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## Appeal Decision

Inquiry held on 18 November 2014

Site visit made on 18 November 2014

**by K G Smith BSc(Hons) MRTPI**

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

**Decision date: 18 December 2014**

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**Appeal Ref: APP/W1715/A/14/2216921**

**St Swithun Wells Church and adjacent land, Allington Lane, Fair Oak, Eastleigh SO50 7DB**

- 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 Portsmouth Roman Catholic Diocesan Trustees against the decision of Eastleigh Borough Council.
  - The application Ref O/13/72471, dated 1 May 2013, was refused by a notice dated 16 October 2013.
  - The development proposed is the construction of up to 72 homes, including a new junction with Allington Lane, new pedestrian links and the reconfiguration of the existing Church car park.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the construction of up to 72 homes, including a new and an amended junction with Allington Lane, new pedestrian links and the reconfiguration of the existing Church car park at St Swithun Wells Church and adjacent land in accordance with the terms of the application, Ref O/13/72471, dated 1 May 2013 and the plans submitted with it, subject to the conditions set out in the Schedule of Conditions at the end of this Decision, before the list of appearances.

### Background

#### *Introduction*

2. The application is in outline with all matters other than access to be reserved for future consideration. In addition to the proposed new access to Allington Lane, the existing access is to be altered. Therefore, I shall amend the title of the application to read: "the construction of up to 72 homes, including a new and an amended junction with Allington Lane, new pedestrian links and the reconfiguration of the existing Church car park."
3. The 2.92 hectare site abuts the built-up area of Fair Oak and it includes the Church, its parking and part of the access to The Kings School. Trees within most of the site are subject to the Borough of Eastleigh Tree Preservation Order 552 (2006).
4. A S106 Agreement, in its almost final form, was examined at the inquiry. It had not been signed or dated by the three parties. I allowed 14 days for it to

be completed. I received the signed and dated document on Friday 28 November.

***The agreements between the main parties***

5. In the second Statement of Common Ground (SoCG), the main parties agree on what are the most relevant policies, the paragraphs from the National Planning Policy Framework (the Framework) and the relevant Supplementary Planning Documents. Also, they agree that little weight should be applied to the proposed policies of the submitted Eastleigh Borough Local Plan 2011-2029 (EBLP) relating to the inclusion of the appeal site in open countryside and its non-allocation as a housing site.
6. Saved Policy 81H(ii) of the Eastleigh Borough Local Plan Review 2001-2011 (EBLPR) proposes the appeal site as a reserve housing site to be developed "when there is a robust justification" for its release. But subject to this, Saved Policy 83H, which deals with a larger reserve housing site of some 20.26 ha that includes the appeal site, states that development will be permitted if specific criteria are met, on a timetable and specification for the dedication of land including Quobleigh Pond and woods to public ownership, a detailed landscaping scheme to mitigate the impact on the local landscape and the provision of 35% affordable housing.
7. There were nine reasons for refusal. Negotiations between the appellant and the Council led to agreement being reached on every one, as described in the Statements of Common Ground (SoCGs). The only witnesses called, two by the appellant and one by the Council, dealt with conditions and the S106 Agreement.
8. The Council has no in-principle objection to residential development at the appeal site. Indeed, it now invites the grant of planning permission.
9. The basis for the agreement on the nine reasons for refusal is as follows:
  - **Reason 1 on Site constraints – biodiversity, utility easements and trees.**

**Biodiversity interests** could be met by a condition requiring a great crested newt (GCN) survey, land to be set aside for GCNs, plus management and monitoring provisions and a GCN underpass to be constructed to the southernmost access to the site. An additional illustrative master plan (Ref 2680 18 Rev A in Appendix 7 of Doc 17) shows one way that adequate areas of the site could be made available for development and as habitat for protected species.

**Protection of the 24 inch water main** could be secured with a 14 metre easement (7m each side) within which an adoptable highway could be built, subject to construction safeguards.

**Root protection zones** for trees have been agreed. The additional illustrative master plan demonstrates how 72 dwellings could be accommodated on the site without any significant adverse impact on the trees. The Council does not object to the illustrative tree removal details and accepts that those to be retained could be adequately protected. Further planting could be secured by a condition.
  - **Reason 2 on prejudice to the development of the larger reserve housing site** has been withdrawn by the Council.

