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## Appeal Decision

Inquiry Held on 2 – 5 February 2021

Site visits made on 15 January and 16 February 2021

**by S D Castle BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> July 2021

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**Appeal Ref: APP/X1735/W/20/3259067**

**Land at Lower Road, Lower Road, Bedhampton, Havant PO9 3NB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Bargate Homes against the decision of Havant Borough Council.
  - The application Ref APP/19/00427, dated 17 April 2019, was refused by notice dated 26 March 2020.
  - The development proposed is 50 new dwellings together with access, landscaping and open space.
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### Decision

1. The appeal is allowed and planning permission is granted for 50 new dwellings together with access, landscaping and open space at Land at Lower Road, Lower Road, Bedhampton, Havant PO9 3NB in accordance with the terms of the application, Ref APP/19/00427, dated 17 April 2019, subject to the conditions in the attached Schedule.

### Procedural and Preliminary Matters

2. The Council's second refusal reason concerned the absence of planning obligations entered into under a legal agreement relating to: affordable housing; S106 monitoring fee; open space; the Solent Recreation Mitigation Strategy; sustainable drainage; healthcare; the Solent Waders and Brent Goose Strategy; permissive paths; a community worker; site access works; and improvements to the route to school.
3. The Council, through the giving of its oral evidence, confirmed that the completed legal agreement<sup>1</sup> (s106) overcomes their second refusal reason in its entirety. The appellant has not objected to the justification for the planning obligations as set out by the Council in their Community Infrastructure Levy (CIL) Compliance Statement<sup>2</sup>. I have, therefore, treated those matters referred to in the Council's second refusal reason as not being subject to any dispute between the appellant and the Council. I will consider the planning obligations secured by the s106 later in this decision.
4. The Bedhampton Heritage Alliance (BHA) were accorded Rule 6(6) party status and presented evidence in support of their objections to the proposals. These objections included matters in relation to the Council's first refusal reason in

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<sup>1</sup> Dated 27 January 2021

<sup>2</sup> Received 28 January 2021

respect of the effect of the proposal on the setting of the Old Bedhampton Conservation Area (OBCA). BHA's objections also covered other matters that were not contested by the Council or Hampshire County Council (HCC) in its capacity as highway authority. These additional concerns related primarily to the effect of the development on the setting of listed buildings, archaeology, highway safety and efficiency, accessibility, ecology, character and appearance.

5. I am not restricted to considering the appeal with regards to the Council's refusal reasons only. Considering the extent of the BHA's and interested parties' highway concerns, I have addressed such matters as a main issue. An 'Agreed Statement on Transport Matters'<sup>3</sup> (ASoTM) between the appellant and HCC was submitted during the appeal process. To address matters raised in the BHA's proof of evidence,<sup>4</sup> the appellant submitted an additional proof of evidence with regards to transport matters<sup>5</sup>. There were no objections to the appellant's highway proof being accepted and I am satisfied that no parties were prejudiced by its submission.
6. The appellant submitted an updated written application for full costs during the inquiry. The appellant's closing maintains the view that the Council has acted unreasonably but confirmed that any previous application for costs against the Council was to be treated as withdrawn.
7. The appellant submitted an amended site plan with the appeal<sup>6</sup> and amended landscape plans<sup>7</sup> as appeal core documents. These amended plans show amended plot boundaries and landscaping adjacent to Narrow Marsh Lane to better accommodate the alignment of the track which is subject to a current Definitive Map Modification Order application. Having regard to the 'Wheatcroft Principles'<sup>8</sup>, the amendments are not, however, significant and do not materially alter the nature of the planning application to the point that it would require further consultation. The Council and BHA were given the opportunity to comment on the amendments as part of the appeal process. Indeed, the Council and Appellant have suggested an agreed wording for a condition to be applied to secure final landscaping details. Consequently, I am satisfied that accepting the amended site plan and landscape plans would not prejudice the interests of interested parties and have therefore determined the appeal based on the amended details.

## **Main Issues**

8. The main issues are:
  - the effect of the proposed development on heritage assets, with particular regard to the setting of the Old Bedhampton Conservation Area;
  - the effect of the proposed development on the efficient and safe operation of the highway network in the vicinity of the appeal site;
  - whether any adverse effects of the proposal, including any conflict with the development plan when considered as a whole, would be outweighed by other material considerations.

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<sup>3</sup> CD P7 Agreed Statement on Transport Matters (signed by Bargate Homes & HCC 17 December 2020)

<sup>4</sup> Received 05 January 2021

<sup>5</sup> Circulated to all main parties on the 28 January 2021

<sup>6</sup> Dwg no. 17.043.102 Rev S

<sup>7</sup> CD P15a (Dwg no. 1860-TF00-00-DR-L1002 Rev07A) and CD P15b (Dwg no. 1860-TF-00-00-DR-L1005 Rev07A)

<sup>8</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

*Planning Policy Context and Approach to Decision Making*

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the Havant Borough Core Strategy (the HBCS), adopted in March 2011, and the Allocations Local Plan (the ALP), adopted in July 2014.
10. The Housing Land Supply Statement of Common Ground (HSoCG) between the appellant and Council states that the Council is not able to demonstrate a five year supply of deliverable housing land<sup>9</sup>. Furthermore, the Housing Delivery Test<sup>10</sup> results for 2020 show that just 72% of the requirement was achieved, which is significantly below the expectation in the National Planning Policy Framework (the Framework). As such, it is common ground between the Council and appellant that footnote 7 of the Framework is engaged. Whether subsection i) or ii) of paragraph 11d of the Framework applies will depend on my conclusions with regards to the effect on heritage assets.
11. The Council's five year housing land supply (5YHLS) position is agreed to be between approximately 3 years (appellant) and no more than 4.1 years (Council). The agreed range of shortfall in the 5YHLS is based upon the standard methodology and a 20% buffer. The Council and appellant agree the shortfall in the Council's 5YHLS is significant and that significant weight should be attached to the housing delivery of the appeal scheme. No party submitted detailed 5YHLS position evidence to question the agreed range of shortfall in the 5YHLS and I have considered the appeal on that basis.
12. Both the HBCS and the ALP pre-date the current Framework. Paragraph 213 of the Framework states that due weight should be given to the relevant policies of the development plan depending on their degree of consistency with the Framework. The Council's first refusal reason refers to HBCS Policies CS11 (Protecting and Enhancing the Special Environment and Heritage of Havant Borough) and CS16 (High Quality Design). It also refers to ALP Policy DM20 (Historic Assets).
13. HBCS Policy CS11 is a permissive policy and advises that planning permission will be granted for development that, amongst other things, protects and where appropriate enhances the borough's statutory and non-statutory heritage designations. HBCS Policy CS16 requires all development to demonstrate that its design, amongst other things, identifies and responds positively to existing features of natural, historic or local character. These policies fail to provide for the balancing of any harm to designated heritage assets against public benefits as required by Framework paragraph 196. Nevertheless, these policies do broadly follow the advice in Framework paragraph 185 which advises plans should set out a positive strategy for the conservation and enjoyment of the historic environment, taking into account, amongst other things, the desirability of sustaining and enhancing the significance of heritage assets. As such, whilst I am not persuaded they attract full weight, they must be given significant weight.

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<sup>9</sup> For the period 01 April 2020 to 31 March 2025.

<sup>10</sup> The 2020 Housing Delivery Test results were published on 19 January 2021. They show a result for Havant of 72%, which remains significantly below Framework expectations.

