeting the development needs of the Borough. Whilst it relates to a plan which was intended to span the period from 2001 to 2011, the passing of the end date would not, of itself, prevent full weight being given to the policy. Nor would it be out of date simply through being adopted prior to the publication of the NPPF¹⁵. It is the case that the boundaries of the Local Gap were drawn to suit the development requirements up to 2011, and the absence of a five year land supply now is indicative of an unmet need which is likely to require the allocation of green-field sites, including some within designated gaps. However, the inability to meet current needs does not invalidate the principle behind the policy. [47-49, 66]
94. It has a specific purpose: to prevent the coalescence of smaller settlements in order to maintain their separate identity. Such an objective requires some degree of continuity, otherwise a temporary cessation could materially prejudice its future operation. That is not to say that the boundaries may not be modified over time to meet development needs, either through the statutory plan process, or in response to specific proposals, but the decision is made in relation to the level of need established, and the degree to which the land in question contributes to the objectives of the policy. This does not amount to an abandonment of the policy, nor even a substantial reduction in the weight

¹⁴ NPPF para 14

¹⁵ NPPF para 211

attributed to it. It is certainly the case, as outlined by the local plan inspector (**CO05** and **CO06**), that continuation of a gap policy in the emerging local plan would require justification, but this falls short of proving that the principle of such a policy is now time expired. [47, 51, 65]

95. Nor is there is clear evidence that the objectives of policy 3.CO are out of keeping with the NPPF, in terms of para 215. The need to take account of the roles and character of different areas forms part of the core planning principles, and local plans should identify land where development would be inappropriate because of its environmental significance¹⁶. It is recognised that the NPPF also emphasises the need for growth, but it would not be inconsistent with Government policy for some areas to be protected from development to meet environmental objectives. [27-28, 47]
96. For the reasons given, there are grounds to conclude that policy 1.CO may be regarded as out of date, but that there is not justification for giving any substantial reduction to the weight applied to policy 3.CO. [55]
97. In reaching these conclusions, regard is had to two matters raised by the appellants: the outcome of the appeal decision granting permission for up to 150 homes on land at Hamble Lane, Bursledon, issued in April 2014; and the implication in both the committee report and the statement of common ground that the Council accept the relevant Local Plan policies to be out of date. On the latter point, it is certainly true that para 72 of the committee report (**CD089**) gives limited weight to the Local Plan in relation to that given to the NPPF, and that para 6.3 of the statement of common ground (**CD005**) acknowledges that the Local Plan is out of date to the extent that it does not plan for development beyond 2011. However, the Council point out that the committee report was written prior to case law on which they now rely, and that the statement of common ground does not amount to an agreement that the policies are out of date to the extent of triggering the process in the latter half of NPPF para 14. Either way, it is accepted in this report that the Council's position at the appeal has been the consistent view that policies 1.CO and 3.CO are not out of date, and this is the basis on which their evidence has been interpreted. [24, 51]
98. With respect to the Bursledon appeal (**CD042**), whilst the circumstances of the site were different from the present case, the appeal was decided on the basis of a similar policy background. The inspector determined that policies 1.CO and 2.CO (the equivalent of 3.CO, concerning strategic gaps) should be considered out of date, referring to their spatial application, which did not reflect development needs beyond 2011. [50]
99. It is clearly important to achieve consistency in decision taking, and a previous appeal can be an important material consideration. However, the evaluation is also subject to the other information presented by the parties and to any changes of circumstances. The evidence offered in the present appeal, including the growing body of judicial opinion about the operation of the NPPF, supports a different conclusion about the status of policy 3.CO. The Council draw attention to the Wynn-Williams (**CO12**) and Cheshire East (**CD045**) judgements, for instance, both of which post-date the Bursledon appeal, and

¹⁶ NPPF para 157

which highlight the difficulty of finding a policy to be out of date, and yet consistent with the requirements of the NPPF. [25, 30, 50, 52-53]

100. The documents¹⁷ concerning the forthcoming Court of Appeal review of the Cheshire East judgement are noted, but, for the time being, the judgement remains in place and what, if any, effect the Court of Appeal decision would have on the law applying to this appeal cannot be determined. However, it can be said that the matters raised, which mainly concern the application of NPPF para 49, would not necessarily alter the assessment of the main thrust of the appellants' argument concerning the other reasons for finding policies to be out of date.