- **Reason 3 on access** has been resolved by negotiation: it has been agreed that adequate access points could be provided in terms of configuration and visibility splays; the developer would fund a scheme to upgrade the route connecting the site to Dean Road/Dell Close/rear of Wyvern School; the developer would make a contribution of £6,000 towards the cost of procuring a Traffic Regulation Order for the extension of the 30 mph limit on Allington Lane. These matters could be addressed by conditions and the Obligation. This reason is withdrawn.
- **Reason 4 on affordable housing** could be addressed by the Obligation. This reason is withdrawn.
- **Reason 5 on Habitats Regulations Assessment** has been withdrawn in the light of the GCN conditions for Reason 1 and a document entitled 'Information to inform a Habitats Regulations Assessment', submitted to the Council on 29 October 2014. The Council is satisfied, as required under the Habitats Directive, that the development would not result in a significant effect on: the River Itchen Special Area of Conservation; the non-statutory Site of Nature Conservation Importance (or SINC) of Quobleigh Ponds and Woods (part of which is within the appeal site at its eastern extremity), with two other SINCS nearby (in Doc 112, Appx 2 Fig 1); or on any protected nature conservation sites or habitats or protected species. I agree.
- **Reason 6 on noise** could be met by an appropriate condition. Reason withdrawn.
- **Reason 7 on contamination**, after further site investigations, could be met by conditions.
- **Reason 8 on surface water drainage** could be met by a condition.
- **Reason 9 on developer contributions** could be met by the S106 Agreement to provide contributions in line with Council policy.
- The main parties also agree that the provision of market and affordable housing (35% or up to 25 units) in this accessible location would be benefits from the development as well as the dedication of the area of SINC land within the site together with habitat and other enhancement measures.
- Lastly, the SoCG confirms that the parties disagree on whether the Borough can demonstrate a **5 year supply of housing land**. The Officer report to Committee states that "Eastleigh cannot currently demonstrate a five year housing supply...". An April 2014 appeal decision, following a three day inquiry for up to 150 homes at Hamble Lane, Bursledon, concluded similarly (Doc 115, Appx 8, para 37). However, the Council now argues that it has a five year supply. Its case to the inquiry is that, if a 5% buffer for choice and competition were to be applied, there would be a supply of 5.1 or 5.9 years based on the 'Sedgefield' and the 'Liverpool' methods respectively or, with a 20% buffer (for persistent under delivery) it would be 4.4 or 5.2 years. The appellant's case is that the Eastleigh supply is 2.42 years or, when using the Council's assumptions on housing supply and requirements, 4.58 years.

### **S106 Obligation**

10. The Obligation takes the form of an Agreement signed by the appellant and the County and Borough Councils. Its main provisions are 10 index-linked contributions to the Borough Council for things such as community infrastructure, play area, on- and off-site public open space, public art, maintenance of the SINC within the site and a Traffic Regulation Order, plus two to the County Council for education and sustainable integrated transport, which includes footpaths, cycleways and public transport.
11. No less than 35% of the dwellings to be built would be affordable units in locations, clusters and types of tenure to be agreed.
12. Provision is made for a dispute resolution procedure, for the On-Site Open Space Land and Play Area, for dedication of the SINC land and for details of the calculation of the various contributions.
13. Regulation 122 of the Community Infrastructure Levy Regulations (the CIL) (as amended) provides that it would be unlawful to take a planning obligation into account if it does not meet all of the three tests which, in summary are: necessary to make the development acceptable, directly related to it and fairly and reasonably related to it in scale and kind. The Council has provided details of the relevant policy support for infrastructure, services, facilities and amenities, for sustainable transport, on- and off-site public open space and public art. Its Supplementary Planning Document provides guidance on developers' contributions, its Community Investment Programme Priorities for the local area have been provided and details of specific schemes are submitted for Local Green Space and Wildlife Sites.
14. In addition, an assessment is made based on the transport impact as quantified by the net increase in multi-modal trips that would be generated, leading to a Sustainable Integrated Transport contribution requirement. A number of schemes are identified in the Bishopstoke Road corridor, including reducing congestion at the Allington Lane junction that could take the form of signalisation (albeit that the Transport Assessment indicates that this might not be necessary) and a pedestrian crossing, plus other schemes in this corridor which would reduce travel times between Fair Oak and Eastleigh town centre. Other schemes are the Eastleigh to Fair Oak cycle link, passenger transport services and infrastructure and Traffic Regulation Orders, which would be likely to include parking restrictions on the Allington Lane site frontage.
15. The local schools will be full for the foreseeable future and the education contribution would assist expansion of the Fair Oak Infants School at Botley Road. As to public art, the most appropriate local scheme to benefit has been selected.
16. The Council's evidence on the contributions is convincing. I am satisfied that the three CIL tests would be met for each contribution.

### **Main Issues**

17. The main issues are, firstly, housing land supply and, secondly, whether the concerns of residents, either jointly or severally, would justify the refusal of planning permission.