14. ALP Policy DM20 states that planning permission will be granted for development that conserves and enhances the historic assets of Havant Borough. The policy's supporting text refers to the Council having a positive strategy for the historic environment in line with the Framework. On that basis, both the Council and appellant are satisfied that the policy attracts full weight and I see no reason to disagree.
15. The statement of Common Ground between the Council and appellant also refers to HBCS Policy CS17 and ALP Policy AL2 as relevant. HBCS Policy CS17 sets out the settlement strategy for the area administered by the Council, explaining where development proposals are considered acceptable in principle. The strategy seeks to concentrate new development within the five urban areas of Havant, Leigh Park, Waterlooville, Emsworth and Hayling Island. The urban area boundaries are defined by ALP Policy AL2 and the associated Policies Map. It is agreed that the appeal site lies outside the defined urban area boundary of Havant and Bedhampton. As such, on the face of a plain reading of these policies, the proposal is in conflict with HBCS Policy CS17 and ALP Policy AL2 by virtue of its location outside of an urban area boundary. It is notable, however, that the Council's refusal reasons do not refer to these policies and objection to the principle of residential development on the site does not form part of the Council's case.
16. The appellant asserts that no weight should be given to HBCS Policy CS17 and ALP Policy AL2 because the urban area boundaries were drawn up based on an out of date housing requirement of 6300 homes between 2006 and 2026 (315 dwellings per annum), as set out in HBCS Policy CS9 (Housing). The Framework requires local housing need to be calculated using the standard method when the strategic policies are more than 5 years old<sup>11</sup>. Using the standard method, the Council's Five Year Housing Land Supply Update (December 2020)<sup>12</sup> advises the annual housing need figure for Havant is 504 dwellings per annum. This is a considerable increase over the figures in HBCS Policy CS9.
17. The Council accepts that the current housing objectively assessed need (OAN) cannot be accommodated within the urban area boundaries that are identified by ALP Policy AL2 and the Policies Map. In this context, whilst I accept that the objectives of Policies CS17 and ALP Policy AL2 are broadly consistent with the Framework in so far as they seek to primarily focus new developments within existing urban areas, I find they should be given limited weight by virtue of their reliance on the out-of-date urban area boundaries.

### *Emerging Plan*

18. The Council has been engaged in the preparation of a new Local Plan, currently known as the Pre-Submission Havant Borough Local Plan 2036 (PHBLP). The Council published the PHBLP<sup>13</sup> for public consultation between 1 February 2019 and 18 March 2019. A further Regulation 19 version of the PHBLP with proposed changes<sup>14</sup> (PHBLPC) recently concluded its public consultation on 17 December 2020. Whilst the emerging local plan had not been submitted for examination at the time of the inquiry, I acknowledge that submission occurred

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<sup>11</sup> Framework para 73 and footnote 37.

<sup>12</sup> CD P17

<sup>13</sup> Regulation 19

<sup>14</sup> ID10

shortly after on 12 February 2021. Furthermore, I note that the Examination in Public (EiP) hearings will begin on 12 July 2021.

19. The emerging plan includes the Council's proposed new housing allocations. PHBLPC Policy H20 identifies the appeal site as a proposed allocation for residential development of about 50 dwellings. During the Inquiry there were discussions regarding the weight to be given to relevant policies of the PHBLPC and, in particular, Policy H20.
20. Paragraph 48 of the Framework advises that the weight given to relevant policies in emerging plans is dependent on: the stage of preparation of the emerging plan; the extent of unresolved objection to individual policies; and the degree of consistency with the Framework. Whilst I note that extensive preparatory work has occurred, it is clear that unresolved objections remain to the PHBLPC. The emerging plan, therefore, is at a stage where there is still potential for significant modifications and, as such, I can give only limited weight to the PHBLPC in my decision-making.

## Heritage

21. The appeal site relates to part of an arable field located off the southern side of Lower Road at the southern edge of Bedhampton. The Portsmouth to London railway line runs adjacent to the southern boundary of the site. The eastern edge of the site is defined by a mature 'shelterbelt' of coniferous trees. The remainder of the arable field adjoins the site to the west but is not defined by any intervening boundary treatment. Significant highway infrastructure is located in close proximity to the site, including junction 5 of the A3(M) to the west and the dual carriageway Havant Bypass (A27) to the south. The Havant Bypass separates the site from Langstone Harbour to the south.
22. Whilst the built form of Bedhampton has expanded significantly through the 20<sup>th</sup> Century, that development has been located predominantly to the north of Lower Road. Development to the south of Lower Road is predominantly limited to the converted Old Manor Farm buildings, a terrace of 3 associated farm worker cottages and a recently built dwelling (Manor Barn). A further modern corrugated sheet metal clad building of utilitarian form is located to the west of Old Manor Farm.
23. Whilst there are no designated heritage assets within the boundary of the appeal site, the Old Bedhampton Conservation Area (OBCA) is located immediately adjacent to the site. The extent of the OBCA was recently revised by the Old Bedhampton Conservation Area Appraisal (OBCAA)<sup>15</sup>. The revised OBCA comprises 5 'Character Areas (CA)': CA1 'Historic Settlement'; CA2 'Mill and environs'; CA3 'Bidbury Mead'; CA4 'Bedhampton Road'; and CA5 'Old Manor Farm'. Character Areas 3, 4 and 5 were added to the OBCA as part of the OBCCA.
24. The appeal site wraps around the southern and eastern boundaries of CA5 'Old Manor Farm'. CA1 'Historic Settlement' extends westward up to and including the bend in Lower Road adjacent to the north-eastern corner of the site. CA2 'Mill and environs' is separated from the site by the railway line and intervening agricultural land. There is agreement between the main parties that the development would affect the setting of Character Areas 1 and 5. The Council

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<sup>15</sup> Agreed at Full Council (25 September 2019).

and the appellant agree that the development will not affect the setting of any listed buildings. The BHA has, however, expressed concerns at the impact of the proposal on the setting of The Elms, a Grade II\* Listed Building located on the western side of Lower Road. I will deal with this matter later in my decision.

25. Any impact on the settings of the OBCA and The Elms would not necessarily detract from the significance of these designated heritage assets because that depends on the extent to which their settings contribute to their significance. Their settings are not designations in themselves. The Framework defines significance 'as the value of the asset because of its heritage interest.' This interest may be archaeological, architectural, artistic or historic. The setting is defined as the surroundings in which the asset is experienced, which may change as the asset and its surroundings evolve.

#### *Old Bedhampton Conservation Area*

26. S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. In identifying the degree to which the appeal site contributes to the significance of the OBCA, both heritage witnesses rely on the OBCAA. The OBCAA provides a list of features<sup>16</sup> that contribute to the special interest of the OBCA, including, amongst others: the network of early lanes and routes that survive including sections of a surviving network passing east-west through the heart of the settlement; the relatively tranquil setting afforded by the informal layout of the roads and light traffic movements; protected trees; natural springs, ponds and network of streams; The Mill complex of buildings and water features, a number of which are listed; the Victorian railway bridge along Mill Lane; a range of listed buildings that add character through their historic structure and large plots which give the historic centre a more open grain than later development.
27. The OBCAA describes CA1 as, 'concentrated around the loose nucleus of residential properties, associated gardens, the main laneway that flows through the settlement including Bidbury Lane, Lower Road, Brookside Road and Mill Lane.' The OBCAA advises that Old Manor Farm was built around the turn of the 20<sup>th</sup> Century and that the buildings, now converted to residential use, retain the farmyard layout combined with cottage style fenestration to positive effect. The OBCAA also advises that the distinctly separate nature of CA5 reflects the former agricultural use of Old Manor Farm and its set apart position from the historic village centre.
28. The OBCAA states that, '*The immediate setting of the conservation area is an important aspect of its significance, particularly areas such as Bidbury Mead, lands to the south of Bidbury Lane and farmlands to the south and south west of Lower Road.*' (para 2.8). The OBCAA goes on to advise, '*The farmlands to the south and south west of the current lanes are considered to reinforce the rural origins of the settlement. This role is evidenced by the surviving farm group to the south side of Lower Road and the farmland with the historic route / footpath leading to another bridge providing access to the severed area south of the railway line. The presence of the line of non-native conifers intrudes into this setting but does not remove the sense of that connection.*' (Para 4.12).

