

Appeal Decision

Inquiry held on 9-12 December 2014

Site visit made on 12 December 2014

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 20 January 2015

Appeal Ref: APP/A1720/A/14/2220031

Land adjacent to 'The Navigator', off Swanwick Lane, Lower Swanwick, Hampshire

- 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 Village Green PLC against the decision of Fareham Borough Council.
- The application Ref P/13/1121/OA, dated 20 December 2013, was refused by notice dated 11 March 2014.
- The development proposed is "*erection of 37 dwellings together with associated access and parking for existing play area*".

DECISION

1. The appeal is allowed and planning permission is granted for the erection of 37 dwellings together with associated access, and parking for the existing play area, on land adjacent to 'The Navigator', off Swanwick Lane, Lower Swanwick, Hampshire, in accordance with the terms of the application, Ref P/13/1121/OA, dated 20 December 2013, subject to the conditions set out in the attached schedule.

PRELIMINARY MATTERS

2. The planning application seeks outline permission with all matters reserved except for access, which is proposed to be from Swanwick Lane, adjacent to the existing play area. The application is accompanied by an 'Indicative Layout' (Plan No PP1220-101-00, Revision P2), but in relation to all matters other than access, that plan is purely illustrative.
3. The Council's decision notice listed four refusal reasons (RRs). RR2 related to affordable housing and ecological mitigation. Since then however, the appellants have entered into a legal undertaking which provides for ecological mitigation by way of a financial contribution. And with regard to the affordable housing, the Council now accepts that this could be secured by condition. RR2 was therefore not pursued at the inquiry.
4. RR3 related to noise. Subsequently, the appellants have submitted a noise survey report. In the light of this report, it is now agreed that any issues relating to this matter could also be deal with by condition.
5. RR4 contained a list of the submitted plans. The Council now accepts that since this did not in fact state any reasons for objection, it should not have

appeared as an RR. The only one of the original refusal reasons that remains at issue between the parties is therefore RR1.

6. As well as dealing with ecological mitigation, the legal undertaking provides for the implementation of a landscaping scheme and a woodland management plan, and the setting up of a management company with responsibility for the upkeep and maintenance of the landscape and woodland areas within the proposed development.

PLANNING POLICY BACKGROUND

The development plan

The Fareham Borough Local Plan (the FBLP), adopted March 2000

7. The FBLP was designed to accord with the former Hampshire Structure Plan Review. Its intended plan period was 1999-2006. In 2007, a large number of the FBLP's policies were saved by a direction from the Secretary of State. The majority of those have since been replaced by the 2011 Core Strategy, but some have continuing effect.
8. Saved Policy DG4, which applies throughout the District, states that development will be permitted, provided that various requirements are met. These include that proposals should not detract from the natural landform, and should respect inward and outward views.
9. On the proposals map, the appeal site is included in an area designated as countryside.

The Fareham Core Strategy (FCS), adopted August 2011

10. The FCS has a plan period of 2006-26. It was intended to conform with the regional strategy contained in the South-East Plan (the SEP), approved in May 2009. It was also prepared in the context of the then-emerging South Hampshire Strategy (the SHS), a non-statutory sub-regional plan by the Partnership for Urban South Hampshire (PUSH), a consortium of 11 local authorities¹.
11. Policy CS6 sets out the development strategy, which is to focus new development in various specified locations. One of these is the Western Wards, which includes Lower Swanwick. Priority is to be given to the re-use of previously developed land within defined settlement boundaries². Policy CS9 sets out further criteria for development in the Western Wards, which include protecting the setting of the existing settlements.
12. Outside defined settlement boundaries, Policy CS14 states that development will be strictly controlled, to protect the landscape character, appearance and function of the countryside and coastline. In coastal locations, the policy seeks to protect the special character of the coast, when viewed from land or water.
13. Policy CS17 seeks to encourage good design which responds positively to the key characteristics of the area, including its landscape.

¹ The SHS later became informally adopted by the partnership authorities in October 2012

² The FCS does not include any new proposals map of its own. The plan is accompanied by an 'interactive proposals map', but this is stated not to form part of the adopted plan itself. In the absence of any other indication, it appears that references in the FCS to 'defined settlement boundaries' relate to the boundaries shown on the proposals map of the FBLP. This interpretation is not disputed in the present appeal.

Emerging plans

The draft Development Sites and Policies DPD (the DSP), submitted June 2014

14. The DSP is intended to provide for the development requirements identified in the FCS up to 2026, and also the increased levels of housing and employment proposed over the same period in the SHS. The DSP covers the whole of the District except for the proposed new community of Welborne.
15. On the DSP's proposals map, the appeal site forms part of an 'area outside of defined settlement boundaries'. In such areas, draft Policy DSP7 proposes a presumption against new residential development.
16. At the time of writing this decision, the draft DSP has completed the hearing stage of its public examination, and is awaiting the Inspector's report. Until then, the plan remains subject to unresolved objections in respect of the policies and designations relevant to the present appeal. As such, it carries limited weight.

The draft Welborne Plan (the WP), submitted June 2014)

17. The draft WP is an area action plan which sets out policies and proposals for the development of the new settlement, over a period running to 2036. At present, the WP has reached the same stage as the DSP, and is awaiting the Inspector's report. In so far as the WP is relevant to the present appeal, it is subject to unresolved objections, and thus its weight is limited.

National policy and guidance

The National Planning Policy Framework (the NPPF)

18. The NPPF states at paragraph 6 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 9 states that sustainable development involves seeking positive improvements in the quality of the environment and in people's quality of life; amongst other things, this includes widening the choice of high quality homes. Paragraph 14 states that there is a presumption in favour of sustainable development.
19. Paragraph 17 sets out core planning principles. These include proactively driving and supporting sustainable economic development to deliver the homes and other development that the country needs. Every effort should be made objectively to identify and then meet those needs, and to respond positively to opportunities for growth. The core principles also include recognising the intrinsic character and beauty of the countryside, conserving and enhancing the natural environment, and focusing development in sustainable locations.
20. At paragraph 47, the NPPF seeks to boost the supply of housing significantly. Local plans should aim to meet the full, objectively assessed need for market and affordable housing, as far as is consistent with other NPPF policies. Paragraph 49 states that policies for the supply of housing should not be considered up to date if a 5-year supply of deliverable housing sites cannot be demonstrated.
21. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. Paragraph 114 seeks to maintain the character of the undeveloped coast and its distinctive landscapes.

22. Paragraphs 186 and 187 requires that all planning decisions should be approached positively, by looking for solutions rather than problems, and that applications for sustainable development should be approved where possible.

Planning Practice Guidance (PPG)

23. The PPG provides further guidance on the policies in the NPPF. Paragraph 8-001 makes it clear that the NPPF's aims for the natural environment are not limited only to areas that are formally designated. Sections 2a and 3 contain more detailed advice on assessing housing needs and land availability, to which I will refer further below.

MAIN ISSUES

24. In the light of the matters set out above, and all of the submissions before me, both oral and written, it seems to me that the main issues in the appeal are:
- Whether it can be demonstrated that the District has a 5-year supply of land for housing development, to satisfy the requirements of the NPPF;
 - And the proposed development's effects on the character and appearance of the area.