## **Reasons**

### ***Housing Land Supply***

18. The first SoCG listed housing land supply as an area of dispute but, in the second one, the appellant argues that 'the substantial shortfall is a significant material consideration in support of the appeal' while the Council considers that the supply question is not material to the determination of the appeal. The parties agreed that there was no need to present oral evidence on the issue but they would, had I so required.
19. I have read the lengthy written evidence on this subject but, in the light of the Council's invitation to grant planning permission, of the agreements reached that have overcome all nine reasons for refusal, the suggested conditions and the S106 Agreement, I ruled that little would be gained by spending one or possibly two days of inquiry time, that would be expensive for both the public and the private purse, in hearing oral evidence on housing land supply.
20. The Council relies on the submitted EBLP, on which limited weight can be placed because this submitted Plan has just started (on 10/11/14) its examination hearing. Also, the Council accepts that the South Hampshire Strategy (SHS) for the Partnership for Urban South Hampshire (PUSH) authorities, was not subject to public consultation or to full sustainability appraisal, to Habitats Regulations assessment or to transport assessment and that it does not provide a sound basis for the identification of future housing needs.
21. The PUSH South Hampshire Strategic Housing Market Assessment (SHMA) provides projections of housing need to 2036 for two housing market areas, focused on Portsmouth and Southampton, for 11 partner authorities. This SHMA does not seek to set targets for how much or what types of homes each of the partner authorities should plan for. It is part of the evidence base to assist the PUSH authorities in their review of the spatial strategy for the area to 2036. The SHMA confirms that it is now for the partner authorities to bring together the SHMA evidence with other factors to determine what level of development should be planned, in each area and across the PUSH area as a whole.
22. The review of the PUSH SHMA is in progress and consultation on strategic options is not expected until mid-2015.
23. An assessment (June 2014) of the SHMA, in the light of the subsequently published 2102 Sub-National Population Projections, gave an annual estimated need for 549 dwellings for Eastleigh, slightly less than the emerging local plan figure of 564 units pa and much lower than the 617 pa in the SHMA. While the PUSH SHMA (2,045 dwellings pa) figure is 'strongly supported' in the above report, I note that the 2012 based projections, which reduce the Eastleigh figure from 617 to 549 dwellings pa are based on assessing demographic trend projections and seem to rely on other authorities making up the shortfall.
24. Indeed, the Council acknowledges that the PUSH authorities will face a significant challenge when deciding the distribution of the additional dwellings within the various authorities of the Portsmouth and the Southampton housing market areas. The EBLP is seen by the Council as the basis for future housing needs for the medium term, to be rolled forward when agreement is reached

- for the strategy in the sub-region for accommodating development needs to 2036. On the 'need' side alone of the five-year supply equation, there are too many unknowns to be confident that the housing needs for Eastleigh, even for the medium term, are adequately known.
25. Moreover, on the question of the past supply of housing, there is dispute over which annual and five-year requirements should be used: housing supply Policy 70H of the adopted EBLPR was not saved in May 2009 when it was replaced by the Regional Spatial Strategy for the South East of England (the South East Plan or SEP) and this has since been revoked; the South Hampshire Strategy (October 2012) is a non-statutory plan that followed revocation of the SEP; and the submitted EBLP 2011-2029 is currently undergoing the start of the examination hearing process.
26. Using the adopted EBLPR requirement, there was an undersupply in five of the seven years from 2002/3 to 2008/9. And if the adopted Plan requirement had continued, there would have been an undersupply in the next two years. In addition, for the last three years, there has been an undersupply compared with the requirements of the submitted EBLP and of the SHMA. I acknowledge the effect on house building of the economic circumstances since 2008. Nevertheless, I am satisfied that there has been a persistent under-delivery of housing, such that an additional 20% buffer should be applied (moved forward from later in the plan period). Also, the Sedgfield methodology to deal with this in the first five years of the plan period accords most closely with the aim of the Framework to boost significantly the supply of housing.
27. Thus, the housing requirement is not clearly defined and, with the 20% buffer and the Sedgfield methodology, the Council's own figures confirm that there would not be a five-year supply.

### ***Resident objections***

28. The Council's report to Committee advises that 31 representations were submitted, all objecting to the proposal. These objections cover some 33 heads of objection on a wide variety of subjects. One of the objections is from the Fair Oak and Horton Heath Parish Council. In addition, there were 7 letters of objection at the appeal stage and 3 residents spoke at the inquiry.
29. I will deal with the most significant heads of objection. It can be seen from paragraphs 10-16 above that the contributions in the S106 Agreement would meet a number of the concerns raised. For example, I refer to the complaint about the inadequacy of school places in paragraph 15.
30. As to traffic, highway safety and parking, a condition is suggested to secure appropriate visibility splays at the junctions of the estate roads with Allington Lane. A detailed Transport Assessment (TA) has been submitted that analyses carefully the questions of sustainable transport and accessibility as well as traffic impact, parking and servicing. The TA confirms that a pedestrian footpath is proposed from the development to Dean Road to give pedestrian access to local schools. The Highway Authority has no objections in principle to the appeal. I am satisfied that the traffic that would be generated would not give rise to any unacceptable highway impacts.