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<sup>16</sup> Page 30 OBCAA

29. The appellant has drawn my attention to the report<sup>17</sup> prepared on behalf of the Friends of Bidbury Meadow that proposed that land to the south of Lower Road (including Lower Road and the agricultural lands) be included in the extensions to the OBCA. I note that this proposal was not taken forward in the final OBCA boundary revisions. Indeed, the OBCAA advises that these fields do not have the special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance<sup>18</sup>. Whilst the fields are not of individual special interest, the OBCAA includes numerous references to the importance of the surrounding farmlands in reinforcing the rural origins of Bedhampton and, as such, they represent an important aspect of the significance of the OBCA.
30. The evidence suggests that there is a historic ownership and functional link between the Old Manor Farm, the farm workers' cottages and the adjacent farmlands. Whilst the residential conversion of the agricultural buildings has inevitably weakened their significance in terms of function and character, the grouping retains its distinctly agricultural courtyard layout and appearance. The cohesive converted farm complex and agricultural workers' cottages are rooted in the surrounding agricultural land. The layout of the fields remains broadly as illustrated in historic mapping dating back to 1840. Whilst residential development has occurred to the north of Lower Road, CA5 maintains a sense of physical separation and detachment from the main part of the village. That detachment forms part of the way in which CA5 is experienced and is of importance in understanding the origins of the farm and the wider settlement.
31. The open farmland to the south and south west of Lower Road adjoining the western edge of CA1 also contributes to the significance of CA1. Given the nearby major highway infrastructure and the urban expansion of Bedhampton, the agricultural setting of the historic core of Bedhampton has been much diminished over the 20<sup>th</sup> Century. The remaining agricultural land to the south of lower road acts as a buffer to the highways infrastructure and enables the rural character and agrarian origins of Bedhampton's historic core to be understood. Furthermore, the ongoing agricultural use of the fields aids the understanding of the farm's historical functional relationship with its surroundings and the development of the wider settlement. As such, I find that the agricultural land of the appeal site makes a high degree of positive contribution to the ability to experience and appreciate the significance of the OBCA as derived from its setting.
32. In terms of relevant key views, the contribution of the appeal site to understanding the significance of the OBCA is primarily experienced from Lower Road and Lodge Road. Whilst there is a mature high hedge on the boundary of the site with Lower Road, the link between CA5 and the surrounding agricultural land is clearly perceived in views from Lodge Road and Lower Road, including upon leaving CA1. These views and the unfolding visual experience during travel through Bedhampton towards the site make a moderate degree of positive contribution to the ability to appreciate the OBCAA as derived from its setting.
33. The OBCAA includes reference to other vistas and views within its 'Townscape Appraisal'. Views from Narrow Marsh Lane reveal the evidence of the historic

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<sup>17</sup> BHA Appeal Statement Document - Extracts from Consultant's Conservation Area Review 25 October 2018

<sup>18</sup> OBCAA Paragraph 7.8

farm buildings' tie to the adjacent fields. Given the modern addition of Manor Barn is to the rear of CA5, the views from Narrow Marsh Lane make a moderate positive contribution to the ability to appreciate the OBCAA as derived from its setting. Other views of the site and the OBCAA, including from the Mill Lane Bridge, make only a limited contribution to the ability to appreciate the OBCAA given their longer distance nature and the substantial intervening planting.

34. Narrow Marsh Lane, a historic route through the appeal site, is highlighted within the OBCAA<sup>19</sup> as having existed in circa 1770 and as historically providing a link to the Langstone Harbour. The historic map dated 1797<sup>20</sup> clearly shows Narrow Marsh Lane and Lower Road. Whilst both Lower Road and Narrow Marsh Lane have been truncated by modern highways infrastructure, they remain part of the network of early lanes and routes that survive and give significance to the OBCAA. Lower Road remains a clearly legible element of the historic east-west network passing through the heart of the settlement. The raised hedgerow on Lower Road boundary of the site is indicative of the sunken lanes found in the area. I find Lower Road makes a moderate degree of positive contribution to the significance of OBCA and the appreciation of that significance via its setting. Narrow Marsh Lane has been much diminished by its severance from the harbour by the A27 and its route and extent was not easily legible on my site visit. As such, I find Narrow Marsh Lane to make a low degree of positive contribution to the ability to appreciate the significance of the OBCA as derived from its setting.
35. The appeal proposal would introduce a modern, suburban form of development into the currently open agricultural setting of the OBCA. The plans show green buffers would be provided adjacent to the Lower Road boundary and to the south of Old Manor Farm. The majority of the existing Lower Road hedgerow would be retained, and significant areas of open green space are planned at the southern and eastern edges of the site. The scheme, overall, is of a comparatively low density. These factors would help maintain an open aspect in the immediate foreground, but the new houses would be apparent behind. Much of the retained open land will not be visible from Lower Road. Old Manor Farm and the associated cottages will, to a large extent, be surrounded by the built form of the proposal.
36. The development would, therefore, erode the ability to understand and appreciate the historical and functional relationship between CA5 and its immediate surroundings. The relative separation and isolation of CA5 from the core of the village would be harmed. Furthermore, the rural buffer to the highways infrastructure would be diminished and this would be harmful to the understanding of the rural character and agrarian origins of Bedhampton's historic core as protected by CA1. I find these effects of the development would represent a moderate degree of harm to the positive contributions of these elements to the OBCA's setting.
37. The loss of open setting would be particularly apparent in views travelling along Lower Road, including upon leaving CA1 in a westward direction, and from Lodge Road. Whilst in spring and summer the Lower Road boundary hedge would provide increased levels of screening, additional openings are proposed

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<sup>19</sup> OBCAA para 2.11

<sup>20</sup> OBCAA Figure 7



in the hedgerow. The openings in the hedgerow, in combination with the decreased levels of screening during winter and autumn, would result in the development being readily perceived behind the hedge. Furthermore, Lodge Road provides elevated views across the site and CA5 at all times of the year. These factors would result in a moderate degree of harm to the existing positive contributions of these views to the OBCA's setting. Views from Narrow Marsh Lane and the railway bridge to the south of the site would also be detrimentally affected, although to a more limited degree given the existing residential development of Manor Barn.

38. The ability to understand and appreciate the significance of the historic routes of Narrow Marsh Lane and Lower Road would be diminished by the proposal's suburban encroachment into their historically agrarian surroundings. This will result in a moderate degree of harm to the existing positive contributions of these elements of the OBCA's setting. Paragraph 2.10 of the OBCAA advises that the non-native coniferous trees that form the eastern edge of the site are intrusive in the historic field pattern. Their replacement with a linear woodland of native species would represent a moderate degree of enhancement to the OBCA's setting subject to an appropriate planting scheme maintaining shielding of views of the development from the railway bridge at Mill Lane.
39. I have had regard to the concerns of the BHA regarding the impact of increased traffic on the tranquillity of the OBCA. The development would not generate a significant amount of additional traffic. As such, I find only limited harm to the tranquillity of the OBCA would result from the proposal.
40. Overall, for the reasons outlined, I find that the significance of the OBCA, as derived from its setting, would be harmed. That harm would be less than substantial and at a moderate level within that spectrum. In reaching this view, I have had regard to the Planning Practice Guidance (PPG) which advises that substantial harm is 'a high test'<sup>21</sup>.