Character and Appearance, and Role of the Local Gap

101. The site is given over to pasture, with vegetation largely confined to the outer boundaries, and few significant landscape features within it. It was in use for cattle grazing at the time of the site visit, but the evidence indicates it is also used for horse-keeping. Despite this, it retains a largely rural character, rather than the mix of non-rural uses, or deteriorated condition, which might be associated with an urban fringe site. It does not, on the other hand, have any great intrinsic landscape value and, because of the flatness of the land around it, views across the site from public areas are limited by the boundary vegetation. [9, 65]
102. The construction of buildings on the site would inevitably increase its prominence. The parties hold conflicting opinions about the degree to which the finished scheme would be visible, and the effect it would have on the appearance of the area and those experiencing it¹⁸. It would certainly be possible to screen or soften the view by the retention and reinforcement of landscape planting, but glimpses of the development would remain from adjoining land, and particularly at the estate entrance. Its presence would be clearly apparent, because a development of this scale could not be accommodated without a fundamental change to the character of the land. It would have an urbanising influence on its surroundings. [32, 34-35, 65, 67-68]
103. The question arises as to the extent to which the locality is already urbanised, such as to diminish its role of separating settlements. The appellants point to the amount of development in the vicinity, including the station, police college, garage, health centre, community college, and the row of housing opposite the site in Hamble Lane. It is suggested that the proposal would help to consolidate this edge of settlement development, whilst at the same time retaining open land to the west and north to provide a clear separation from the housing in Hound and the groups of buildings on Hound Road. [61]
104. These points are noted, and it is certainly the case that the existing buildings opposite the site, particularly the row of housing on Hamble Lane and the community college to the rear, have a relatively intensive, suburban character, as does, to a less visible extent, the housing in Hound. However, in other respects, the development in the area is subordinate to the open space around

¹⁷ See **CD047**, Skeleton Argument; **CD046**, Permission Notice; **A015**, Skeleton Argument by SOS; and responses by the Council and appellants (**C014** and **A016**)

¹⁸ See Ms Toyne's evidence on her LVIA at **CD002** and Mr Davies' response at **CD216**

it. The overall impression is of openness, to which the site is a major contributor, by forming part of a swath of predominantly open land from the Victoria Country Park to the farmland in the north. The land around the site, and the adjoining areas south of the railway, do not have the continuity or intensity of development which might lead to the perception that they form part of the urban area of Hamble. The positioning of the town signage to the north of the site does not represent the edge of the settlement on the ground. [35, 61]

105. Sporadic development, such as that in the vicinity of the site, is not uncommon in the area, and there may be circumstances where new buildings would help to consolidate and give a more coherent identity to the existing built form. However, this is not such a case. The nature and scale of the proposal would transform this part of the peninsula into an independent zone of suburban development, detached from any existing settlement, but close enough to both Hamble and Netley to diminish any sense of separation of those settlements. This effect would not be overcome by the proposal to retain open space on the northern and western sides of the site. The gap between the new development and the housing in Hound, even if planted as woodland, would not be of sufficient width to clearly distinguish the settlements, and it would do little to alter the perception of the estate from Hamble Lane, the main source of public views. [16, 32, 35, 67-68, 71]
106. Therefore, whilst the site does not demonstrate any special landscape quality, its function in forming part of a Local Gap is served by its openness. It is not within a settlement, nor is it a natural extension of any settlement, and its central location would increase the impact of the loss of openness on the setting of the surrounding towns. It would harm the character and appearance of the countryside to the extent of undermining its role in separating communities, and contribute to their coalescence and loss of independent identity, contrary to the objectives of Local Plan Policy 3.CO. [32]

The Benefits of the Proposal

107. The appellants draw attention to a range of social, economic and environmental benefits, but with particular emphasis on the supply of market and affordable housing to meet an acknowledged need, and the provision of facilities for Hamble Station.
108. The Council acknowledge that they are not able to demonstrate more than a four and a half years supply of deliverable housing land, and it is the appellants' view that the actual level is significantly less. It is not necessary for this report to carry out a detailed analysis of the housing land supply position, which is better left to the Local Plan examination, where all the evidence is available to the inspector. However, it can be said that there is a material shortfall against the five year supply required by NPPF para 47, and that there is evidence¹⁹ of an existing need for affordable housing. In these circumstances, the provision of up to 225 homes, 35% of which would be affordable, would be a significant advantage arising out of the scheme. It is also the case that the new dwellings would meet sustainable construction and accommodation standards, and be of a mix to satisfy a wide range of housing needs. In these respects, the

¹⁹ See for instance the South Hampshire Strategic Housing Market Assessment 2014 (**CD074**)