REASONS FOR DECISION

Housing land supply

25. The Council claims a housing land supply of over 13 years. The appellants contend that the true figure is only just over 3 years. The divergence results firstly from a fundamental difference as to the size of the requirement that is to be met, and also from various other smaller, but significant differences in both methodology and assumptions. I will deal with each of these differences below.
26. The Council's land supply calculations are based on meeting the requirements in FCS Policy CS2, plus a small uplift reflecting the additional requirements suggested in the 2012 SHS. The appellants accept that on this basis a 5-year supply can be demonstrated, but they contend that the FCS/SHS figures are the wrong basis for the calculation.
27. The appellants' own calculations are based on the housing need projections in the Strategic Housing Market Assessment (SHMA) report for South Hampshire, published in January 2014. The Council, whilst disputing the use of the SHMA figures over the FCS, maintains that a 5-year supply can be demonstrated on this basis too.

The Council's preferred housing requirement - based on FCS Policy CS2

28. The PPG advises that the starting point for assessing the 5-year land supply should be the housing requirement figure in an up-to-date adopted local plan, and that considerable weight should be given to such a figure (paragraph 3-030). In the case of Fareham, the FCS is an adopted plan, and is only a little over 3 years old since its adoption. In such circumstances, it might often be unnecessary to look any further.
29. However, the PPG goes on to make it clear that this is not always the case:

"(Considerable weight should be given to the housing requirement figures in adopted local plans) ...unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.

*Where evidence in local plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered."*³

30. In the present case, the FCS's housing requirement was directly derived from the now-revoked SEP. That plan was itself based upon an earlier version of the SHS, approved by the member authorities as long ago as 2005, which in turn was based on evidence necessarily dating back to before that time. Having regard to the PPG advice therefore, it seems to me that the FCS appears to be an example of the kind of local plan that is envisaged as being potentially out-of-date: that is, one where the evidence base dates from long ago, and where circumstances have changed so that the plan may not now adequately reflect current needs.
31. Furthermore, the FCS pre-dates the NPPF. As already noted, the NPPF places emphasis on ensuring that local plans set out to meet the full objectively assessed need (OAN) for housing, as far as is consistent with other relevant policies. This is a significant change compared to the previous national policy in Planning Policy Statement 3 (PPS3), which was in place at the time when the FCS was adopted. Although the relevant part of the NPPF (paragraph 47) is couched in terms that relate principally to plan-making, the Courts have determined that the same principles should be assumed to apply equally in decision-making, including development control decisions⁴. In the Borough of Fareham, the Council accepts that the FCS was not informed by any assessment of full OAN, and neither does it attempt to explore how far the OAN could be met. It follows that, in respect of matters relating to housing needs and targets, the policies of the FCS cannot be said to be consistent with the approach advocated in the NPPF. Paragraph 215 of the latter makes clear that in such cases, development plan policies may carry less weight relative to national policy and other considerations.
32. It is true that the Council's land supply calculations are not reliant solely on the FCS, because they also take account of the 2012 SHS, which is a more recent document, based on data that is more up to date than the FCS. But the SHS, like the FCS, is not derived from any assessment of full OAN, and does not address the question of what is the OAN, or whether it can be met. In the absence of knowing the full OAN, it seems to me that the 5-year supply exercise cannot serve its intended purpose. Consequently, merely adding an SHS element onto the Policy CS2 housing requirement does not overcome the fundamental shortcomings of the FCS itself, or those of any land supply calculations based on it.
33. I therefore conclude that the weight that can be given to the Council's calculations, based on the FCS and the SHS, is limited. This being so, it seems to me that the next step must be to look at any other available evidence of housing needs, and to assess whether, for the purposes of this appeal, this is likely to provide a better guide to OAN.

³ PPG 3-030 (emphasis added)

⁴ Gallagher Homes Ltd and Lioncourt Homes Ltd v Solihull MBC: [2014] EWHC 1283 (Admin)

The alternative housing requirement - based on OAN

34. I therefore turn to the appellants' proposed alternative, of using the figures from the 2014 SHMA report. In considering the SHMA, I have taken particular account of the letter on this subject from the Minister of State for Housing and Planning, issued on 19 December 2014, after the close of the inquiry, and the appeal parties' comments on the contents of that letter.
35. In the case of the South Hampshire SHMA, there can be no doubt that the report's intention and main purpose is to quantify the OAN, for the sub-region as a whole, and for its constituent housing market areas (HMAs) and districts. This aim is made clear, both in the report's own introduction, and in the officers' report which accompanied it to the PUSH joint committee, in January 2014. The SHMA report examines in considerable detail the various alternative demographic projections, market signals, economic trends, and the needs of different groups, including the need for affordable housing. Having done so, it presents a number of housing need scenarios, reflecting a range of differing assumptions. Without question, this is a substantial body of work, and one that appears both comprehensive and thorough.
36. The SHMA report pre-dated the coming into force of the PPG. However, it was prepared in the light of the earlier draft version, and against the established background of the NPPF, and its methodology appears broadly consistent with the subsequent guidance. The SHMA has yet to be fully tested, but nonetheless, it has evidently been accepted by the PUSH authorities, including Fareham, as a basis for the forthcoming review of the SHS and subsequent local plans. Moreover, the very fact that the SHMA has been commissioned jointly, on behalf of all the South Hampshire authorities, gives it added weight.
37. Certainly, the SHMA figures have not been moderated to allow for any constraints, or to take account of any opportunities for cross-boundary co-operation. However, these are not necessary for the purposes of defining the OAN. A good deal more work will be required before the SHMA figures can be translated into proposed housing policy targets. But that does not prevent those figures from being used in a 5-year land supply calculation now, because this is exactly what the PPG advises in a situation where the adopted plan has become out of date. At the inquiry, the Council's witness agreed that the SHMA represents the best and most up-to-date evidence of OAN currently available, and I see no reason to disagree with that view.
38. For these reasons, I conclude that the 2014 South Hampshire SHMA appears to represent a respectable and credible picture of the OAN for housing in Fareham. As such, it seems more likely to present a realistic picture of housing need than the FCS. Of these two options therefore, it seems to me that the SHMA provides the more suitable basis for a 5-year land supply calculation at the present time.

The OAN figure

39. Although the SHMA covers a wide range of alternative scenarios, there is agreement between the Council and the appellants that, if the SHMA-based approach is used, then the most appropriate set of figures for the purposes of this appeal is that referred to as 'PROJ2 - Midpoint Headship'⁵. This is

⁵ As set out in the SHMA report at Appendix U, Table 19 (on p51 of the Appendices)

essentially a demographic-based projection of housing need linked to the ONS sub-national population figures, with an adjustment for future changes in migration, and incorporating a household formation rate mid-way between those of the 2008-based and 2011-based DCLG projections. On this basis, Fareham's OAN, over the period 2011-36, would be 395 dwellings per annum.