*Effect on the setting of Listed Buildings including The Elms*

41. S66(1) of the LBA requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. The Elms, a Grade II\* listed building is the closest listed building to the site and is set on a prominent corner of Lower Road. The OBCAA advises that The Elms, whilst built in the 17<sup>th</sup> Century, is noted for its Gothic Revival features that were added as part of 18<sup>th</sup> century improvements. Its principal elevations include castellated parapets, gothic ovolo arched casement windows, stucco render and mouldings, friezes and niches. The listing includes the front gate piers with pineapples, and a 'Tudor' side gate within a vail, also capped with pineapples.
42. The Elms is separated from the site by modern housing along the northern side of Lower Road. The right-angle bend in Lower Road at the north-eastern corner of the site prevents, in combination with existing intervening buildings and landscaping, any intervisibility between the site and The Elms. The proposed development would not be visible directly from within the grounds of The Elms or from its approaches. I have had regard to the concerns that increased traffic passing The Elms would have detrimental impact on its setting. Given the road

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<sup>21</sup> Paragraph: 018 Reference ID: 18a-018-20190723 - Revision date: 23 07 2019

alignment in the vicinity of The Elms, traffic speeds are low. I am not persuaded, therefore, that the limited increase in traffic numbers would detrimentally affect the tranquillity of the setting of the Elms. The Elms does not have a direct functional or historic relationship with the application site. Given these factors, in combination with the separation distance to the site, the proposal would not result in a harmful effect on the setting of the Elms.

43. There are many other notable listed buildings within Bedhampton, including the Grade II listed buildings of the Church of St Thomas, the Old Mill House, Manor Cottage, Bidbury House, Spring Lawn and Manor House. These listed buildings are located in CA1 and are well detached from the site, with no apparent direct functional or historic relationship with the site. As such, there would be no harmful effect on the settings or significance of these listed buildings.

#### *Archaeology & Non-Designated Heritage Assets*

44. On sites where there is potential for archaeological interest, paragraph 189 of the Framework requires the submission of a desk based assessment (DBA) and field evaluation where necessary. In this case, a DBA by L-P Archaeology (dated October 2016) accompanies the proposals. The responses of the County Council's Archaeologist dispute the conclusion of the DBA that the site is likely to have remained on the periphery of human activity from the prehistoric to the early medieval. Indeed, the County Council's Archaeologist advises that the site lies in an area on the fringe of Langstone Harbour where there has been activity from the Mesolithic period right through to the Roman period. As such, the County Council's Archaeologist advises that it is inescapable that the site has a high archaeological potential.
45. I note that the BHA and interested parties are concerned that the preliminary archaeological investigation of the site has been inadequate, and that the archaeological and historical merit of Narrow Marsh Lane will be damaged by the proposal. Appendix 9 of Mr Tate's evidence is an extract from the appellant's drainage strategy that shows an element of Narrow Marsh Lane within the rear gardens of the proposed dwellings. The County Council's Countryside Access Team advise that the housing layout plan provides a reasonable identification of Narrow Marsh Lane based on the historical mapping. The Council's committee report and update sheet<sup>22</sup> indicate that initial trial trenching has taken place, including of Narrow Marsh Lane. As a result, the proposed site plan was amended to accommodate a wider retained route for Narrow Marsh Lane.
46. The exact significance and extent of any archaeological assets on the site, including those relating to Narrow Marsh Lane, cannot be fully known at the present time. Whilst Narrow Marsh Lane is not identified by the Council in their submissions as a non-designated heritage asset, the appellant's heritage witness confirmed that it is recorded on the County Council's Historic Environment Record as a feature of interest. Furthermore, the PPG<sup>23</sup> advises that non-designated heritage assets may be identified as part of the decision-making process. Whilst its full extent is now much diminished, I find Narrow Marsh Lane to have a limited degree of heritage significance that merits being considered as a non-designated heritage asset of local value in my

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<sup>22</sup> Havant Borough Council Development Management Committee Report & Update - 5 March 2020

<sup>23</sup> Paragraph: 040 Reference ID: 18a-040-20190723 - Revision date: 23 07 2019

decision. That significance is derived from its role as a historic route connecting Langstone Harbour to Lower Road. The ability to understand and appreciate the significance of the historic route of Narrow Marsh Lane will be diminished by suburban encroachment into its historically agricultural setting. This would result in a moderate degree of harm to the significance of Narrow Marsh Lane.

47. The County Council's Archaeologist has advised that archaeology below the lane is least likely to survive as such tracks are likely to be erosive and the earliest manifestations probably removed during the continued use. As such, the evidence does not suggest it is of equivalent significance to a scheduled monument and Footnote 63 of the Framework would not apply in this case. The County Council's Archaeologist does not object to the proposal subject to conditions securing a preliminary archaeological survey, the investigation of any archaeological remains identified, and appropriate reporting and recording of those results. I have no substantive evidence before me to suggest that such an approach would not be reasonable and proportionate.

#### *Heritage Conclusions*

48. I have found that the harm to the significance of the OBCA would be less than substantial and at a moderate level within that spectrum. Given the limited significance of Narrow Marsh Lane, I give limited weight to the harm to its significance. The risk of residual harm to significance from the loss of any physical remains, including of Narrow Marsh Lane, is limited given the appropriate archaeological investigations proposed.
49. The proposals would, therefore, be contrary to HBCS Policies CS11 and CS16, and ALP Policy DM20, which taken together require, amongst other things, development to protect and respond positively to existing historic features.
50. I return to consider the proposals in respect of paragraphs 196 and 197 of the Framework later in my decision.

#### **Highways**

51. There is agreement between the Council, Hampshire County Council (HCC) and the appellant that the scheme is acceptable in terms of its effect on the efficient operation and safety of the highway network. Nevertheless, Mr Tate, on behalf of the BHA, has raised many concerns regarding this issue. Similar concerns have also been expressed by many interested parties in their representations. In particular, there are concerns that the additional traffic generated by the proposal will increase the risk of unsafe road user conflict given the existing tight bends and absence of footways in the local area.
52. The appellant submitted a Transport Statement (TS) with the application, followed by an additional Technical Note (TN) to address points raised in the initial consultation response of HCC. An 'Agreed Statement on Transport Matters' (ASoTM) between the appellant and HCC was submitted during the appeal process. The ASoTM sets out the observed existing peak hour traffic flows along Lower Road and Bidbury Lane. For Lower Road, there were 60 2-way movements in the AM peak hour (0730h to 0830h), and 58 in the PM peak hour (1630h to 1730h). Automatic Traffic Surveys on Lower Road in the vicinity of the proposed access recorded 85<sup>th</sup> percentile speeds of 20.6 mph eastbound and 18.2 mph westbound.

53. Appendix I of the TS includes the results of a 4-day pedestrian<sup>24</sup> and cycle survey on the part of Lower Road without a pavement. That survey found, during weekdays, peak hour numbers of 2-way pedestrian movements ranging from 13 to 19 per hour (AM) and 12 to 15 per hour (PM). At the weekend, morning peak hour 2-way pedestrian movements were recorded as between 12 and 27 per hour, with the evening peak hour ranging between 21 to 22 per hour. For weekday cycle movements, the morning peak hour 2-way movements ranged between 20 to 21 per hour, with 19 to 29 per hour during the evening peak hour. During the weekend, the morning peak hour 2-way cycle movements ranged between 14 to 20 per hour, with 18 to 19 in the evening peak hour.
54. These survey figures indicate that Lower Road is currently well used by pedestrians, cyclists and vehicles. HCC advises that, given the level of these traffic movements, Lower Road currently operates as a 'shared surface' in the area where there is no pavement available. The shared use of Lower Road was apparent at the times of my site visits. I observed all user group types on the highway, including highway users meeting and passing each other. I did not observe pedestrians or cyclists acting in ways, such as hurrying or edging along the highway, that would indicate they perceived an undue risk on the shared surface. I appreciate that my visits provided only a snapshot of highway conditions, however, vehicle speeds at the times of my visits were such that road users passed each other in a safe and controlled manner.
55. The appellant's highways evidence includes an assessment<sup>25</sup> of a northbound car overtaking a pedestrian on the shared space as another southbound car approaches the bend to the north of the shared space. The drawing shows that the southbound vehicle approaching the tightest part of the bend has approximately 22m forward visibility to the northbound vehicle as it safely overtakes a pedestrian. This level of visibility is in line with the Stopping Sight Distance in Manual for Streets (MfS)<sup>26</sup> for a vehicle travelling at 18mph. Such visibility is therefore commensurate with the recorded 85<sup>th</sup> percentile speed of 18.2mph westbound.
56. I understand and appreciate the concerns of the BHA that some vehicles will be travelling faster than the 85<sup>th</sup> percentile speed and that other configurations of road users within the shared space are likely. Furthermore, I accept that the width of the highway varies along the length of the shared space and that incidents or near misses in the area may well go unrecorded. Nevertheless, the substantive evidence before me, including the lack of any formally recorded accidents, does not indicate that there are any inherent highway safety issues in the vicinity of the site. The length of Lower Road without a footpath is relatively short, straight, lacking in distinct centre lines and has the benefit of streetlamps. MfS<sup>27</sup> advises that the absence of centre lines can lower vehicular speeds and that shared surfaces are likely to work well where, amongst other things, the volume of traffic is below 100 vehicles per hour.
57. The vehicular trip generation for the development has been estimated by the appellant using residential vehicle trip rates derived from the TRICS database.