31. The Church car park would be re-positioned rather than be lost and current parking arrangements with The Kings School would continue, subject to agreement.
32. Ecological concerns could be met by the several conditions on this subject that have been suggested as well as the SINC contribution in the S106 Agreement. Also, it is to be noted that the buzzards' nest lies outside the site and would not be affected.
33. The submitted Flood Risk Assessment shows that the site is not subject to flooding. The Environment Agency has no objections and conditions are suggested to deal with foul and surface water drainage, including ensuring that the run-off from the site would not increase as a result of the increased area of impermeable surfaces by requiring that measures be taken to ensure that existing 'greenfield' run-off rates would not be exceeded.
34. Concerns about loss of privacy within or next to the proposed housing development, as well as the design and appearance of the housing, would no doubt be examined by the Council at any detailed application stage. In this context, the belt of trees to the north of the site would afford good screening between the site and the existing occupiers of the Dean Road and Annfield Close properties.
35. Disruption during construction works could be ameliorated by a condition to limit working hours.

### **Overall Conclusion**

36. When examined in the light of the S106 Agreement and of the suggested conditions, the concerns of the Parish Council and the residents do not represent substantiated planning reasons to dismiss the appeal.
37. The saved policy for the release for housing of the larger (20.26 ha) reserve housing site requires robust justification for that much larger area. However, the Council, while arguing that it has a five-year housing land supply, invites the grant of permission for the development of the (2.92 ha) appeal site within that larger reserve site.
38. The Council's housing land supply position is in a state of flux. Nevertheless, the evidence convinces me that there is not a five-year supply, which brings into play paragraphs 47, 49 and 14 of the Framework. There is no dispute that the proposed development would be sustainable.
39. The benefits from the appeal proposal, as set out in the SoCG, include the provision of market and affordable housing, the dedication of the SINC and other land or provision for its protection for nature conservation purposes, habitat enhancement, preservation of woodland and enhanced landscaping and tree planting.
40. Weighing the above factors in the decision-making balance, it is clear that any adverse impacts of granting permission would fall far short of the benefits when weighed against the policies in the Framework as a whole. I have no doubt that this appeal should be allowed.

## Conditions

41. Several of the suggested conditions (for example, one that would require the implementation of a contamination remediation scheme in accordance with approved details) included a 'tailpiece' along the lines of '..... unless varied with the written permission of the Local Planning Authority'. As discussed at the inquiry, such 'tailpieces' have been found to be unacceptable; I have removed them from the conditions.
42. Conditions 1-3 will secure the submission of the necessary details. No 4 requires appropriate visibility splays at the junctions with Allington Lane, while No 5 deals with details of foul drainage and Nos 6, 16 and 17 with measures to prevent disturbance from noise and/or vibration. Concerns about site contamination and underground gas from previous landfill works are met by Nos 7 and 8; the latter removes Permitted Development rights because extensions to houses or the construction of outbuildings could require ground gas protection measures.
43. Condition 9 and 10 seek to secure safeguards to water quality, at least in part for nature conservation reasons, while No 10 also will ensure that the amount of surface water leaving the site will not change; the 'greenfield' run-off rates will be maintained. Nos 11, 12, 13, 20 and 21 are nature conservation protection measures, while 14 and 15 will protect trees from damage and 18 and 19 will secure the development of sustainable homes.

*K G Smith*

Inspector

## SCHEDULE OF CONDITIONS

1 The development hereby permitted shall begin either:  
a) No later than the expiration of three years from the date of this permission; or  
b) No later than the expiration of two years from the date of approval of the last of the reserved matters to be approved.

2A No development shall start until details of the:

- a) layout of the site.
- b) scale of the buildings.
- c) external appearance of the buildings
- d) landscaping of the site

[hereafter called "the reserved matters"] have been submitted to and approved in writing by the Local Planning Authority. Application for the approval of the reserved matters shall be made within three years of the date of this permission. The development shall accord with the approved details.

2B The approved drawings are: the Site Location Plan number 2680-11 Revision A and the Site Plan number 2680-12 Revision A.