- development would help to meet the NPPF objectives of boosting significantly the supply of housing, and delivering a wide choice of high quality homes. [62, 76]
109. The choice of accommodation would also be boosted by the provision of 100 care and extra care spaces. The Council's Accommodation for Older People and Those in Need of Care SPD, 2011 (**CD019**), draws attention to the growing size of the elderly population and the unmet need for appropriate facilities. Whilst the evidence submitted to this appeal draws attention to a number of recent care schemes in the vicinity, it falls short of proving that there is not an outstanding demand, whether in the local or wider area. In addition, such accommodation would be likely to release a supply of existing, under-used homes to meet the general housing demand. [40, 72]
110. Hamble Station presently has no parking area, drop-off point, or other station facilities. The proposal to incorporate these features would be a significant benefit, identified in Local Plan (**CD20B**) policy 91.T as one of a list of important schemes to support the Borough's Transport Strategy. The appellants point out²⁰ that patronage of the station has quadrupled since 1991, nearly twice the national average, and that a large proportion of both workers and residents in Hamble commute to work²¹. Additional facilities would increase the attractiveness of the station and encourage more sustainable commuting patterns, as well as diminishing the likelihood of traffic difficulties arising out of inappropriate waiting on Hamble Lane, or parking in nearby roads. The appellants point out that this would be carried out without cost to the public purse (albeit with a reduction in the community infrastructure contribution, if the recommendations in the Obligations section of this report are accepted). [39, 58, 86]
111. The Council have prepared feasibility studies (**CD189, A007**) for an alternative scheme on the southern side of the station, with plans for a 30-40 space car park and drop-off area. The appellants may be entitled to some scepticism about the timing of this work; the proposal had been mooted since at least 2003 without effective action until the appeal scheme was submitted. Nonetheless, there is no compelling reason to consider that the proposal is not a serious attempt to meet the Local Plan objective, nor that the potential difficulties associated with it, including access onto Hamble Lane, could not be overcome by the options under consideration. It would not be of the size, nor have the expansion potential, of the appellants' proposal, but it would go some way to securing the same advantages. [39, 60]
112. Other potential benefits put forward include: the provision of public open space on the site, which presently only has access via the footpath crossing it, and linkages to the surrounding footpath system, including the designated 'Strawberry Trail'; ecological enhancement by introducing woodland, grassland and meadow with connections to the adjacent country park and nature reserve; highway improvements in Hamble Lane intended to mitigate the effect of the development, but also providing wider benefits; and the contribution of an estimated £13m per annum to the local economy, as well as the employment

²⁰ Mr Evan's proof, para 4.51 (**CD004**)

²¹ Mr Evan's proof, para 4.39 (**CD004**)

and investment arising out of the care homes and construction programme. [39, 59, 63]

Other Matters

113. Hamble Lane is a relatively narrow road, with a number of junctions, which experiences high traffic levels and periods of congestion. There is a concern on the part of local residents that a development of the scale of the appeal proposal would exacerbate these problems. However, the appellants have prepared a comprehensive Transport Assessment (**CD118**) which has formed the basis of discussions with the Highway Authority, and overall agreement that, subject to a range of off-site highway improvements and adoption of a Travel Plan, the impact of the development could be adequately mitigated, as confirmed in the Transport Statement of Common Ground (**CD006**). There are no substantial grounds to challenge this conclusion. [18, 73]
114. Similarly, there is not reason to consider that the range of obligations within the Section 106 Agreement would not adequately overcome any shortfall in the local infrastructure, nor that matters such as the impact on habitats, and the risk of flooding, could not be resolved by the use of conditions. There is no official objection arising out of the proximity of the oil depot, nor clear evidence that the health and safety risks would be such as to prevent development in this area. Issues of design and local residential amenity would form the subject of reserved matters decisions. The Council raise no objection on the basis of harm to the setting of Listed Buildings or other heritage assets, and there is no reason for this report to take a different view. [10, 74-75]
115. The site is largely composed of Grade 2 and 3a agricultural land. Planning authorities should seek to direct development to poorer quality designations where there would be a significant loss of agricultural land, in accordance with NPPF para 112. The appellants point out that this does not amount to an absolute exclusion of development from the Best and Most Versatile land, nor that a loss of this order would necessarily be considered as 'significant', noting that only half the site would be developed. These points are noted, but, because of the nature of the proposals, it seems unlikely that the retained open space would ever be suitable for arable farming, and an area of 22ha would, in normal parlance, be considered a large site, over the threshold at which Natural England should be consulted²². However, it is also likely that the degree of significance would rely on an overall picture of the agricultural land supply position in the region, and the attendant economic consequences of any loss, on which there is limited information available. The Council do not put forward this issue as being of decisive importance in the appeal, and, in the circumstances, it is not possible to give it substantial weight. [68, 75]

Sustainability and Overall Conclusions

116. When assessed against the criteria in para 7 of the NPPF, the supply of market and affordable housing, along with care facilities, would make a significant contribution to meeting the social role of sustainability, complemented by the provision of public open space, although, in the latter case, at the expense of the loss of the rural character of the public footpath crossing the site. The

²² Ms Harding proof, para 11.3

additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall. There would be the environmental and community benefits arising out of the station improvements (but having regard to the Council's alternative scheme), any spin-off advantages for traffic and pollution levels, from the off-site highway works, and the environmental and ecological aspects of the landscaping proposals. [39, 63, 71]

117. As to whether this is a sustainable location in terms of accessibility is not agreed by the parties. It is certainly true that there would be very good access to the rail station, and the availability of a regular bus services, as well as the mix of facilities in the area, including educational institutions and the local health centre. On the other hand, town centre shops and services would be at some distance, in the surrounding settlements, as would the nearest convenience store, although, in the latter case, the new retail outlet at the station might supply some day to day needs. Whilst there is no clear reason to conclude that the new residents would seek local jobs any more than the existing population, there would be good availability of employment in the area, and easy access for rail commuting to Southampton or Portsmouth. On balance, this is a reasonably sustainable location in terms of accessibility. [37, 57, 61, 73]

118. To set against these positive aspects is the environmental and social damage which would arise out of the loss of the gap between the surrounding settlements, involving the physical intrusion into an area of countryside, and contributing to the coalescence of those settlements, and loss of independent identity. This would be clearly contrary to Local Plan policy 3.CO, but also those policies of the NPPF which apply the principle of recognising the different roles and character of different areas. This land performs a function which is specific to its location and which would be permanently undermined by the development. The countervailing benefits of the scheme, as well as compliance with other development plan policies, are recognised, but they would not outweigh the harm that this loss of separation would cause. Taken as a whole, the proposal does not amount to the form of sustainable development for which there is a presumption in favour. [36, 56, 69]

Recommendations

119. For the reasons given, it is recommended that the appeal be dismissed. If the Secretary of State is minded to grant permission, it is recommended that it be subject to the conditions in Annex 3 of this report.