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<sup>24</sup> Transport Statement (by i-Transport), Appendix I, Table 2.1 Pedestrian Movements

<sup>25</sup> Drawing no. ITB12174-GA-009

<sup>26</sup> Department for Transport, Manual for Streets – Table 7.1

<sup>27</sup> Department for Transport, Manual for Streets – Paras 9.3.1, 9.3.3

Table 6.1<sup>28</sup> of the ASoTM sets out that weekday peak hour trip rates are predicted to increase by 26 two-way trips both in the morning and evening. As such, the predicted peak vehicular usage of Lower Road would remain below 100 vehicles per hour. I have had regard to the concerns that the increasing use of electric vehicles and home deliveries would present additional safety issues. Given the forward visibility demonstrated in the evidence, there is no substantive evidence to support these assertions. HCC advises that the current safe operation of Lower Road as a shared surface is unlikely to be compromised by the additional vehicular trips generated by this development. I attach significant weight to that advice.

58. I have had regard to the wider concerns of the BHA and interested parties regarding the capacity of the local highway network and its ability to cope with the development. The appellant's Transport Statement advises that the development would not have a material effect on the surrounding highway network. Car parking would be provided in accordance with the Havant Borough Council Parking SPD (July 2016, revised 2019). Moreover, HCC did not object to the proposal in terms of either parking provision or the development's impact on the local road network, including along Bidbury Lane and at the Brookside Road and Bedhampton Road junction. I attach significant weight to that advice.
59. The proposals include footway connections through the site and onto Lower Road. The eastern footway connection includes an informal crossing point to the northern side of Lower Road to enable pedestrians to access the existing footway. The western footway connection onto Lower Road is opposite the pavement of Lodge Road and provides an alternative pedestrian route to Bedhampton Road via footpath 107. Whilst I note the concerns regarding the suitability of footpath 107 due to its limited width and lack of natural surveillance, it is hard surfaced and has several lights along its length. As such, it would provide a reasonable alternative pedestrian route for many and, therefore, positively contributes to the connectivity of the site.
60. Proposed highway improvements at Bidbury Lane, Brookside Road, Kings Croft Lane and Bedhampton Road<sup>29</sup> would all improve pedestrian accessibility to facilities from the site, including local schools and green space. There is agreement between the Council, HCC and the appellant that future residents would have appropriate access to local shops, services and facilities by sustainable transport modes. Table 3.1 of the appellant's TN shows that there is a good range of facilities and services within reasonable walking distance of the site (maximum 2km), including retail, schools, restaurants, public transport and outdoor recreation. The proposal would, therefore, provide appropriate access to facilities by a range of sustainable transport modes, including walking, cycling and public transport.
61. Concluding on this main issue, I find that it has been demonstrated that safe and suitable access to the site can be achieved and that the local road network has capacity to accommodate the traffic resulting from the development. The proposal is in accordance with HBCS Policy CS20 which requires development to, amongst other things, ensure the safe and efficient operation of the strategic and local road network. Moreover, in accordance with paragraph 109 of the Framework, the proposal would not have an unacceptable effect on

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<sup>28</sup> Weekday AM Peak Hour Arrivals Amended at the Inquiry to 7.

<sup>29</sup> Dwg no. ITB12174-GA-007 Rev A

highway safety and would not have a severe residual cumulative impact on the road network.

## **Appropriate Assessment**

### *Habitat Sites – Recreational Pressures*

62. The appeal site is located near to the Chichester and Langstone Harbours (CLH) Special Protection Area (SPA), the CLH Ramsar site and the Solent Maritime SAC. SPAs and SACs are habitats protected as European sites under the Conservation of Habitats and Species Regulations 2017 (the Regulations). Paragraph 176 of the Framework identifies that Ramsar sites should be given the same protection as European sites. The Regulations require that the competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of European sites. This requires consideration of whether the proposal would have an effect on the qualifying features of the site, either alone or in combination with other plans and projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of whether the plan would affect the integrity of a European site must be undertaken, having regard to the site's conservation objectives and advice from Natural England.
63. CLH are large, sheltered estuarine basins comprising extensive mud and sand flats exposed at low tide. The qualifying features of the CLH SPA are internationally important populations of birds, including, amongst others, Dark-bellied brent goose, Sandwich tern, Common tern and Little tern. The qualifying features of the Solent Maritime SAC include, amongst others, coastal lagoons, Atlantic salt meadows and Desmoulin's whorl snail. The CLH Ramsar site's qualifying features includes internationally important numbers of migratory species and waterfowl assemblage.
64. Given the proximity of the proposal to these European sites, it is likely that future residents of the proposal would visit those areas for recreational purposes. Intensification of such activities would be likely to cause disturbance to the qualifying features of the European sites. I cannot be certain that such visits, in combination with other residential development within the district, would not have a significant effect on the internationally important interest features of the European sites.
65. The conservation objectives for the CLH SPA are to ensure that the integrity of the site is maintained and restored as appropriate, and to ensure that the site contributes to the aims of the Birds Directive. These objectives are achieved by maintaining and restoring the extent and distribution of habitats, including their structure and function, supporting processes on which the habitats rely, as well as the populations of each of the qualifying features. The conservation objectives of the Solent Maritime SAC include ensuring that the integrity of the site is maintained or restored as appropriate, including its structure and function, supporting processes on which the habitats of qualifying species rely, as well as the populations of each of the qualifying features.
66. The Solent Recreation Mitigation Strategy (SRMS) identifies that housing and population growth is likely to increase the number of visitors in sensitive coastal areas, creating the potential for impacts from increased recreational disturbance of qualifying features, including birds and their habitats, unless adequately managed. The strategy requires financial contributions from

developments and allocates payment to detailed and costed infrastructure and non-infrastructure projects, including the employment of coastal rangers; education initiatives; measures to encourage responsible dog-walking; codes of conduct for coastal activities; site-specific projects to better manage visitors and provide secure habitats for birds; the provision of new or enhanced greenspaces as an alternative to visiting the coast; and coordination of the above activities. Natural England advises that mitigation secured in line with the SRMS would avoid the development having an adverse effect on the integrity of the European Sites. The SRMS mitigation measures would be appropriately secured by the s106 submitted by the appellant.

67. I find that the proposed mitigation of increased recreational pressures would be effective having regard to designated sites' conservation objectives and, in this regard, the proposal would not adversely affect the integrity of the European Sites. The development would therefore accord with ALP Policy DM24 which provides that planning permission will be granted for development that avoids or mitigates a likely significant effect on SPAs caused by recreational disturbance.