3 No development shall start until the details listed below have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the approved details have been fully implemented unless agreed in writing by the Local Planning Authority and shall include:

- a) Details and samples of the materials to be used in the construction of the external surfaces of the development.
- b) The alignment, design, height and materials of all walls, fences and other means of enclosure.
- c) The details and layout of foul sewers and surface water drains.
- d) Plans including cross-sections to show proposed ground levels and their relationship to existing levels both within the site and on immediately adjoining land.
- e) Width, alignment, gradient, sight lines, lighting and type of construction proposed for any roads, footpaths and accesses. These shall be designed in accordance with the Manual for Streets and any lighting shall be sited to minimise spillage and avoid impacting on flight corridors used by bats.
- f) Details for ongoing management and maintenance of any roads, footpaths and accesses including any future plans for adoption.
- g) The provision to be made for the parking of vehicles.

4 The development hereby permitted shall not be brought into use until a plan showing the visibility splays (at the junctions of the access points to Allington Lane) has been submitted to and approved in writing by the Local Planning Authority. Nothing over 0.6m in height above the level of the nearside edge of the Allington Lane carriageway shall be placed or permitted to remain within the approved visibility splay.

5 Detailed proposals for the disposal of foul water (including a programme for implementation) shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development hereby permitted. The development shall not be carried out otherwise than in accordance with the approved details.

6 Prior to the commencement of the residential development hereby permitted, a detailed assessment of noise impact arising from The Kings School and St Swithuns Church and, if required, a detailed noise mitigation scheme to address such noise (with measures to provide satisfactory 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 noise standards to be achieved shall be agreed in writing by the Local Planning Authority prior to the submission of the noise mitigation scheme. Any required noise mitigation measures, as approved in writing by the Local Planning Authority, shall be fully installed and verified as performing as required prior to the first occupation of each dwelling unit, and thereafter shall be retained.

7 A No work shall commence on site until the following have been submitted to and approved in writing by the Local Planning Authority:  
(i). a Report of Preliminary Investigation comprising a Desk Study, Conceptual Site Model and Preliminary Risk Assessment documenting previous and existing land uses of the site and adjacent land in accordance with national guidance and as set

out in Contaminated Land Report Nos. 11, CLR11 and BS 10175:2011+A1:2013 Investigation of potentially contaminated sites - Code of Practice.

(ii). a Report of a site investigation documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the Preliminary Investigation and in accordance with BS10175:2011+A1:2013, and BS8576:2013.

(iii). a detailed site specific scheme for remedial works and measures to be undertaken to avoid the risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring.

Such a scheme shall include nomination of a competent person to oversee the implementation of the works. The nominated person shall not be appointed unless his or her appointment has been agreed in advance by the Local Planning Authority.

7B The development hereby permitted shall not be occupied/brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of condition A(iii) that any remediation scheme required and approved under the provisions of condition A(iii) has been implemented fully in accordance with the approved details.

Such verification shall comply with the guidance contained in CLR11 and EA Guidance for the Safe Development of Housing on Land Affected by Contamination - R&D Publication 66: 2008. Typically such a report would comprise:

(i) A description of the site, its background and a summary of relevant site information,

(ii) a description of the remediation objectives and remedial works carried out,

(iii) verification data, including - data (sample locations/analytical results, as built drawings of the implemented scheme and photographs of the remediation works in progress),

(iv) Certificates demonstrating that imported material and/or material left in situ is free from contamination and that gas/vapour membranes have been installed correctly.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition A(iii).

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 [or any order revoking and re-enacting that Order with or without modification], no development permitted by Classes A and E of Part 1 of Schedule 2 of the Order shall be carried out without the prior written consent of the Local Planning Authority.

9 A Construction Environmental Management Plan (CEMP) shall be produced before development commences, incorporating safeguards to ensure that there is no impact on the water quality within the Allington Stream as a result of the construction process. The CEMP shall include:

- Details of existing contaminants;
- Safeguards that ensure that contaminants are contained on site and do not enter the Allington Stream;
- Silt traps and other safeguards to ensure no increases in silt within surface water discharged into the Allington Stream;
- Drip trays, oil interceptors and other safeguards that ensure any oil/petrol spills are not discharged with the surface water that drains into the Allington stream.

10 No development shall start until details of a sustainable drainage system (SuDS) have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- Details of the filtration proposed to ensure good water quality within the water leaving the site.
- Surface water shall receive primary and secondary treatment prior to discharge, with oil and silt interceptors being incorporated into the SuDS.
- Management/maintenance details to show that surface water flows into Quobleigh Wood and the Allington Stream reflect flows currently with no increase or decrease in quantities.
- A timetable for its implementation.
- A plan for the lifetime of the development [including the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime].