40. Despite this measure of agreement, some of the evidence presented at the inquiry still questions whether 395 p.a. is high enough, having regard to the level of need in the affordable housing sector, and the need to avoid restricting economic growth. Even the Council's own witness admitted that economic trends were more likely to push the OAN up from that figure rather than down, and that on any basis, the full OAN was unlikely to be less than 395 p.a. However, it is not the function of this appeal to attempt to determine the future level of housing required in Fareham. The reason for exploring these matters is simply to choose the most appropriate figure for testing the 5-year supply at this point in time. None of the evidence identifies any other specific figure within the SHMA as being preferable to 395 dwellings per annum.
41. In passing, I note the Council's point that just because 395 p.a. is the average across the whole of the SHMA's 25-year period, that does not necessarily mean that the annual rate should be constant throughout. This may be so, but again, there is no specific evidence to support any alternative phasing. In the light of all the evidence before me, I conclude that 395 dwellings p.a. is a reasonably robust basis on which to proceed.
42. On this basis therefore, 5 years' worth of the annual OAN would be 1,975 dwellings. With the addition of a 5% buffer, which is not disputed, the overall 5-year requirement becomes 2,074 units⁶.

The Council's suggested adjustment for over-delivery in previous years

43. This requirement of 2,074 exceeds the Council's claimed supply of 1,926 dwellings⁷. However, the Council argues that the requirement should be reduced because, during the period 2006-14, housing completions exceeded the requirement in Policy CS2 by 401 units.
44. In putting forward this argument, the Council relies on paragraph 3-036 of the PPG, which states:

"In assessing need, consideration may be given to evidence that a Council has delivered over and above its housing needs". (3-036)

In the light of this advice, the Council's case is essentially that this means that the past 'overprovision' should be deducted from the requirement for the next 5-year period, in full, irrespective of whether that requirement figure is based on the FCS or the SHMA.

45. I have considered this argument carefully. However, the PPG advice relates specifically to a situation where housing delivery has exceeded the area's housing needs, rather than a policy requirement. In this case, for the reasons explained above, I have come to the view that the Borough's housing needs are now more accurately expressed in the SHMA projections than in the FCS.

⁶ In the parties' evidence this is shown as 2,075, due to rounding the buffer from 19.75 to 20 units for each individual year

⁷ As amended by Mr Home in oral evidence, from the figure of 1,876 which appears in the statement of common ground

Measured against the SHMA figure of 395 units per annum, there has been no over-provision or over-delivery.

46. I appreciate that the SHMA was only published in January 2014. But it relates to a period that started from April 2011, and it is therefore logical to take account of the housing needs that have arisen over the whole of that period. I fully accept that during 2011-14, the Council could not have been expected to meet a need which it was not aware of at the time, but that is not the point here⁸. With the benefit of the information now available, what was previously seen as an over-delivery against the FCS requirement during those three years, can now be seen to have been in reality a slight under-delivery compared to the level of actual need.
47. For the years 2006-11, there is no assessment of OAN. Housing completions in that period exceeded the relevant policy requirement in the FCS, but that does not mean that they exceeded the need. And in any event, this period prior to 2011 is now somewhat historic. I appreciate that 2006 was the start of the FCS period, but now that the FCS is no longer the best reference point for future housing needs, it becomes questionable whether housing completions from before 2011 have any continuing relevance.
48. Furthermore, even if I were to take a different view on these matters, so that the 401 dwellings over-delivery against the FCS were to be deducted from the SHMA-based requirement as suggested, it is far from clear why the whole of the 401 should be offset against the needs of just the next 5 years. I appreciate that this would mirror the 'Sedgefield method', but that approach is normally used where the past performance has been one of under-provision, and in that kind of situation there is consequently a clear imperative to achieve a rapid increase in the rate of delivery. In the reverse situation, as here, there is no such imperative. Arguably, the effect would be a sharp reduction, which would be at odds with the NPPF's aims to maintain continuity of supply and boost overall provision. The Council has presented no cogent rationale for this approach.
49. The PPG advice referred to above allows for consideration of the effects of past over-delivery, but does not specify what action should then be taken. It may be that in some circumstances an adjustment to the requirement for future years would be justified, but here, for the reasons that I have explained, that is not the case. I can see nothing in the PPG which sanctions the approach now proposed by the Council in deducting 401 units from the requirement side of the 5-year supply calculation.
50. I therefore conclude that no adjustment should be made in respect of the past over-delivery against the FCS requirement.

The supply side: Welborne

51. The Council anticipates 500 completions, within the 5-year period, at the proposed new settlement of Welborne. This is supported by the planning and development programme agreed with the scheme's promoters and other relevant agencies, which indicates work starting on site in March 2016, and the first 120 dwellings being completed by March 2017. The Council acknowledges

⁸ As noted at the inquiry, this argument might be relevant in other circumstances, such as where the point at issue relates to whether there has been 'persistent under-delivery' for the purposes of the NPPF buffer; but the issue here is distinct from that type of assessment

that this programme is both challenging and ambitious, but regards it as achievable.

52. However, the planned scheme is for a very large development, amounting to some 6,500 dwellings overall, plus employment, retail and other land uses. In terms of the practicalities of development, the site is completely undeveloped land, and major new infrastructure works of all kinds will be needed. A connection to the M27 is required, involving a new junction and slip roads. Developer partners, to take the lead in house-building and infrastructure works, have not yet been identified. Some of the land is not yet within the control of the current promoters, and the possible need to use compulsory purchase powers has not been ruled out. Although the Council maintains that the scheme will be financially viable, it admits that viability has been identified as a significant issue, and remains under review.
53. In terms of its planning status, although the general location of the development has been identified for many years, the formal allocation and specific site boundaries remain to be confirmed in the Welborne Plan, which is still under examination. No planning permission exists, nor has an application been made. Any application is likely to be subject to an environmental assessment, for which some of the necessary survey work will be limited as to the time of year. Some parts of the site apparently have protected status under European legislation, and a mitigation strategy may need to be agreed with Natural England before an application can be considered. There is no clear evidence as to how much of this work has already been done. I have no reason to doubt that ultimately the hurdles can be overcome, but that does not mean that they can be overcome quickly.
54. I note the Council's suggestion that, if necessary, a first phase of 500 dwellings could be brought forward as a stand-alone scheme, in advance of the new motorway junction and other new facilities. But there is no proper evidence regarding the feasibility of this option, or its effects on the development programme. The Welborne Plan clearly seeks a comprehensive approach, as set out in draft Policy WEL4.
55. The NPPF's test for inclusion in the 5-year supply includes the requirement that sites should have a realistic prospect of delivering houses within that timescale. At the inquiry the appellants' witness accepted that there was a possibility of up to 50 units coming forward within the 5-year period, although no more than that. I do not disagree with that assessment. But a mere possibility is not the same as a realistic prospect.
56. There can be no doubting the amount of work that has already gone into the Welborne scheme, or the commitment of all the parties involved. However, it is equally clear that there is still a long way to go before any houses can start to be built. For a development of this scale, with no planning permission or current application, nor yet even a detailed site allocation, five years is not a long time. From the evidence presented, it seems to me that the Council's development programme for Welborne relies at each stage on the absolute minimum timescales, or less. That approach may have its merits in some other context, but for the purposes of assessing the 5-year supply, it lacks flexibility. For this purpose, it would be more realistic in my view to assume that the development is likely to come forward in a slightly longer timescale, pushing the first completions beyond the 5-year period.