#### *Habitat Sites - Water Quality*

68. Natural England advises that there are high levels of nitrogen and phosphorus input to the water environment of the Solent region caused by wastewater from existing housing and from agricultural sources. Proposals for additional housing inevitably have implications for wastewater and, without mitigation, would contribute to the eutrophication that reduces water quality in the Solent region. Such eutrophication would likely have a significant effect on the internationally important interest features of the CLH SPA, the CLH Ramsar site, and the Solent Maritime SAC by virtue of its effect on vegetation growth and food resources for qualifying species. For the same reasons, there would also be a likely significant effect on other nearby European Sites, including: the Solent and Dorset Coast SPA; Solent and Southampton Water SPA / Ramsar; Portsmouth Harbour SPA / Ramsar; and the Solent and Isle of Wight Lagoons SPA. These European sites form part of the wider receiving waters for the appeal site and qualifying features include, amongst others, over-wintering wildfowl and waders, and a wide range of coastal and transitional habitats supporting important plant and animal communities.
69. To demonstrate that the proposal would result in no net nutrient discharge into the European sites, the appellant has provided a nitrogen calculation in accordance with Natural England's recommended methodology<sup>30</sup>. The calculation shows the development will result in a negative nitrogen budget by virtue of the cessation of intensive agriculture and the provision of public open space. Natural England raises no concerns regarding the nutrient load emitted by the proposal, provided that the proposed mitigation measures are appropriately secured. The provision of open space would be secured by the s106 submitted by the appellant. I find that the proposed mitigation would be effective in achieving net nutrient neutrality and having regard to designated sites' conservation objectives. As such, in this regard, the proposal would not adversely affect the integrity of the European sites.

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<sup>30</sup> Advice on Achieving Nutrient Neutrality for New Development in the Solent Region

### *Support Habitats*

70. The appeal site forms part of an identified 'secondary support area' (H05A) for waders and Brent Geese within the Solent Waders and Brent Goose Strategy (SWBGS). Whilst the site is on land that falls outside of the nearby European sites' boundaries, it is functionally linked to the CLH SPA and Ramsar sites by virtue of providing habitat for overwintering birds designated as qualifying species for these European sites. The proposal would result in the loss of an area of functionally linked habitat. As such, it would be likely to have a significant effect on the internationally important features of interest of the CLH SPA and Ramsar sites
71. A methodology for calculating off-site mitigation, based on a financial contribution relating to the area of habitat lost, is set out in the SWBGS. The proposed contribution is in accordance with that methodology and would be used for measures to mitigate against the loss of the site as a secondary support habitat for Solent Waders and Brent Geese in accordance with the SWBGS. The BHA has raised concerns that, whilst a financial contribution towards off-site mitigation is secured by the s106, the s106 does not specify what off-site mitigation will be in place at the time development commences. The SWBGS Mitigation Guide advises, however, that where impacts on secondary support areas cannot be avoided or adequately mitigated on-site, there may be scope for a more flexible approach to off-setting the impacts to these sites, provided the continued ecological function of the network is maintained and significant enhancements additionally delivered, for example by improved long term management<sup>31</sup>.
72. The contribution would be payable to the Council prior to commencement of the development. I note that the PHBLPC allocates land at 'Broadmarsh'<sup>32</sup>, close to the appeal site, for a Brent Goose and Wader Refuge. The financial contribution from the proposal could be reasonably used to bring forward this refuge project and significantly improve the site for SPA species through improved management. The SWBGS advises that funding secured to mitigate the loss of secondary support habitat is to be used to enhance, manage and monitor the wider Solent wader and Brent goose ecological network.<sup>33</sup>
73. Natural England and the Council's Ecologist advise that the secondary support area H05A has not been regularly used by SPA birds in recent years. As such, I am satisfied that the obligation is worded, in accordance with the SWBGS, to ensure appropriate mitigation is secured for the wider Solent wader and Brent goose ecological network, whether this is at 'Broadmarsh', or at other suitable sites that may come forward. Natural England is satisfied with this approach and I have no substantive reason to disagree. I find that the proposed mitigation would be effective having regard to designated sites' conservation objectives and, in this regard, the proposal would not adversely affect the integrity of any European Sites.

### *Habitat Sites – Construction Impacts*

74. Construction noise, pollution and activity has the potential to impact on the nearby European Sites and on the secondary support site (H05A) identified by

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<sup>31</sup> Paragraph 25 SWBGS Mitigation Guide 2018

<sup>32</sup> Pre-Submission Local Plan Policy E25

<sup>33</sup> Paragraph 35 SWBGS Mitigation Guide 2018



the SWBGS. As such, the proposal would be likely to have a significant effect on the internationally important features of interest of the CLH SPA and Ramsar Sites. Natural England is satisfied that these impacts can be appropriately mitigated by a Construction Environmental Management Plan (CEMP). I find that the proposed mitigation would be effective having regard to designated sites' conservation objectives and, in this regard, the proposal would not adversely affect the integrity of any European Sites.

#### *Appropriate Assessment Conclusion*

75. For the reasons set out above, I can safely conclude that the proposed development would not, either alone or in combination with other plans or projects, adversely affect the integrity of any European sites. The proposal would accord with ALP Policies DM23 and DM24 which taken together, amongst other things, seek to protect SPAs and sites for Brent geese and Waders.

#### **Other Matters**

##### *Character and Appearance*

76. The appellant's Landscape and Visual Impact Assessment<sup>34</sup> (LVIA) advises that the site lies within the 'Landscape Character Area (LCA) 13: Historic Bedhampton' and comprises 'Landscape Type H: Open Lower Harbour Plain'. The LVIA further advises that the HBC Landscape Character Assessment Sensitivity Report (2007) ascribes this LCA a medium sensitivity, due to, amongst other things: its open agricultural areas; long distance paths and the streams; streamside vegetation; large gardens and boundary features around historic Bedhampton; pre-1810 village areas; listed and varied buildings. I have also carefully considered the Landscape and Visual Impact Assessment<sup>35</sup> (LLVIA) submitted by the BHA. Whilst the LLVIA does not assess the effect of the current proposal, it does find that the appeal site forms part of a landscape with medium visual and landscape character sensitivity.

77. As an open area of farmland adjacent to the settlement edge, the site currently makes a positive contribution to LCA 13. The immediate effects of the proposal would be transformational, and the introduction of 50 dwellings and a new access would inevitably cause some residual landscape harm given the existing greenfield nature of the site. The low density of housing proposed, in combination with extensive areas of public open space and associated landscaping, would go some way to mitigating the landscape character harm. Whilst the planting would take many years to fully establish, the Council's Landscape Officer does not object to the proposal subject to a landscaping condition securing an appropriate tree species mix. I attach significant weight to that advice.

78. The scale and design of the dwellings proposed, with a maximum of two-storey height and a mix of gable and hipped roofs would not appear out of context with the range of existing dwelling types in the local area. The proposed materials and architectural detailing of the dwellings, including timber boarding, decorative brick detailing, chimneys and arched brickwork above windows would be reflective of locally found design details. The proposed housing is arranged so that frontages would address both the internal roads and also Lower Road. This would provide for active frontages that overlook the

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<sup>34</sup> terra firma Consultancy Ltd LVIA – April 2019

<sup>35</sup> Lizard Landscape, Design and Ecology LVIA - July 2018, LLD1453-LPL-REP-001

public areas. By setting the dwellings back from Lower Road, this enables more of the existing roadside hedge to be retained and the Farm Cottages to retain some prominence. The LVIA concludes that the overall landscape effect of the proposal would be moderate adverse after these factors are considered. I see no substantive evidence that would persuade me to disagree with these findings.