John Chase

INSPECTOR

ANNEX 1

APPEARANCES

FOR THE APPELLANTS:

Mr T Hill QC	instructed by Barton Willmore
He called	
Ms L Toyne BA, DipLA, DipTP, CMLI	Barton Willmore
Mr P Evans DipTP, DipMgmt, MRTPI, CILT	Transport Planning Associates
Mr R Shepherd BSc, DipTP, MRTPI	Barton Willmore

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Stinchcombe QC	instructed by Eastleigh BC Legal Services
He called	
Ms R Harding BSc, MA, MRTPI	Paris Smith LLP
Mr J Davies MA, DipLA, CMLI	Eastleigh Borough Council

INTERESTED PERSONS REPRESENTING GROUPS AND ORGANISATIONS:

Mr P Holland	Chairman Hound Parish Plan Steering Group
Mr K Sandom	Sitting Ducks Action Group
Ms S Hamel	Parish and Borough Councillor
Mr B Gibbs	Clerk to Hamble Parish Councillor
Mr J Forder	Representing Hound and Bursledon Parish Councils
Mr K House	Borough and County Councillor

INTERESTED PERSONS SPEAKING ON THEIR OWN BEHALF:

Mr I Wilkinson	Local Resident
Mr D Airey	Local Resident
Mr W Pepper	Local Resident
Ms H Oldrey	Local Resident
Mr M Latham	Local Resident
Ms S Bennett	Local Resident
Ms R Dorman	Local Resident

ANNEX 2

DOCUMENTS

Core Documents (agreed by main parties)

Application Documents

- CD177 Application Form 24th October 2013
- CD117 Design and Access Statement Addendum February 2014
- CD118 Environmental Statement October 2013
- CD119 Economic Benefits Report October 2013
- CD120 Open House Assessment December 2013
- CD121 Open House Assessment Addendum February 2014
- CD146 Site Boundary Plan - drawing no. 13e
- CD147 Land use parameter plan – drawing no. 22c
- CD148 Access and movement parameter plan – drawing no. 23c
- CD149 Building heights parameter plan – drawing no. 25e
- CD150 Illustrative site layout – drawing no. 28l
- CD151 Parameter plan –green infrastructure – drawing no. 45e
- CD152 Application masterplan – drawing no. A132b
- CD153 Proposed site access – drawing no. Fig 6.1c
- CD154 Land use parameter plan – drawing no. 22d
- CD155 Access and movement parameter plan – drawing no. 23e
- CD156 Building heights parameter plan – drawing no. 25f
- CD157 Illustrative site layout – drawing no. 28m
- CD158 Parameter plan –green infrastructure – drawing no. 45f
- CD159 Application masterplan – drawing no. A132c
- CD160 Land use parameter plan – drawing no. 22e
- CD161 Access and movement parameter plan – drawing no. 23f
- CD163 Illustrative site layout – drawing no. 28p
- CD165 Housing Land Supply Statement (2013 – 2018) February 2013
- CD166 Design and Access Statement October 2013
- CD167 Application Masterplan – drawing no. A132E
- CD168 Letter to Andy Grandfield 5th March 2014
- CD170 Housing Requirements Assessment – Technical Note February 2014
- CD171 Amendment package – list of documents
- CD172 Appendix 1 amendments submission
- CD173 Sustainability Statement February 2014
- CD174 Email from Gemma Care to Andy Grandfield 26/02/2014
- CD175 Arboricultural Assessment October 2013
- CD176 Covering Letter 25th October 2013
- CD178 Statement of Community Engagement October 2013
- CD179 Green Infrastructure Parameter Plan 45h 18/02/214
- CD182 Land Use Parameter Plan 22d 28/10/13
- CD211 Access Movement Parameter Plan 23e 28/10/13

Planning Decision

- CD114 Copy of Decision Notice 17th July 2014
- CD089 Planning Committee Report dated 26th June, 2014

Proofs of Evidence

- CD001 Proof of Evidence of Robin Shepherd (Planning)
- CD002 Proof of Evidence of Lisa Toyne (Landscape and Visual Assessment)
- CD003 Proof of Evidence of Daniel Usher (Objectively Assessed Needs)
- CD004 Proof of Evidence of Peter Evans (Transport/Sustainability)
- CD216 Proof of Evidence (+ appendices) of Julian Davies
- CD217 Proof of Evidence (+ appendices and rebuttal proof) of Ruth Harding