57. I conclude that the Council has failed to show a realistic prospect that development at Welborne is likely to contribute to the 5-year supply. The site therefore cannot be regarded as deliverable at this stage, in terms of the NPPF requirement. This reduces the Council's claimed supply by 500, to a maximum of 1,426 units.

The supply side: other disputed matters

58. A number of other sites in the Council's supply, totalling 202 units, are disputed by the appellants. I appreciate that some of these do not yet have planning permission. However, the information that the Council has provided indicates that the sites are likely to come forward within the requisite period. Some are proposed allocations in the draft DSP, which remain to be considered, but I am not aware of any objections to the principle of development on any of these sites. Some of the sites have other issues to be addressed, relating to access, trees and other detailed matters, but there is no suggestion that these are likely to be insoluble. None are so large that they would require more than five years to complete. In all of these cases, there is sufficient evidence to justify treating these sites as deliverable.
59. The Council's supply figures also include a windfall allowance of 100 dwellings across the 5-year period. I accept that this may involve a risk of some overlap with sites that are counted in other categories. But on the other hand, the Council's supply does not count identified sites of less than five units, including those with permission, which total 139 units. The Council suggests that, for the purposes of this appeal, these two figures are close enough to offset each other. In the interests of avoiding unnecessary complexity, I agree.
60. I therefore make no further adjustment to the Council's supply figure in response to the disputed sites or the windfall allowance. But in any event, in the light of the conclusions that I have already reached above, these matters do not affect the final outcome of the land supply calculation.

Conclusions on housing land supply

61. From the above, I conclude that the 5-year requirement, based on the best evidence of the OAN, should be 2,074 dwellings. This requirement should not be adjusted to take account of over-delivery prior to April 2014. Against this, the Council's maximum claimed supply is only 1,926 dwellings. The supply must therefore be less than the minimum 5 years required by the NPPF.
62. In addition, the Council's figure over-states the supply, by including 500 units at Welborne, which should not yet be counted as deliverable within the relevant 5-year period. When these are deducted, the realistically deliverable supply becomes 1,426 units. This amounts to only around 3.4 years.
63. Although the DSP and WP are at the examination stage, there is no evidence to suggest that the adoption of those plans in the near future would significantly change the housing supply situation from that considered at this inquiry. All in all, I conclude that a 5-year supply has not been demonstrated.
64. In the light of this finding, NPPF paragraph 49 requires that any relevant policies for the supply of housing be treated as out-of-date. For the purposes of the present appeal, it is not disputed that these include Policy CS14, in so far as the latter provides for settlement boundaries, and seeks to restrict housing development anywhere outside them. Accordingly, although the appeal site is

outside the boundary of Lower Swanwick, the resulting in-principle conflict with Policy CS14 carries relatively little weight.

65. In addition, the lack of a 5-year supply also means that added weight should be given to the benefits of providing housing to meet local needs.

Effects on the area's character and appearance

Effects on the character and appearance of the countryside

66. In policy terms, the countryside is defined by the FBLP proposals map. On that map, the settlement of Lower Swanwick appears separated from the River Hamble by a continuous swathe of countryside, coloured green, and the appeal site is included in that area. Based on the proposals map, the loss of the appeal site would bring the urban area closer to the river, reducing the remaining countryside at that point to little more than a narrow strip along the water's edge. However, that is an impression conveyed by a map produced for a particular purpose. As its name suggests, the proposals map is concerned with policies and the control of development in the future; it is not necessarily intended to depict what exists now, nor can it be definitive in that respect. And in any event, for the reasons explained earlier, the settlement boundaries currently carry reduced weight, due to the lack of a demonstrated housing supply. For the purposes of this appeal therefore, it seems to me that any assessment of the appeal site's contribution to the countryside cannot usefully be done simply by reference to the FBLP proposals map. Rather, such an assessment should be based on what is seen on the ground.
67. The appeal site comprises an undeveloped grass paddock, currently used for grazing horses. To that extent, it might be arguable that the site has some resemblance to open countryside. However, the site lies at the junction of Lower Swanwick's two main roads, Bridge Road (the A27) and Swanwick Lane, which is effectively the settlement's centre. On its south-eastern and north-eastern sides, the site abuts existing residential areas. Adjacent to Swanwick Lane there is also a children's play area. To the south-west and north-west, fronting the river, is an extensive area of boat yards, workshops, moorings and related development, plus The Navigator pub and its car park. The appeal site is thus surrounded on all sides by urban land uses and built development, and at no point does it abut or connect with any other undeveloped or un-urbanised land. Consequently, notwithstanding its designation as countryside, what is seen on the ground amounts to no more than a relatively small, self-contained patch of vacant land, wholly enveloped within the built-up area.
68. How the site looks in reality is therefore quite different from the impression gained from the proposals map. To a large extent, this difference is explained by the treatment of the boatyards which encircle the appeal site on two sides. On the proposals map these are included in the countryside, thus creating the apparent connection between the appeal site and the river, and thence to the more open countryside beyond. I take no issue with this approach in terms of the policies that this implies for the yards themselves. But in terms of their effect on how the appeal site is perceived, the reality is that the boatyards comprise mainly large-scale, industrial-style buildings and a large expanse of hardstanding. Visually, these appear as an integral part of Lower Swanwick's built-up area. As such, their effect is not to link the appeal site to the river and

countryside, but rather to separate it from those, and to enclose it within the settlement.

69. In addition, the Swanwick Marina site, which includes the greater part of this boatyard area, has planning permission for redevelopment, including a pavilion building of up to 3 storeys, with retail units, bar and restaurant facilities, plus new workshops and offices, and 49 dwellings. The effect of that scheme, it seems to me, can only be to reinforce the urban character of the marina/boatyards area, further consolidating the settlement pattern and the appeal site's sense of containment within the urban area.
70. Similarly, to the north of the appeal site, the settlement boundary excludes some of the residential properties at Green Lane, suggesting a connection between the appeal site and the countryside beyond. However, as I saw on my visit, Green Lane is entirely residential in character, and functionally is fully part of the settlement of Lower Swanwick. Whilst the excluded properties are relatively low-density, a number such as 'Highfield' and 'Genesta' have been extended or replaced, becoming more prominent as a result. Consequently the Green Lane residential area is a highly visible part of the backdrop to the appeal site. Again, I do not mean to question the settlement boundary itself, as far as it relates to the Green Lane area, or the policies to be applied there. But in relation to the appeal site, the presence of residential development along the full length of its north-eastern boundary contributes to the impression of a site encircled by existing development, and reinforces the site's visual containment within the settlement.
71. This impression of containment is increased yet further by the dense woodland belt that runs along the appeal site's north-western boundary, partly within the site itself and partly on adjoining land. Some of the trees in this belt result from the additional planting that was carried out a few years ago. I note the comments made at the inquiry as to the possible motive for that planting, but this has no relevance to the planning merits of the site or the proposed development. To my mind, the tree belt has an attractive, naturalistic appearance, and continues the line which is already established along the top of the river bank further to the north. Its effect is to further reinforce the site's separation from the river, and its association with the built-up area.
72. I note the contents of the 1996 Landscape Character Assessment (LCA)⁹. That report found that the appeal site had 'strong visual links with the river and boat-related activities on the south side of the road'. That may have been so then, and indeed might still be so. But the boat-related activities referred to must presumably have been those in and around the boatyards, and for the reasons already given, my view is that that area has more affinity with the built-up area than the countryside. In any event, I can see nothing in this comment that could be said to endorse the view that the appeal site formed part of the countryside, either then or now. Neither is there any support for that view in the 2012 LCA¹⁰; indeed that report includes the appeal site in the urban area.
73. There are mid-range and longer views of the site from the A27 river bridge, and the railway bridge, and from Lands End Road on the opposite bank. But from all of these viewpoints, the site is framed by buildings and urban land