The system shall be implemented and thereafter managed and maintained in accordance with the approved details.

11 No development shall commence until an Eradication of Invasive Non-Native Species (INNS) Strategy has been submitted to and approved in writing by the Local Planning Authority to ensure that INNS and in particular Himalayan Balsam are removed from the site. The approved strategy shall be implemented in accordance with a timetable to be approved as part of the Strategy.

12 A reptile translocation, mitigation, management and monitoring strategy shall be submitted to the Local Planning Authority no later than submission of the first reserved matters application for the development. No development shall commence until the strategy has been approved in writing by the Local Planning Authority and the strategy shall be implemented in accordance with a timetable to form part of the strategy.

13 A habitat protection enhancement, management and monitoring plan shall be submitted to the Local Planning Authority no later than the submission of the first reserved matters application providing details of how natural habitats and protected species mitigation areas will be created and managed and monitored in the short and longer term. No development shall commence until the plan has been approved in writing by the Local Planning Authority and the plan shall be implemented in accordance with a timetable to form part of the plan.

14 No development shall take place on site until an Arboricultural Method Statement and Tree Protection Plan are submitted by an appropriately qualified arboricultural consultant and have been approved in writing by the Local Planning Authority.

The submissions shall include the following:

- A Tree Survey (to BS5837:2012) including details of species, dimensions, age, condition, class, growth potential and legal status.
- An Arboricultural Impact Assessment to assess the impact of proposed works, including works for below-ground utilities.
- Documentation detailing Root Protection Areas, a Tree Protection Plan and an Arboricultural Method Statement for works near trees.

The approved Method Statement shall be adhered to in full in accordance with the approved plans.

15 No development shall start until a site meeting attended by the Arboricultural Consultant and Site Manager (or nominated representative of the developer) and a representative from the Local Planning Authority has taken place and the Local Planning Authority has given written confirmation that the protective fencing and ground protection measures to be provided in accordance with the Tree Protection Plan have been satisfactorily implemented. Once approved, no access by vehicles, storage or use of machinery, equipment or materials shall take place and no fires shall be lit within the fenced areas. The fencing shall be retained in its approved form for the duration of the work and its retention and compliance with the restriction of access to the protected area shall be confirmed in writing by the Arboricultural Consultant in accordance with a timetable to be submitted to and approved in writing by the Local Planning Authority before the development commences.

16 No construction, demolition or deliveries to the site shall take place during the construction period except between the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1300 hours on Saturdays and not at all on Sundays or Bank Holidays.

17 No development shall start until a scheme of work detailing the extent and type of any proposed piling has been submitted to and approved in writing by the Local Planning Authority. The development shall accord with the approved details.

18 No development shall start until a Code for Sustainable Homes level 4 interim stage certificate and sustainability report [demonstrating how all of the essential requirements of the Eastleigh Borough Council adopted Supplementary Planning Document 'Environmentally Sustainable Development' are to be met] has been submitted to and approved in writing by the Local Planning Authority.

19 No individual property shall be occupied unless agreed in writing by the Local Planning Authority until a Code for Sustainable Homes level 4 final stage certificate and sustainability report, highlighting how all of the essential requirements of the Eastleigh Borough Council adopted Supplementary Planning Document 'Environmentally Sustainable Development' have been met for that property, has been submitted to and approved in writing by the Local Planning Authority.

20 A terrestrial survey shall be carried out on the application site in accordance with paragraphs 5.6.5 and 8.6.2 of the Great Crested Newt Mitigation Guidance published by English Nature 2001 in order to establish the importance of the site for Great Crested Newts and the direction of immigration and emigration routes between ponds in the vicinity of the site. No later than the submission of the first application for approval of reserved matters, the results of the survey shall be submitted to the Local Planning Authority together with a habitat creation, management and monitoring strategy which shows:

- Details of land to be set aside as replacement habitat for Great Crested Newts;
- Details of the short, medium and long term management of the habitat to include measures for its conservation and enhancement; and

- Annual monitoring and a programme of reviews to assess the effectiveness of the strategy after intervals of 3, 5 and 10 years from the introduction of the mitigation strategy.

The development shall incorporate such areas of replacement habitat as may be approved by the Local Planning Authority which shall thereafter be retained for this purpose.