Statements of Common Ground

- CD005 Planning Statement of Common Ground
- CD006 Transport Statement of Common Ground
- CD007 5 Year Housing Land Supply Statement of Common Ground
- CD008 Minerals Statement of Common Ground

Appeal Documentation

- CD011 Appeal Application Form
- CD009 Council's Statement of Case
- CD010 Appellants' Statement of Case
- CD085 Facilities Plan Drawing No. 12H May 2015
- CD086 Barton Willmore Notes of Eastleigh Developer Forum May 2015
- CD087 Walking Distances Plan drawing no. 53 May 2015
- CD088 Raw data analysis of commuting patterns in Hamble-le-Rice May 2015
- CD197 Plan showing Appeal Site in context of the Countryside 2015
- CD198 Plan showing Appeal Site in context of the Local Gap 2015
- CD199 Plan showing Appeal Site in context of Adjoining Land Uses 2015
- CD203 Plan 1 - Photographic Viewpoints, photographs of site
- CD204 Appraisal of Barton Willmore's Landscape Effects Table
- CD205 Appraisal of Barton Willmore's Visual Effects Table 2015
- CD206 Plan showing Application/Appeal Sites on Hamble Peninsular
- CD214 BW Landscape Corrigendum Note June 2015
- CD188 Draft Schedule of Conditions

Policy Documents

- CD015 Supplementary Planning Document "Environmentally Sustainable Development" March 2009
- CD016 Supplementary Planning Document "Quality Places" November 2011
- CD017 Supplementary Planning Document "Affordable Housing" July 2009
- CD018 Supplementary Planning Document "Planning Obligations" July 2008, updated 2010
- CD019 Supplementary Planning Document "Accommodation for Older People and those in Need of Care" May 2011
- CD020 Eastleigh Borough Local Plan (EBLP) (2011 – 2029) February 2014
- CD020A EBLP (2011 – 2029) Pre-Submission August 2012
- CD020B Eastleigh Borough Local Plan Review (Local Plan) May 2006
- CD021 Hound Parish Plan 2012
- CD022 Hamble Parish Plan 2008 (updated 2010 & 2012) Hamble Parish Council
- CD054 PUSH South Hampshire Strategy October 2012
- CD083 Hampshire Minerals and Waste Plan (HMWP) August 2014, Hampshire County Council
- CD099 Eastleigh Local Plan Review Second Deposit Draft May 2003
- CD116 Proposals Map – Revised Pre Submission EBLP February 2014

- CD180 Direction under Paragraph 1(13) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. Saved Policies Direction May 2009
- CD181 Hampshire Minerals and Waste Plan October 2009

Government Policy/Guidance

- CD012 National Planning Policy Framework
- CD091 PPG ID 2a – Housing and Economic Development Needs Assessment
- CD092 PPG ID 3 – Housing and Economic Land Availability Assessment
- CD093 PPG ID 12 – Local Plans
- CD094 PPG ID 27 – Minerals
- CD095 PPG ID 8 – Natural Environment
- CD096 PPG ID 37 – Open Space, Sports and Recreation Facilities, Public Rights of Way and Local Green Space
- CD097 PPG ID 23b – Planning Obligations
- CD098 PPG ID 42 – Travel Plans, Transport Assessments and Statements in Decision Taking
- CD112 Planning for Growth Ministerial Statement March 2011
- CD194 Planning Update Prior to General Election and Planning Advisory Service Report March 2015
- CD195 Town and Country Planning (Development Management Procedure) (England) Order 2015

Additional Background Documents

- CD023 Report on the Examination into Eastleigh Borough Council's Local Plan 2011 – 2029
- CD024 Community Investment Programme List - (Bursledon, Hamble Le Rice and Hound) February 2012
- CD025 Hamble Air Quality Management Area Action Plan 2012 - 2017
- CD048 Eastleigh Borough Community Plan 2009-2013 September 2009
- CD049 EBLP Sustainability Appraisal July 2014
- CD050 EBC Monitoring Report April 2010 – April 2012 February 2013
- CD051 EBLP Background Paper G4 - SLAA July 2014
- CD052 PUSH Economic Development Strategy – Preferred Growth Scenario June 2010
- CD053 PUSH Economic Development Strategy Employment Sites & Premises Demand & Supply Analysis October 2010
- CD055 Eastleigh Borough Infrastructure Delivery Plan July 2014
- CD056 Making the links - the relationships between proposed housing and employment requirements July 2014, Eastleigh Borough Council
- CD057 Solent LEP Strategic Economic Plan March 2014
- CD059 PUSH Quality Places Charter 2010
- CD060 Green Infrastructure Background Paper October 2014, Eastleigh Borough Council
- CD061 PUSH Green Infrastructure Strategy June 2010
- CD062 PUSH Policy Framework for Gaps 2008
- CD063 Landscape Character Assessment Background Paper December 2011, Eastleigh Borough Council
- CD064 Hampshire Integrated Character Assessment 2011, Eastleigh Borough Council
- CD065 Eastleigh Borough Economic Development Strategy 2013 - 2015
- CD066 Solent LEP Economic Outlook March 2014
- CD072 EBLP Background Paper H1 - Housing July 2014