⁹ Fareham Borough Landscape Assessment : Scott Wilson Resource Consultants, May 1996

¹⁰ The Hamble Valley Integrated Character Assessment : Hampshire County Council, May 2012

uses on all sides. Indeed, in respect of the view from Lands End Road, the Council made the point more than once at the inquiry, that the appeal site is the only piece of green space or open land that is visible. In addition, in all of these views, the site is partially screened by the tree belt or boatyard buildings. In none of them is the appeal site a main focus or a key element of the view. No other significant public viewpoints have been identified, other than from the roads immediately adjacent to the site itself. In my opinion all of these available viewpoints merely serve to reaffirm my earlier judgement, that the site's setting and context is formed primarily by the built-up area of Lower Swanwick.

74. In these circumstances, I conclude that the appeal site, in its undeveloped state, contributes nothing of any significance to the character or appearance of the countryside. It follows from this that, whatever visual impact the development might have, that impact would not be likely to significantly affect the countryside.

Effects on the character and appearance of Lower Swanwick - loss of openness

75. Seen from within Lower Swanwick, the appeal site appears essentially as an open, grassed field, sloping towards the A27. There is an attractive, medium-sized native poplar tree in one corner, at the Swanwick Lane junction, and the woodland belt on the opposite boundary, but there is no suggestion that the proposed development would put these at risk. In all other respects, the site is featureless and unremarkable.
76. If the site were developed as proposed, its present openness would be lost. However, as far as I am aware, the site has never been formally identified as an important open space, or any similar designation based on its townscape value or any contribution to the character or appearance of the settlement. Bearing in mind the other planning considerations discussed above, and especially the urban nature of the location, and the unmet need for housing, in these circumstances the loss of openness on its own is not a compelling objection.
77. Development on the lower part of the site could potentially obstruct views towards the waterfront from Swanwick Lane and the play area. Although the river itself is not visible from here, its presence is signalled by the sight of the many boat masts which extend above the roofs of the boatyard buildings, and I can appreciate why that sight would be missed by residents. But that consideration alone is not overriding. The site is not in a conservation area, nor would the proposed development appear to affect any views into or out of any such areas. The view from Swanwick Lane was not identified as a consideration in the design officer's pre-application comments, or in the planning officer's report, nor in the refusal reasons. Nor was it identified in either of the relevant LCAs. There is also no evidence that this was seen as an issue in the Council's earlier decision on the Swanwick Marina scheme, which seems likely to have a greater impact on the same view. Consequently, I am not convinced that the view from Swanwick Lane is such an important planning consideration as to outweigh the other matters that I have identified.
78. And in any event, the existing views need not be lost altogether, because layout and design are reserved matters. If the Council regards the views from Swanwick Lane as a priority issue, there seems no reason why the height and disposition of the buildings could not be designed to take this into account, by

creating gaps and preserving lines of sight where necessary. The current illustrative layout does not do this, but that plan is not binding, either on the Council or a future developer. Development on the remainder of the site would have little or no impact in terms of views towards the river. Given the size of the site as a whole, and the lack of constraints in most other respects, I see no reason why an acceptable alternative scheme could not be designed which takes account of the relevant viewpoints from within Lower Swanwick.

79. I also note the other points made in support of the retention of some openness at the site's southern corner, to create a landscaped area around the road junction and the poplar tree. I agree that this could well be an attractive approach, and this might be one possible way of producing the urban design focus that the 1996 LCA saw a need for here. But there is no reason why this should be the only way. In any event, for the same reasons as above, an outline permission based on the present application would not prevent this or any other approach from being followed at the reserved matters stage.
80. And furthermore, looking at the site as a whole, it seems to me that at that stage there would be the opportunity to seek to secure a high-quality scheme which could make better use of the land than at present, and which could enhance the urban townscape at this potentially important focal point. In the present outline application there is no guarantee that this opportunity would be realised, but the outcome would be at least partly in the Council's hands.
81. For these reasons, I have come to the view that the loss of the appeal site in its undeveloped state would not have any unacceptable adverse impact on the character or appearance of Lower Swanwick, and indeed could prove beneficial.

Effects on Lower Swanwick – the quantity of development proposed

82. Averaged across the site, the proposed development of 37 dwellings would amount to a density of about 32 dwellings per hectare (dph). That is slightly higher than the average within the surrounding residential area, but not unduly so. Nothing in the NPPF or PPG suggests that new development should be required to match that of its surroundings as a matter of course. Rather, the emphasis is on making good use of land, encouraging innovation, and good design, whilst still respecting local character and identity.
83. If development on the lower part of the site were restricted for any of the reasons discussed above, that would tend to increase the density of the remainder of the site, to above 32 dph. At the extreme, if all of the built development were concentrated in the upper area, the density there would be around 47 dph. But that would be offset by a lower density in the lower area; it would not change the overall density of the development as a whole. The existing settlement itself contains a wide range of variation in densities, both above and below what is now proposed; including lower density at Green Lane, but higher in the Swanwick Lane terraces, the Swanwick Quay flats, and the proposed Marina development. There is nothing inherently objectionable about such differences.
84. I accept that the submitted illustrative plan has some shortcomings. I agree that it would be desirable for the development to present an active frontage to the public realm, including Swanwick Lane and the play area, and that issues such as overlooking and relationships to surrounding properties need careful

attention. But all of these are reserved matters, and there is nothing to suggest that they cannot be resolved at the appropriate stage.

85. I note that there is now no dispute that the north-western tree belt could be satisfactorily protected by the relevant provisions contained in the undertaking, together with a buffer zone which could be secured by condition.
86. Having regard for all the evidence before me, I can see no reason why an outline permission for 37 units should not be able to produce a satisfactory detailed scheme which satisfies national and local design policies.