21 The southernmost access to the site shall incorporate an underpass to enable the safe movement of Great Crested Newts in accordance with details and a programme to be submitted to and approved in writing by the Local Planning Authority prior to the construction of the underpass. The underpass shall thereafter be retained.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr R Walton of Counsel	Instructed by the Head of Legal Services
He called:	
Mr A Sayle BTP MRTPI	Planning Consultant

### **FOR THE APPELLANT:**

Mr G Keen of Counsel	Instructed by Mr G McGruer of Blake Morgan, Solicitors
He called:	
Mr G Thomas BSc(Hons) DipTP MRTPI	Planning Consultant
Mr G McGruer	Partner in Blake Morgan, Solicitors

### **INTERESTED PERSONS:**

Mr B Glossop	Local resident
Mr P Scott-Munden	Local resident
Mr A Harris	Local resident

## **DOCUMENTS**

Note 1: submitted with the appeal by the appellant

Note 2: submitted with the questionnaire by the Council

<b>Ref</b>	<b>Document</b>	<b>Notes</b>
1	Decision Notice	2
2	Planning Officer's Report	2
3	Revised Comments – Policy	
4	Hants Garden Trust Response	2

5	Hampshire Garden Trust Response	2
6	HCC Education Response	2
7	NHS Property Services Response	2
8	Woodland Trust Response	2
9	Tree Officer Consultation Response	2
10	Environmental Health Response	2
11	Policy Consultation Response	2
12	Direct Services Consultation Response	2
13	Natural England Consultation Response	2
14	HCC Archaeologist Consultation Response	2
15	Engineers Consultation Response	2
16	Housing Services Response	2
17	Hants Fire and Rescue Response	2
18	Public Arts Officer Response	2
19	AMENDED Location Plan	1
20	AMENDED Site Layout Plan	1
21	Concept Masterplan (drawing 2680.13)	1
22	Alternative Masterplan (drawing 2680.14)	1
23	Utilities Appendix A1	1
24	Planning Application Form	1
25	Acoustic Report	1
26	Affordable Housing and S106 Statement	1
27	Arboricultural Report	1
28	Archaeology Heritage Statement	1
29	Bat Activity Survey	1
30	Bat Assessment	1
31	Bat Tree Assessment	1
32	Biodiversity Checklist	1
33	Botanical Survey	1
34	Building For Life 12 Assessment	1
35	Dormice Survey	1
36	Ecological Mitigation and Enhancements	1
37	Framework Travel Plan	1
38	Geotechnical and Geoenvironmental Study	1
39	Great Crested Newt Survey	1
40	Invertebrate Survey	1
41	Phase 1 Habitat Survey 1 - 4	1
42	Public Consultation Statement	1
43	Sustainability and Energy Statement	1
44	Utilities Appendix A2	1
45	Utilities Appendix A3	1
46	Utilities Appendix B	1
47	Utilities Appendix C	1
48	Utilities Main Report	1
49	Reptile Survey	1
50	Air Quality Report	1
51	Design and Access Statement	1
52	Flood Risk Assessment Appendix A - F	1
53	Planning Statement	1
54	Transport Assessment	1

55	Eastleigh Borough Council Local Plan Review 2001-2011 Inspector's Report - Eastleigh BC July 2005	
56	Extracts from Eastleigh Borough Local Plan Review (2001 - 2011) - Eastleigh BC May 2006	
57	Direction under para 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004. Policies contained in the Eastleigh Borough Local Plan Review Adopted May 2006. (Saved policies direction May 2009)	
58	Landscape Character Assessment of Eastleigh Borough - Eastleigh BC 2011	
59	National Planning Policy Framework - Department for Communities and Local Government - March 2012	
60	Extracts from Pre-submission Eastleigh Borough Local Plan (2011-2029) Eastleigh BC August 2012 (Now withdrawn but was material at the time the application was refused. Policies are referenced on the decision notice - consultation ended 12 <sup>th</sup> October)	
61	Extracts from Submitted Eastleigh Borough Local Plan 2011-2029 July 2014 comprising the revised Pre-Submission Eastleigh Borough Local Plan 2011-2029 published February 2014; and schedule of Minor Changes submitted to Secretary of State July 2014	
62	Report to Cabinet on Housing Implementation Strategy for the Borough of Eastleigh - Eastleigh Borough Council - December 2013	
63	South Hampshire Strategic Housing Market Assessment - Final report and Appendices - GL Hearn Limited for the Partnership for Urban South Hampshire (PUSH) Jan 2014	
64	Submitted Local Plan Map - North	
65	Submitted Local Plan Map - South	
66	Biodiversity Action Plan for Eastleigh Borough 2012-2022. July 2012	
67	Supplementary Planning Document 'Biodiversity' - Eastleigh BC - December 2009	
68	Supplementary Planning Document "Environmentally Sustainable Development - Eastleigh BC March 2009	
69	Supplementary Planning Document "Quality Places" - Eastleigh BC November 2011	
70	Supplementary Planning Document "Affordable Housing" - Eastleigh BC July 2009	
71	Supplementary Planning Document "Planning Obligations" - Eastleigh BC July 2008, updated 2010	
72	Community Investment Programme List - Eastleigh BC (Bishopstoke, Fair Oak and Horton Heath) 2012-13	
73	Natural England and Forestry Commission Standing Advice for Ancient Woodland and Veteran Trees	
74	Natural England Standing Advice Species Sheet Great Crested Newts	
75	Natural England Standing Advice Species Sheet Reptiles	
76	EBC Drawing S4FO15-003 - Constraints and Opportunities	
77	EBC Drawing S4FO15-004(i) Constraints and Opportunities Sherwood Master Plan April 2014	