- CD073 Analysis of objectively assessed housing needs in the light of 2012-based sub-national population projections, Eastleigh Borough Council
- CD074 PUSH Strategic Housing Market Assessment January 2014
- CD075 Housing Strategy for Eastleigh 2012-17, Eastleigh Borough Council
- CD076 Eastleigh Borough Council's Older Person's Accommodation Strategy 2004 – 2007
- CD077 Housing provision for older people in Hampshire 2009, Hampshire County Council
- CD078 Housing Implementation Strategy - 12/14 Dec 2014, Eastleigh Borough Council
- CD079 Housing Implementation Strategy - 09/14 September 2014, Eastleigh Borough Council
- CD080 Demography Background Paper July 2014, Eastleigh Borough Council
- CD081 Community infrastructure Background Paper February 2014, Eastleigh Borough Council
- CD082 Hampshire Strategic Infrastructure Statement April 2013, Hampshire County Council
- CD100 Draft housing allocation WE11 (EBLP) – Land at Ageas Bowl and Tennis Centre, Botley Road, West End February 2014
- CD101 Draft housing allocation WE10 (EBLP) 0- Household Waste Recycling Centre, Botley Road February 2014
- CD102 Draft housing allocation Bi1 (EBLP) – Land west of Church Road, including The Mount Hospital, Bishopstoke February 2014
- CD103 Proposed strategic location for residential development – Land South of Chestnut Avenue, Stoneham Park, Eastleigh (Policy S3, EBLP) February 2014
- CD111 Hampshire Minerals and Waste Safeguarding Protocol (Draft November 2013) November 2013
- CD113 Eastleigh Borough Housing Services Update Spring 2015
- CD122 Hearing Statement – EIP Session 1 – Statutory and Regulatory Matters October 2014
- CD123 Hearing Statement – EIP Session 2 – Housing Needs October 2014
- CD124 Hearing Statement – EIP Session 3 – Housing Supply and Delivery October 2014 Barton Willmore
- CD125 Hearing Statement – EIP session 4 – Flexibility and Future Review October 2014
- CD183 Solent Disturbance and Mitigation Project
- CD184 Public Art Strategy (2011-2014)
- CD185 Open Space, Public Art and Community Infrastructure Projects List (Bursledon, Hamble Le Rice and Hound) March 2015
- CD186 Plan showing Open Space, Public Art and community Infrastructure Projects Sites 2014
- CD187 Developer Contributions Towards Children's Services Facilities 2013
- CD189 Draft Feasibility Report for Station Car park South of Railway April 2015
- CD190 Cabinet Report for Station car park south of Railway May 2015
- CD191 Cabinet Meeting Minutes for Station Car park South of Railway May 2015
- CD192 Schedule of Planning Permissions 2014/15 June 2015
- CD193 London and South East Rail Utilisation Strategy July 2011 Network Rail
- CD196 Map 12.07 of the On-line Definitive Map of Public Rights of Way 2008
- CD200 Map 12.07 of On-Line Definitive Map of Public Rights of Way 2008
- CD201 Hamble Walking Trail Leaflet, Royal Victoria Country Park Map
- CD202 Strawberry Trail Walking Leaflet

- CD207 Agricultural Land Classification Map - London and the South East 2010
- CD208 Plan showing bus routes on Hamble Peninsular 2015
- CD032 Land at Moorgreen Hospital & Moorgreen Dairy Farm, West End Development Brief, April 2015
- CD033 Appendix A (Statement of consultations Moorgreen Hospital Development Brief) (consultation between 19th December 2014 to 30th January 2015)

Transport Documents

- CD026 Hampshire Local Transport Plan 2011 – 2031 April 2013
- CD027 Manual for Streets 2007
- CD028 Manual for Streets 2 September 2010
- CD029 DMRB (TD 9/93 and TD 16/07) February 2002
- CD030 Home to School Travel and Transport Guidance July 2014
- CD067 Transport Background Paper July 2014, Eastleigh Borough Council
- CD068 Eastleigh Borough Transport Statement 2012
- CD069 Link Road North of Botley - Technical Feasibility Study March 2013
- CD070 EBLP Background Paper T13 – Proposed Botley Bypass July 2014
- CD071 TfSH Transport Delivery Plan 2012 – 2026 February 2013
- CD090 Hamble Area Transport Strategy Document 4th November 2003, Hampshire County Council

Appeal Decisions

- CD034 Appeal Decision – Land at Tilehurst Lane - APP/R0335/A/2219888
- CD035 Appeal Decision – Land north of Milcote Road, Welford on Avon, Warwickshire
- CD036 Appeal Decision – Land at Pulley Lane, Droitwich Spa – APP/H1840/A/13/219426
- CD037 Appeal Decision – Long Marston, Pebworth – APP/H1840/A/13/2202364
- CD038 Appeal Decision APP/H1840/A/12/2171339
- CD039 Appeal Decision APP/J0405/A/13/2210864
- CD040 Appeal Decision APP/F1610/A/11/2165778
- CD042 Appeal Decision APP/W1715/A/13/2207851
- CD043 Appeal Decision APP/R0660/A/13/2209335
- CD212 Appeal Decision - APP/W1715/A/14/2219953
- CD213 Appeal Decision - APP/W1715/A/04/1144508
- CD215 Appeal Decision – APP/Y2810/A114/2228921