79. In visual terms, the main effects would be experienced by those travelling along, and residents of, Lower Road and Lodge Road. Wider views of the site are largely prevented by the railway line to the south and by highways infrastructure to the west. Views from the east would be filtered by the proposed replacement of the coniferous tree belt with broadleaved and native species trees. The main visual effects are, therefore, relatively localised and the proposed built elements would be substantially softened as proposed landscaping matures. The LVIA concludes that residual visual effects would be limited to no more than moderate adverse from public viewpoints, and major adverse on a very limited number of dwellings on Lower Road. I see no substantive evidence that would persuade me disagree with these findings.
80. The Framework sets out at paragraph 170 that planning decisions should recognise the intrinsic character and beauty of the countryside, amongst other matters. The site itself is not a 'valued' one within the meaning of national policy<sup>36</sup>, and has no specific landscape designation. The site forms only a small proportion of the LCA 13 and substantial areas of agricultural land would be retained to the east and west of the proposed dwellings. Furthermore, I have found the sensitivity of the scheme's design to its immediate setting to somewhat offset the harm to the character and appearance of the area arising from the loss of the open agricultural land. The pedestrian linkages to Lower Road and the extensive public open space would provide good permeability with the existing village and allow existing and new members of the community to easily mix. I am satisfied the proposal would provide a high quality environment for future residents and visitors. Nevertheless, residual landscape character and visual harm would remain by virtue of the erosion of Bedhampton's rural setting.
81. In this way, the locally distinctive character of the landscape would be diminished contrary to HBCS Policy CS16 which requires development to respect local context, identifying and responding positively to existing features of natural, historic or local character within or close to the proposed development site. This identified harm must, therefore, weigh against the proposal in the planning balance.

#### *Agricultural Land*

82. The Framework requires that decisions contribute to and enhance the natural and local environment by recognising the economic benefits of the best and most versatile agricultural land. HBCS Policy CS11 criterion (10) also seeks to protect the best and most versatile agricultural land. The Council advises that the development would result in the loss of 3.8 ha of Grade 1 and 2 (Best and Most Versatile) agricultural land. I have no evidence before me regarding the agricultural quality of the site in comparison to other land in the borough.

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<sup>36</sup> Framework para 170 a)

83. Nevertheless, I find the loss of this relatively small area of agricultural land does represent a minor adverse impact and represents conflict with HBCS Policy CS11 criterion 10. It must, therefore, weigh against the proposal in the planning balance.

#### *Air Quality*

84. The Council's Environmental Health Manager has considered the proposal in terms of both the effect of existing air quality upon the future occupants (as introduced sensitive receptors), and the emissions associated with the occupation of the proposed dwellings. Subject to the provision of sufficient green infrastructure to provide absorption and 'sink' services, the Environmental Health Manager does not object to the proposal. The required mitigation measures can be appropriately secured by condition and planning obligation. As such, I see no substantive reason to disagree with the Environmental Health Manager and find the proposal would not have a significant effect upon air quality.

#### *Ecology*

85. The application was accompanied by an ecological assessment<sup>37</sup> which found potential habitat for protected species was recorded on, and adjacent to the site. The assessment indicates potential for, and records of, birds, bats, reptiles and invertebrates. To mitigate any harm to protected species, an ecological strategy is proposed by the appellant. That strategy includes: creation of new habitats on the site's open space areas; mitigation method statements for protected species during construction phases of the development; payment provisions to local offsetting and avoidance projects on the adjacent protected coastal designated wildlife sites; the creation of species rich grasslands and tree planting; and the installation of bat and bird boxes and reptile refuges. The Council's Ecologist does not object to the proposal subject to conditions securing an appropriate ecological mitigation strategy and a Construction and Environmental Management Plan (CEMP). I see no substantive reason to disagree with the Council's Ecologist.

86. I am, therefore, satisfied that, subject to conditions securing the mitigation measures outlined within the ecological assessment and an appropriate CEMP, the development would achieve a net gain in biodiversity over the existing agricultural use. In this regard, the proposal would accord with HBCS Policy CS11 criterion 2 and HBCS Policy CS16 criteria 1b), which taken together, amongst other things, seek to support habitats, wildlife and biodiversity.

#### *Flood Risk and Drainage*

87. I have had regard to interested parties' comments highlighting that Lower Road has previously flooded following heavy rain and after a water main ruptured. No objections have been received from statutory consultees regarding the submitted Flood Risk Assessment and Development Drainage Strategy. The site is at low risk of flooding (Zone 1) and the drainage strategy proposes a SuDS scheme to collect, attenuate and convey the surface water runoff using swales and attenuation basins. Sewage would be connected to the mains. A

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<sup>37</sup> Aluco Ecological Report 2019

management company would be secured by the s106, requiring details of how the SuDS would be maintained.

88. I see no substantive reason to disagree with the responses from statutory and technical consultees. I am, therefore, satisfied that an appropriate surface water and sewage drainage scheme could be provided, ensuring that there would be no resultant unacceptable risk of flooding or pollution to controlled waters. Details can be controlled by condition.

#### *Living Conditions*

89. I note the concerns of interested parties with regards to the effect of the proposal on existing residents living conditions by virtue of overlooking, loss of privacy and over dominance. The separation distance between the development and the existing dwellings on the northern side of Lower Road would be sufficient to prevent any unacceptable impact in these regards. The dwellings opposite the proposed access are set back and on raised ground in comparison to Lower Road. These factors would significantly reduce the noise and light impacts of cars entering and exiting the proposed development. Given the limited number of vehicular movements the development would generate, I am not persuaded that unacceptable harm to existing residents would result by virtue of additional vehicular noise and lights.
90. The proposed dwellings adjoining Manor Barn are separated from the common boundary by their rear gardens and a landscape buffer. The separation distance would be sufficient to prevent any unacceptable overbearing impact or loss of privacy. The proposed dwelling adjacent to the rear gardens of Farm Cottages would be a bungalow and would be set off the common boundary such that it would not be overbearing.
91. Construction would cause some disruption, but this would be temporary and would be mitigated by a CEMP, which can be secured by condition. I am therefore satisfied that appropriate living conditions would be maintained for existing surrounding residents.

#### *Affordable Housing*

92. HBCS Policy CS9 requires between 30-40% of new dwellings on new residential schemes of 15 or more units to be provided as affordable housing. In relation to major development involving the provision of housing, paragraph 64 of the Framework states that planning policies should expect at least 10% of the homes to be available for affordable home ownership as part of the overall affordable housing contribution from the site, subject to criteria and exceptions. PHBLPC Policy H2 requires 30% of new dwellings on new residential schemes of 10 or more outside of Havant, Waterlooville and Leigh Park town centres to be affordable housing.
93. The appeal scheme proposes 30% affordable housing (5 shared ownership and 10 affordable rented). The s106 secures this mix and includes an affordable housing plan showing the plot locations of the affordable housing. Delivery of the affordable housing is linked to the disposal of the market dwellings to ensure progress in the availability of the affordable dwellings.
94. I note comments from some local residents who dispute that the proposed affordable housing is genuinely affordable. The legal agreement which accompanies the application uses a definition of affordable housing which is in

line with the definition of that in the Framework. I am therefore satisfied that this would ensure that such housing would meet the Government's criteria for affordable housing. Furthermore, I note that the Council's Housing Manager does not object to the proposal and that there are a significant number of people on the waiting list for affordable housing<sup>38</sup>.

95. As such, the development would make an adequate provision of affordable homes in accordance with HBCS Policy CS9, PHBLPC Policy H2 and the Framework.