Other matters relating to effects on character and appearance

87. Although the appeal site was included in the coastal zone that was identified in the FBLP, that policy has now ceased to have any effect. I note the suggestion that the 'coastline' and 'coastal locations' now referred to in Policy CS14 must be the same as that area, but this does not follow. The areas in question are not defined on any map. Whilst Lower Swanwick might be described as being just within the upper reaches of the river estuary, it is some way from what would normally be considered the coastline. In my view, the area is clearly not the kind of 'undeveloped coast' to which paragraph 114 of the NPPF refers. In any event, for the same reasons as those given above, I do not consider that the development would have any significant adverse effect on the character or appearance of the coastal area, or that of the Hamble estuary.
88. As I have already indicated, I appreciate that the site is valued by local people. However, the NPPF advice on protecting 'valued landscapes', in paragraph 109, is placed in the context of conserving and enhancing the natural environment. In the present case, in view of my conclusions on the above matters, it seems to me that the appeal site does not contribute significantly to the natural environment in any of the ways to which this paragraph is directed. I can therefore find no reasonable basis for applying paragraph 109 here.

Conclusions regarding the effects on character and appearance

89. I conclude that the proposed development would have no material adverse effects on the character or appearance of the countryside, or of the settlement of Lower Swanwick. As such, it would not conflict with any of the relevant policies, including FLBP Policy DG4, or FCS Policies CS9, CS14 or CS17.

Other matters

Traffic and safety

90. I note the concerns raised by local residents, particularly concerning traffic, congestion and highway safety. I saw on my visit that local roads are already busy, especially in the peak periods, and the development now proposed would add more traffic to the network. However, as a percentage of the existing flows, the increase generated by 37 dwellings would be negligible, and the proposed design of the new junction on Swanwick Lane, including the proposed 'keep clear' road markings, would meet all of the Highway Authority's safety requirements. There are therefore no reasonable highway grounds for objection.
91. In addition, the replacement of the existing layby with a new off-street car park would undoubtedly be a safer arrangement for users of the children's play area,

as it would greatly reduce the potential for a small child to wander into the path of a moving vehicle. I appreciate that this might leave some residents looking for alternative overnight parking, but it seems to me that this is outweighed by the safety benefit.

92. A suitable junction design and the early provision of the car park can be secured by conditions.

Residential amenity

93. I accept that the proposed development would block views of the river from some neighbouring properties, and I fully understand what this would mean to their owners. However, the loss of private views weighs less heavily as a planning consideration than the other issues that have been identified. There is no reason to doubt that existing occupiers can be adequately protected from more serious impacts such as overlooking, overshadowing or overbearing effects, at the detailed stage. The development therefore need not unacceptably harm living conditions at any existing property.

Local facilities

94. I note the comments made about the adequacy of some local facilities. But on my tour of the area, I saw that the site is within reasonably easy reach of schools, doctors, shops and a variety of local employment. Public transport is available by bus and train, at most times of day, and the Highway Authority states that it intends to improve pedestrian and cycle facilities on the A27.
95. I accept that there may be pressures on some local services, especially doctors and schools, but at a time when population numbers are increasing throughout the region, the same is true in many areas, and ultimately the task of adapting to meet future needs is one for the providers of those services. In the present case, this would not be a proper reason to refuse planning permission.

Wildlife

96. The various observations relating to wildlife are noted, but the survey evidence shows that the site has limited habitat value. This can be adequately protected and enhanced by condition.

The legal undertaking

97. The undertaking provides for a financial contribution of £6,364.00 towards the mitigation of off-site ecological impacts. The need for such a contribution arises because of the development's proximity to designated sites of ecological importance, and the consequent potential cumulative impacts of developments in the area on protected bird species. A framework for such contributions has been agreed between the PUSH authorities under the Solent Disturbance and Mitigation Project, and a specific programme of mitigation works has been identified, focused on the Alver Valley Country Park, in the Borough of Gosport.
98. The undertaking also provides for the setting up of a management company to maintain the development, and for the carrying out of a woodland management plan and other landscaping works, in accordance with details to be approved by the Council.

99. From the information provided, I am satisfied that all of the obligations are necessary, and are properly related to the proposed development, so as to meet the relevant policy and legal tests¹¹.
100. I note that a Community Infrastructure Levy (CIL) charging Schedule is in place in the borough, and that the proposed development would also be required to contribute to local infrastructure provision through a CIL payment.

Conditions

101. I have considered the conditions suggested by the Council, and those others discussed at the inquiry, in the light of the tests in NPPF paragraph 206. If permission is granted, I agree that most of these conditions would be needed in one form or another, although with some re-ordering and rewording, to improve their clarity, precision and effectiveness. The conditions that I consider should be imposed on any permission in this case are set out in the attached Schedule.

Conditions to be imposed

102. Conditions Nos 1 – 3 set out the requirements as to reserved matters and the time limits for submission and commencement. In the light of my earlier conclusions regarding the Borough's housing land supply, I have reduced the time limits to less than the normal statutory periods, to better reflect the urgency of the need. I note the Council's suggested additional wording, but I see no evidence to support a limit of 3 storeys; nor any need for these conditions to refer to the mix of dwelling types.
103. Condition 4 sets out the requirements with regard to affordable housing, which is needed to comply with FCS Policy CS18. I agree that the condition should specify the number of affordable units, and their tenures, but the suggested detailed breakdown as to numbers of bedrooms and floorspaces seems to me over-prescriptive at this outline stage. The suggested contingency provisions relating to right-to-buy, staircasing, mortgagee in possession, and other exceptions, seem to me too imprecise for inclusion in a condition, and I have therefore omitted these.
104. Conditions 5 and 6 set out the requirements for pre-commencement investigations relating to archaeology and contamination. These are necessary to protect the historic environment and the health of future occupiers respectively.
105. Conditions 7 and 8 are aimed at securing the implementation and on-going management of high-quality landscaping, and Nos 9 – 13 provide for the protection of existing trees and hedges. All of these are needed to ensure a good standard of development.
106. Conditions 14 – 20 set out the requirements as to highway works, both off and on-site, and Nos 21 and 22 secure the provision of the proposed play area car park. All of these are necessary in the interests of highway safety and for the convenience of road users. In Condition 22, I have increased the period from 6 to 8 weeks, to ensure that compliance can be achieved.

¹¹ In: (i) Regulation 122 of the Community Infrastructure Levy Regulations 2010; and (ii) NPPF paragraph 204

- 107. Condition 23 requires adequate measures to mitigate noise from road traffic and nearby commercial uses, as defined in the submitted noise report; and Condition 24 seeks the provision of suitable facilities for household refuse. Both are needed to ensure a satisfactory residential environment.
- 108. Condition 25 calls for ecological mitigation and enhancement, in order to minimise any impacts on biodiversity and secure a net gain in accordance with NPPF paragraph 109. The condition requires further details to be submitted and approved, since the existing ecological report contains limited detail as to any recommended measures.
- 109. Condition 26 requires compliance with the Code for Sustainable Homes, in accordance with FCS Policy CS15.