Court Judgements

- CD045 Cheshire East Borough Council and 1) SSCLG 2) Richborough Estates Partnerships LLP [2015] EWHC 410 (Admin)
- CD046 Cheshire East Borough Council and 1) SSCLG 2) Richborough Estates Partnerships LLP, Permission Notice Court of Appeal
- CD047 Cheshire East Borough Council and 1) SSCLG 2) Richborough Estates Partnerships LLP, Skeleton Proof
- CD105 William Davis – [2013] EWHC 2058 (Admin) 11/10/2013 High Court
- CD106 South Northants – [2014] EWHC 573 (Admin) 10/03/2014 High Court
- CD109 Hopkins Developments Ltd v SSCLG [2014] EWCA Civ 470, Court of Appeal
- CD126 Dartford BC v SSCLG June 2014
- CD209 Colman v SSCLG [2013] EWHC 1138
- CD210 Bloor Homes East Midlands v SSCLG [2014] EWHC 754 (Admin)

Representations

CD127-144 Letters of representation

Other Appeal Documents (separately bound)

- APP001 Council's Statement of Case and Appendices
- APP002 Council's Appeal Questionnaire and Supporting Information
- APP003 Public Responses to Planning Application
- APP004 Hamble Station Car Park Feasibility Assessment for Eastleigh BC
- APP005 EIA Part 3 Environmental Statement Adequacy Check against Schedule 4 of the EIA Regulations

Documents submitted at the Inquiry

Appellants' documents

- A001 Letter from Newlyns Farm Shop etc dated 22 June 2015
- A002 Policy background of Bloor Homes East Midlands v SOS of CLG
- A003 Policy background of William Davis v SOS of CLG
- A004 Policy background of South Northants v SOS of CLG
- A005 Policy background of Cheshire East v SOS of CLG
- A006 List of appellants' witnesses
- A007 Hamble Station Car Park Preliminary Feasibility Study, Appendices
- A008 Draft Section 106 Agreement
- A009 Letter containing Network Rail requirements
- A010 Letter from Council confirming CIL R122 and 123 compliance
- A011 CIL compliance schedule (on behalf of the Council)
- A012 Section 106 Agreement
- A013 Fox Strategic Land v SOS for CLG [2012] EWCA Civ 1198
- A014 Closing Submissions on behalf of the Appellants
- A015 Letter from Barton Willmore enclosing Skeleton Argument on behalf of the Secretary State in the Appeal of the Cheshire East Judgement (post Inquiry)
- A016 Appellants' submission responding to Council's C0014 (post Inquiry)

Council's Documents

- C001 Opening submissions on behalf of the Council
- C002 Eastleigh BC v SOS of CLG and Taylor Wimpey [2014] EWHC 4225 (Admin)
- C003 Letter from Network Rail
- C004 Letter from Primary Care Development Lead, NHS West Hampshire Clinical Commissioning Group
- C005 Local Plan Examination – Inspector's Post Hearing Note 3
- C006 Local Plan Examination – Inspector's Preliminary Comments and Questions, August 2014
- C007 Proposed Schedule of Conditions
- C008 Closing Submissions of behalf of the Council
- C009 Justification from Public Arts Officer
- C010 Justification for Travel Plan Fees
- C011 South Northamptonshire Council v SOS for CLG [2013] EWHC 11 (Admin)
- C012 Wynn-Williams v SOS for CLG [2014] EWHC 3374 (Admin)
- C013 Ivan Crane v SOS for CLG [2015] EWHC 425 (Admin)
- C014 Council's response to Appellants' A015 (post Inquiry)

Third Party Documents

- B001 Sitting Ducks submission
- B002 Cumulative impact of development proposals in area
- B003 Notes of submission by Keith House
- B004 Notes of submission by David Airey
- B005 Notes of submission by William Pepper
- B006 Notes of submission by John Forder
- B007 Notes of submission by Suzy Hamel
- B008 Extract from Draft Eastleigh Borough Local Plan 2011-2029
- B009 Extract from Local Plan Review (2001-2011)
- B010 Notes of submission by Rosemary Dorman
- B011 Notes of submission by Brendan Gibbs
- B012 Appeal Decision – APP/R0660/A/14/2213505
- B013 Decision Notice – Application No 13/2649N, Cheshire East Borough Council
- B014 Extract the Draft Eastleigh Local Plan 2011-2029, Policy HA1
- B015 Notes of submission by Mark Latham