78	EBC Drawing S4FO15-004(ii) Constraints and Opportunities Sherwood Master Plan April 2013	
78	EBC Drawing S4FO15-004(ii) Constraints and Opportunities Sherwood Master Plan April 2013	
79	Letter to Gary Thomas dated 14 March 2013 (pre-application advice)	
80	Letter from Southern Water dated 27 June 2013	
81	Letter from Natural England dated 6 August 2014	
82	Screening Opinion	2
83	Third Party responses to publicity on planning application	2
84	Letter from Hampshire and Isle of Wight Wildlife Trust dated 17 June 2013	
85	The Conservation of Habitats and Species Regulations 2010 (as amended) (not submitted)	
86	The Wildlife and Countryside Act 1981 (as amended) Part 1(9) (not submitted)	
87	The Natural Environment and Rural Communities Act 2006 (sections 40-41 including lists for habitats)	
88	Otter and Water Vole Survey July 2014	
89	Botanical and National Vegetation Classification Survey June 2014	
90	Great Crested Newt Survey Report August 2013	1
91	Flood Risk Assessment Main Report April 2013	1
92	Housing Implementation Strategy - Five Year Housing Land Supply Position Statement as at 31 March 2014, published April 2014	
93	Addendum to 31 March 2014 Housing Implementation Strategy – published June 2014	
94	Housing Implementation Strategy - Five Year Housing Land Supply Position Statement as at 30 June 2014, published July 2014	
95	Statement of Claim in the High Court in respect of decision to grant planning permission on land at Hamble Lane, dated 6 June 2014.	
96	Report "Analysis of objectively assessed housing need in light of 2012 based subnational population projections", June 2014	
97	Rights of Way Map	2
98	Mineral Consultation Map	2
99	Tree Preservation Order 552 Kings School, Allington Lane, Fair Oak	2
100	Eastleigh Borough Council Public Art Strategy	
101	Bishopstoke, Fair Oak, & Horton Heath Community Investment Programme Priorities 2014-15	
102	EBC Biodiversity Action Plan 2014	
103	EBC Biodiversity Action Plan Priority Species 2012	
104	Quobleigh Woods and Pond Details	
105	Letter from Southern Water dated 13.06.2014	
106	Decision Letter in respect of appeals at Pear Tree farm,	



	Winchester Road, Fair Oak, Eastleigh (APP/W1715/A/14/2216706 and 2216707)	
107	The Council's Five Year Housing Land Supply Position June 2014	
108	Lever arch file with five Council proofs of evidence and appendices, plus a revised proof from John Slater and updated Five Year Housing Land Supply Position as at 30 September 2014	
109	Lever arch file with Questionnaire papers	
110	Badger survey	
111	Proof of evidence of Jacqui Green	
112	Appendices to proof of evidence of Jacqui Green	
113	Proof of evidence of Simon Packer	
114	Updated proof of evidence summary of Simon Packer	
115	Appendices to proof of evidence of Simon Packer	
116	Proof of evidence of Gary Thomas	
117	Appendices to proof of evidence of Gary Thomas	
118	Information to inform a Habitats Regulations Assessment	
119	Draft S106 Agreement	
120	Statement of Common Ground dated 2 September 2014 with attached core documents list	
121	Revised Statement of Common Ground dated 14 November 2014 with schedule of conditions	
122	Closing submissions for The Portsmouth Roman Catholic Diocesan Trustees	
123	Signed and dated S106 Agreement	

## PLANS

Plan A	Plan 2680 11 Rev A site location plan
Plan B	Plan 2680 12 Rev A site plan
Plan C	Plan 2680 09 Rev A residential matrix (not relevant)
Plan D	Plan 2680 06 Rev A indicative master plan (not relevant)
Plan E	Plan 2680 06 Rev B indicative master plan (not relevant)
Plan F	Plan 2680 14 Rev * Master Concept Plan (listed also as Doc 21)
Plan G	Plan 2680 13 Rev * Alternative Master Plan (listed also as Doc 22).