Rejected conditions

- 110. Having carefully considered all of the other suggested conditions, I find that none of these meet the relevant tests. The Council's proposed requirement for the development to be carried out only in accordance with the submitted illustrative plan would not be reasonable, because layout is a reserved matter, and in any event there is no evidence to suggest that no other form of layout would be acceptable. Equally, the appellants' tentative suggestion of an exclusion area in the southern corner would not be a reasonable condition, since it has not been shown that there is any overriding objection to development in that part of the site.
- 111. The proposed conditions relating to materials, car parking and cycle storage are unnecessary, as these details can be dealt with at the reserved matters stage. Lighting is adequately covered in the revised on-site highway works condition that I have included at Condition 20, and thus does not need an additional separate condition.
- 112. With regard to the proposed construction method statement and controls on the hours of construction work, powers are available to prevent obstruction of the public highway, or the deposit of mud, and to prevent nuisance to adjoining occupiers, under other legislation. There are no particular circumstances here that make it necessary to duplicate those controls through planning conditions.

CONCLUSIONS

- 113. The proposed development of 37 dwellings would be outside the settlement boundary defined in the FBLP, and would thus conflict with FCS Policy CS14. However, given the lack of a demonstrated 5-year housing supply, the settlement boundary must be regarded as out of date, and the weight that can be afforded to Policy CS14 is reduced accordingly.
- 114. Despite its designation on the FBLP proposals map, the appeal site does not appear in reality as an integral part of the countryside, nor of the coast, and does not contribute significantly to the character or appearance of those areas. Neither does the site, in its undeveloped state, contribute positively to the character or setting of the settlement. Consequently, no material conflicts arise in respect of any of the policies that are concerned with protecting these areas, in either the development plan or the NPPF.

115. The site lies within the Western Wards area, which is identified in Policies CS6 and CS9 as one of the District's preferred locations for housing development. The local infrastructure and services are adequate to serve a development on the scale now proposed.
116. So, on the one hand, the development would result in the loss of an undeveloped, but otherwise unremarkable, parcel of open land. On the other hand, the proposed development would make a valuable contribution to meeting local housing needs, including affordable housing provision. There would also be a modest public benefit in the provision of the proposed car park to serve the existing play area. And in addition there would be the opportunity, at the reserved matters stage, for the Council to seek to secure a high-quality scheme, which could make better use of the land, and enhance the townscape.
117. In view of the unmet housing need, the benefit of adding 37 new dwellings to the local housing supply commands substantial weight. Together with the car park and the potential for townscape enhancement, it seems to me that the conflict with Policy CS14 and any other harm arising from the development would be significantly and demonstrably outweighed by these benefits.
118. Having regard to the three 'dimensions' of sustainable development, and all of the relevant policies contained in the NPPF, I conclude that the development now proposed would constitute the kind of sustainable development that the NPPF seeks to encourage and promote. I have taken into account all the other matters raised, but none alters this conclusion.
119. The appeal is therefore allowed.

John Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions (numbered 1 - 26):

Reserved matters and time limits

- 1) No development shall be commenced until details of the appearance, landscaping, layout, and scale (hereinafter called "the *reserved matters*") of the proposed development have been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the details thus 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 shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.

Affordable housing

- 4) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to the local planning authority and approved in writing. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF. The scheme shall provide for 15 units of affordable housing, including 10 for 'affordable rented' tenure, and 5 for shared ownership. The affordable housing scheme shall also contain details of:
 - (i) the proposed mix of types and sizes of the affordable housing units, and their location within the site;
 - (ii) the proposed timing of the construction of the affordable units, in relation to the occupancy of the market housing;
 - (iii) the proposed arrangements for the transfer of the affordable housing to an affordable housing provider;
 - (iv) the arrangements to ensure affordability for the initial and subsequent occupiers in perpetuity; and
 - (v) the occupancy criteria and the means by which such criteria are to be enforced.

Archaeology

- 5) 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 the local planning authority and approved in writing.

Contamination

- 6) No development shall take place until the site has been investigated for soil contamination, and any such contamination found to be present has been removed or rendered harmless, in accordance with a scheme to be submitted to the local planning authority and approved in writing. In addition:
 - (i) If, during the course of construction, any contamination is found which has not been identified previously, no further work shall take place until that contamination has been removed or rendered harmless, in accordance with additional measures to be submitted to and approved in writing by the local planning authority; and
 - (ii) If any contamination has been found to be present at any stage, either before or during construction, no part of the proposed development shall be brought into use until a verification report has been submitted to and approved by the local planning authority, showing that all such contamination has been treated, and the site

rendered safe for occupation, in accordance with the original contamination scheme and any further measures subsequently agreed.

Landscaping

- 7) The landscaping details to be approved under Condition 1 shall include details of all planting and seeding, the surfacing of all hard surfaced areas, all boundary treatments, all re-grading or re-contouring of the land, and any signage and street furniture. The landscaping works thus approved shall be implemented in accordance with the approved details, and in accordance with the timescale specified in the submitted legal undertaking.
- 8) The landscaping details to be approved under Condition 1 shall also include a landscape management plan. Following the implementation of the landscaping works, all of the landscaped areas shall be maintained thereafter in accordance with the details thus approved. Any tree or plant forming part of the approved landscaping scheme which dies, or becomes seriously damaged or diseased, or is removed for any reason, within a period of 5 years after planting, shall be replaced during the next planting season with others of similar size and species.

Existing trees and hedgerows

- 9) No development shall take place until a tree and hedgerow protection scheme has been submitted to the local planning authority and approved in writing. The scheme shall contain details of proposed measures for the protection and retention of all of the existing trees and hedgerows on and adjacent to the site during construction. The scheme shall also identify a suitably qualified Arboricultural Supervisor.
- 10) The measures to be approved under Condition 9 shall include protective fencing, and such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels within these areas shall not be altered, nor shall any excavation be made, except with the written consent of the local planning authority.
- 11) No tree or hedgerow on the site shall at any time be cut down, uprooted or destroyed, nor be topped, lopped or pruned, other than in accordance with details approved within either the tree and hedgerow protection scheme (under Condition 9) or the landscape management plan (under Condition 8). Notwithstanding this requirement, in the event that any existing tree or hedgerow dies or is lost for any reason, within a period of 5 years from the date of completion of the development, replacement planting shall be carried out in accordance with details to be approved in writing by the local planning authority.
- 12) All works approved under Conditions 9 - 11 shall be carried out in accordance with BS 5837:2012, and shall be overseen by the approved Arboricultural Supervisor.
- 13) The layout details to be submitted under Condition 1 shall include provision for a 5m-wide woodland buffer zone alongside the whole length of the tree belt on the site's north-western boundary, as shown on Plan No PP1220-101-00 (Revision. P2). Within this buffer zone, the land shall be used only for communal purposes, including landscaping, open space, and roadways, and no part of the buffer zone shall be included within the curtilage of any dwelling.

Access and off-site highway works

- 14) The proposed new access to the site and related off-site highway works shall be laid out in accordance with the submitted details shown on Plan No. A083488_PR_01. These works shall include the removal of the existing layby in Swanwick Lane, the

realignment of the footway alongside it, and the provision of visibility splays of 2.4m x 65m in both directions, all as shown on this approved plan.