Richborough Estates

ANNEX 3

SCHEDULE OF PLANNING CONDITIONS

- 1) 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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The access arrangements hereby permitted shall be carried out in accordance with Plan No 1301-62 Fig 6.1 (c).
- 5) The Development hereby permitted shall be consistent with the approach set out in the Illustrative Site Layout Plan shown on Drawing No. 21288/28P; Application Master Plan 21288/A132E; Land Use Parameter Plan 21288/22E; Access and Movement Parameter Plan 21288/23F; Building Heights Parameter Plan 21288/25E; and Green Infrastructure Parameter Plan 21288/45H.
- 6) Prior to the commencement of development a phasing plan shall be submitted to, and approved in writing, by the local planning authority. The development shall thereafter accord with this plan unless otherwise agreed in writing by the local planning authority.
- 7) Prior to the commencement of each phase of development, details of the type of construction proposed for the roads and footways within each phase of development including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels together with details of street lighting and the method of disposing of surface water and details of the programme of implementation for the making up of the roads and footways shall be submitted to and approved in writing by the local planning authority. Each phase of the development shall be carried out in accordance with the approved details.
- 8) No phase of development shall take place until details of the implementation, maintenance and management of a sustainable drainage scheme for the site have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include a timetable for its implementation, and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 9) No phase of development shall take place until a report demonstrating compliance with a standard equivalent to BREEAM 'very good' for the care facilities and not less than the water and energy requirements equivalent to Level 4 of the Code for Sustainable Homes for dwellings has been

- submitted to and approved in writing by the local planning authority. No building shall be occupied until the works have been carried out in accordance with the approved details.
- 10) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: i) the location of temporary site buildings, compounds and areas used to store plant, equipment and materials; ii) arrangements for the routing, turning and access of lorries to, from and within the development site; iii) arrangements for the parking of vehicles of site operatives and visitors; iv) measures to control emissions of dust and dirt; v) arrangements for the storage, collection and disposal of waste; vi) Mud and dust prevention measures; vii) the erection and maintenance of security hoardings, including any decorative displays and facilities for public viewing; viii) temporary lighting; ix) noise generating plant; and x) a public communication strategy.
 - 11) No development within any phase shall commence until a minerals recovery method statement is submitted to and approved in writing by the local planning authority. The Statement shall include a method for ensuring that such minerals that can be viably recovered during the development operations are so recovered and put to beneficial use, and a method for recording the quantity of recovered minerals. All works for that development phase shall be carried out in accordance with the approved methodology throughout the construction period.
 - 12) During the construction and fitting out of the development hereby permitted, there shall be no burning of waste material on site.
 - 13) During the construction period, no construction or deliveries to the site shall take place on Sundays or Bank Holidays or outside the following times: 0800 to 1800 on Mondays to Fridays; and 0900 to 1300 on Saturdays.
 - 14) No development within each phase shall take place until an ecological mitigation and management plan including details of proposed mitigation and ecological enhancements and their long term management has been submitted to and approved in writing by the local planning authority. Development of that phase shall be carried out in accordance with the approved details.
 - 15) Vegetation shall not be cleared from the site during the months of March through to August, inclusive, unless supervised and controlled by an appropriately qualified ecologist.
 - 16) Prior to the commencement of any phase of the development hereby permitted a detailed assessment of noise arising from Hamble Lane, the railway line, the railway station and car park, and plant and machinery, and a detailed noise mitigation scheme to address such noise (with measures to provide specified internal and external noise standards to include site layout and building orientation, building construction, glazing and mechanical ventilation), shall be submitted to and approved in writing by the local planning authority. The internal noise standards to be achieved shall be agreed in writing by the local planning authority prior to the submission of the noise mitigation scheme. The noise mitigation measures

shall be installed in accordance with the approved details prior to the residential occupation of any building to which they apply, and shall thereafter be retained in working condition.

- 17) Prior to the commencement of each phase of development details of the installation of plant and equipment, including air conditioning units, which give rise, or are likely to give rise, to noise or emissions to air of either ash, dust, fume, gases, grit, odours or soot shall be submitted to and approved in writing by the local planning authority. Such details shall identify any necessary mitigation and include a programme of implementation. The development shall not be carried out otherwise than in accordance with the approved mitigation which shall be fully implemented before any building within that phase is occupied.
- 18) Before any equipment, materials or machinery are brought onto site for the purposes of commencing development on any phase of the development, an Arboricultural Method Statement and a Tree Protection Plan shall be submitted to and approved in writing by the local planning authority. Development shall proceed in accordance with the approved details.
- 19) No development shall take place 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. A report of the results of any archaeological field work shall be submitted to the local planning authority within 3 months of completion of such work, setting out, as appropriate, post excavation assessment, specialist analysis and reports, and details of publication and public engagement.
- 20) No dwelling shall be occupied until the station parking of 100 spaces and secure cycle parking; storage lockers; motorcycle parking; pick-up and drop-off facilities; bus stops; pedestrian access ramp, taxi waiting and collection points; bike hire provision; and electric vehicle charging points have been provided.
- 21) The station kiosk/farm shop/café (with associated toilets) shall have a gross external floor area no greater than 100 sqm and shall be used for no other purpose or use and shall remain ancillary to the primary use of Hamble Station as indicated in the application.
- 22) Prior to the commencement of each phase of development, details of a technology and communications strategy for the provision of broadband and/or fibre optic and audio visual technology within that phase shall be submitted to and approved in writing by the local planning authority. The infrastructure shall be provided in accordance with the approved details for use upon first occupation of the buildings hereby permitted within that phase and retained thereafter.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.