- 15) In addition, the following off-site works are to be carried out, in accordance with details to be submitted to the local planning authority and approved in writing:
 - (i) the making good of the redundant footway and layby areas; and
 - (ii) the permanent closure of the existing site access to the north of the play area.
- 16) No development (other than that required to comply with this condition) shall be carried out until the existing layby has been closed, and the site access has been constructed to at least binder course level, including the first 10m of the access road.
- 17) No development or works of any kind (including those specified in condition 16), shall be carried out until a timetable for the full completion of all the access and off-site highway works required under Conditions 14 - 16 has been submitted to the local planning authority and approved in writing. These works shall thereafter be carried out and completed in accordance with the timetable thus approved.
- 18) No new dwelling shall be occupied until 'keep clear' road markings have been provided in Swanwick Lane, in accordance with details to be submitted to the local planning authority and approved in writing.
- 19) Once the visibility splays referred to in Condition 14 have been created, clear visibility within the splay areas shall be maintained thereafter, above a height of 600mm from ground level.

On-site highway works

- 20) The details to be submitted under Condition 1 above shall include details of all necessary on-site highway infrastructure, including access roads, turning areas, footways, street lighting and highway drainage, together with a timetable for the implementation of these on-site works. No dwelling shall be occupied until the on-site highway infrastructure serving that unit has been provided, in accordance with the approved details, and the relevant roads and footways finished to at least binder course level. These on-site highway works shall thereafter be fully completed in accordance with the approved timetable.

Play area car park

- 21) The layout details to be submitted under Condition 1.1 above shall include details of the proposed new car park for the existing play area adjacent to the site. The car park shall provide a minimum of 6 spaces, and shall be laid out in accordance with the details thus approved.
- 22) The proposed car park to be provided under Condition 21 shall be completed and made available for public use in connection with the play area, no later than 8 weeks from the date when the existing layby is closed. Thereafter, the car park shall be retained and kept available for its stated use.

Noise mitigation

- 23) No construction work on any new dwelling shall be commenced until a scheme of noise mitigation, including details of the proposed glazing and ventilation systems, has been submitted to the local planning authority and approved in writing. The submitted details shall demonstrate that the new dwellings are designed not to exceed the following maximum internal noise levels:

Daytime average (all habitable rooms):	35 dB L_{Aeq}
Night-time average (bedrooms):	30 dB L_{Aeq}
Night-time maximum (bedrooms):	45 dB L_{Amax}

Refuse storage

- 24) The details to be submitted for approval under Condition 1 shall include details of the provision to be made for the storage of household refuse for each proposed dwelling. No dwelling shall be occupied until the approved provision has been made available for use by the occupiers of that dwelling. Thereafter, the approved refuse storage provisions shall be retained in accordance with the details thus approved.

Ecological mitigation

- 25) No development shall take place until a detailed scheme of ecological mitigation and enhancement measures has been submitted to the local planning authority and approved in writing. The scheme shall include a timetable for the implementation of the necessary works, and those works shall be carried out in accordance with the scheme and timetable thus approved.

Code for Sustainable Homes

- 26) The proposed dwellings shall achieve Level 4 of the Code for Sustainable Homes. No new dwelling shall be occupied until a final Code Certificate has been issued for that dwelling, certifying that Code Level 4 has been achieved.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Ground, of Counsel Instructed by the Solicitor to the Council

He called:

Mr Stephen Jupp, BA(Hons) LLM MRTPI	Planning consultant
Mr Peter Home, MA(Oxf) MRTPI	Adams Hendry

FOR THE APPELLANT:

Mr Christopher Boyle, QC Instructed by WYG Planning

He called:

Mr Stephen Brown, BSc(Hons) DipTP MRTPI	Woolf Bond Planning
Mr Duncan McInerney, BSc(Hons) MLD CMLI	The Environmental Dimension Partnership
Mr Martin Hawthorne, BSc(Hons) MRTPI	WYG Planning

OTHER INTERESTED PERSONS:

Cllr Sean Woodward	Leader of Fareham BC and ward member for Sarisbury
Mr Jim Wood	Chairman, Burr ridge & Swanwick Residents' Association
Mr John Grover	Local resident
Mr Clive Nightingale	Local resident
Miss Sarah-Jane Moore	Local resident
Ms Suzanne Rosenbrier	Local resident (also speaking on behalf of Ms Kate Winkworth, local resident)
Mr Don Frost	Local resident

DOCUMENTS TABLED AT THE INQUIRY AND AFTERWARDS

TABLED BY THE APPELLANTS

- 1 Table: housing completions against requirement, 2006-14
- 2 Eastleigh Borough Local Plan examination: Inspector's preliminary report on housing needs and supply, 28 November 2014
- 3 Dartford BC v SoS and Landhold Capital Ltd: judgement dated 24 June 2014 [*2014 EWHC 2636 Admin*]
- 4 Photographs of the appeal site from the railway line
- 5 Photographs of the appeal site from Bridge Road, December 2014
- 6 Swanwick Marina – approved plan
- 7 Secretary of State's appeal decision – Droitwich Spa (APP/H1840/A/13/2199085)
- 8 Secretary of State's appeal decision – Ramsgate (APP/Z2260/A/14/2213265)
- 9 Appeal decision – Swanley (APP/G2245/A/13/2197478)
- 10 Bus timetables
- 11 Train timetables: Bursleden - Southampton
- 12 Train timetables: Bursleden - Portsmouth
- 13 Welborne strategic framework plan, annotated by Mr Hawthorne to show land not controlled by the promoters
- 14 Correspondence relating to screening direction for Welborne development
- 15 Executed unilateral undertaking, dated 9 December 2014
- 16 Appellants' suggested wording for a condition restricting development on part of the site, and related plans
- 17 Mr Boyle's closing submissions
- 17A Email dated 23 December 2014 in response to the Ministerial letter re SHMAs

TABLED BY THE COUNCIL

- 18 Appeal decision – Storrington (APP/Z3825/A/13/2202943)
- 19 Appeal decision – Emsworth (APP/L3815/A/13/2198341)
- 20 Emails relating to various housing supply sites
- 21 Welborne – planning programme chart
- 22 The Solent Disturbance Mitigation Project Interim Framework – report to PUSH Joint Committee, 25 March 2014, and minutes
- 23 Mr Home's summary statement
- 24 Inspector's decision re land at Blaby (S62A/2014/0001)
- 25 Swanwick Marina – planning permission and officers' report
- 26 S Northants v SoS and Barwood Homes Ltd: judgement dated 10 March 2014 [*2014 EWHC 570 Admin*]
- 27 Mr Ground's closing submissions
- 27A Email dated 22 December 2014 relating to the Ministerial letter re SHMAs

TABLED BY THE OTHER PARTICIPANTS

- 28 Cllr Woodward's statement
- 29 Mr Wood's statement
- 30 Mr Grover's statement
- 31 Mr Nightingale's statement
- 32 Miss Moore's statement
- 33 Ms Winkworth's written submission (presented by Ms Rosenbrier)
- 34 Aerial photograph dated 2013, tabled by Mr Grover

OTHER TABLED DOCUMENTS

- 35 Statement of Common Ground on 5-year housing land supply
- 36 Extracts from Core Strategy 'interactive' proposals map
- 37 Proposed condition re affordable housing (tabled jointly)
- 38 Letter from the Minister of State for Housing and Planning, dated 19 December 2014, re Strategic Housing Market Assessments