#### *Public Open Space*

96. The proposal includes the provision of approximately 2ha of open space including children's allotments, a community orchard and other landscaped areas. The s106 secures public access to these areas, their retention and management. The open space would include new and enhanced planting and landscaping, resulting in some net biodiversity gain. The proposed open space would include linkages through to Lower Road and would attract users from nearby existing residential development. This would result in health and well-being benefits beyond the future residents of the new development.
97. PHBLPC Policy E9 sets out the requirements for new residential development of 50 dwellings or more to provide public open space. Amongst other things, the policy requires: high quality on-site public open space is provided to a standard of 1.5ha per 1,000 population; and on greenfield sites, part of the requirement is provided in the form of a community food growing space to a standard of at least 0.2ha per 1000 population. The proposal generates a need of approximately 0.3ha and the overall level of open space to be provided would, therefore, be significantly in excess of that required by Policy E9. A significant proportion of the open space is for green buffers along the boundaries of the site and provides some mitigation of harm to landscape and heritage assets. As such, I find that the public open space is necessary to make the development acceptable in planning term and is compliant with Policy E9, CIL regulation 122 and the tests of Framework paragraph 56.

#### *Planning Obligations*

98. Broad local concern is raised about the infrastructure capacity of Bedhampton to cope with the existing development levels and the proposed additional 50 units. While I note that Bedhampton is set to expand, there is no justification to withhold consent based on this specific point. Healthcare and highways contributions are incorporated into the s106. Furthermore, the County Council advises that the educational demands arising from the development can be met in local schools. There is no substantive evidence to support claims that, with the proposed planning obligations, there would be an undue strain on local services including highways, education and healthcare.
99. A signed and dated s106 was submitted prior to the Inquiry. The s106 would secure the provision of: 30% affordable housing; site access works; s106 monitoring fee; open space including an orchard, children's allotments, associated infrastructure and management plan to ensure that the open space is managed for nutrient neutrality; SUDS bond and permissive paths. The s106

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<sup>38</sup> Registered on Hampshire Home Choice.

also secures financial contributions towards the Solent Recreation Mitigation Strategy, healthcare, the Solent Waders and Brent Goose Strategy; a community worker; and improvements to the route to school. The Council has set out the relevant planning policy support/justification related to these obligations.

100. I have considered the s106 in light of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), Paragraph 56 of the Framework and the PPG regarding the use of planning obligations. Having done so, I am satisfied that the obligations would be required by, and accord with, the policies set out in the Council's and the appellant's submissions in this regard. Overall, I am satisfied that the obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

#### *Other issues*

101. Whilst I appreciate the concern raised regarding the issue of the impact of the proposal on existing local property values, I have no substantive evidence to suggest that local property prices would be adversely affected. Furthermore, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property or private views. I appreciate the desire to protect the OBCA in order to maintain tourism, however, I have no substantive evidence before me to suggest that tourism would be adversely impacted by the development.

102. I have considered the BHA's assertions that the proposal would result in parcels of space left over after the development that would be less viable and vulnerable to future development. I have also had regard to concerns relating to light pollution from the scheme. However, I have no substantive evidence before me in these regards. Each application and appeal must be determined on its individual merits, and generalised concerns such as these do not justify withholding permission in this case.

103. I have had regard to the concerns that the development would harm the viability of The Elms. Given the distance between the site and The Elms, and my conclusions on highways impact, I am not persuaded that the development would have a detrimental impact on the occupancy levels of either the reception room or residences at The Elms.

104. I have also considered concerns with regards to the need for the replacement of the tree shelter belt to be appropriately managed. The replacement shelter belt planting forms part of the open space that would be supervised by a management company. The s106 requires submission of proposals for the management plan within 6 months of commencement of the development. A condition has also been agreed by the appellant and Council that requires a strategy and planting program for the replacement of the tree shelter belt to be approved by the Council prior to above ground development commencing. Subject to these controls, I find that any short term harm in this regard to heritage assets, and to the character and appearance of the area, could be appropriately minimised. Furthermore, any effects from the construction period would be short-term and could be mitigated by careful construction management also secured by condition.

105. There is no firm evidence to suggest that the proposal would create an unsafe environment for children by virtue of access to the railway bridge or that the proposed water features would result in insect borne diseases. Whilst I am aware that an amended planning application on the site has been submitted to and refused by the Council, I have reached my own conclusions on the appeal proposal based on the evidence before me.

## **OVERALL CONCLUSIONS AND PLANNING BALANCE**

### *Assessment Against the Development Plan as a Whole*

106. I have found that the proposal conflicts with the most relevant policies within the development plan, as set out in the SoCG, namely HBCS Policies CS11, CS16 and CS17, and ALP Policies AL2 and DM20.
107. The proposal would be on greenfield land outside the urban area boundary for Bedhampton and, in this respect, delivery of homes on the site would not accord with the spatial strategy within the development plan. However, I have afforded very limited weight to the conflict with both HBCS Policy CS17 and ALP Policy AL2. This is due to their reliance on urban area boundaries predicated on out-dated levels of housing need.
108. I give great weight to the conflict of the proposal with HBCS Policies CS11 and CS16, and ALP Policy DM20, primarily by virtue of the proposal's harmful effect on the setting and significance of the OBCA, but also due to the moderate harm to the limited significance of Narrow Marsh Lane. The proposal would fail to protect and respond positively to existing historic features as required by these development plan policies.
109. The landscape is of local value and there would be harm arising both to landscape character and to visual amenity. The proposal would provide additional landscape planting and the replacement of the harmful coniferous shelter belt with native broadleaf trees would represent enhancement. The landscape character and visual impact of the proposal would be significant in the short-term. Longer term impacts would be somewhat mitigated as landscaping matures. Nevertheless, residual landscape character and visual harm would remain by virtue of the erosion of Bedhampton's rural setting. These harms would be visually contained and localised. As such, I give only limited weight to these harms and the conflict with HBCS Policy CS16 which requires development to demonstrate that it integrates with existing local landscape features. I also afford limited weight to the harm that would result from the loss of a relatively small area of BMV agricultural land and the conflict with HBCS Policy CS11 criterion (10).
110. The development would provide 30% affordable homes in an area with a significant waiting list for such homes. As such, I give significant weight to the delivery of affordable homes in accordance with HBCS Policy CS9 criterion (2).
111. It would also provide net bio-diversity gains through habitat creation on a site which is currently predominantly open arable land. I give moderate weight to the development's promotion of wildlife and biodiversity in accordance with HBCS Policy CS16 criterion (1b).
112. Furthermore, the proposal would not offend other development plan policies, including relating to air quality, designated European Habitats, accessibility, transport and highways safety.

113. Overall, however, I find that the harm to heritage assets and the resulting policy conflicts, in combination with the other lesser policy harms identified, are such that the proposal cannot be regarded to accord with the development plan when taken as a whole.
114. I now turn to consider whether there are material considerations that would determine that my decision should be made otherwise than in accordance with the development plan.

#### *The Heritage Balance*

115. Paragraph 196 of the Framework requires that the less than substantial harm to the OBCA be weighed against the public benefits of the scheme. Whilst I have identified that the less than substantial harm is at a moderate level within that spectrum, I attribute great weight<sup>39</sup> and importance to the conservation of designated heritage assets, understanding that heritage assets are an irreplaceable resource. As such, I give great weight to the harm to the setting and significance of the OBCA.

#### *Public Benefits*

116. The PPG<sup>40</sup> advises that, 'public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework'.
117. Amongst the benefits of the proposals would be the provision of a significant number of homes in a borough where there is not a 5 year supply of deliverable housing sites by a considerable margin. Wherever the actual deliverable housing land supply figure may lie within the agreed range, even a most favourable position of 4.1 years, which includes provision of homes on the appeal site, is still notably deficient.
118. Whilst there is uncertainty regarding allocations in the emerging plan, it is clear that the Council will not be able to significantly boost its supply of homes and meet its housing needs without the development of currently unallocated countryside sites beyond existing development boundaries. Whilst the requirement to achieve nutrient neutrality has previously been a significant constraint to housing delivery and a strategic mitigation strategy in this regard has now been adopted, there is no clear evidence that a 5YHLS will be achieved imminently. Indeed, the Council's current proposed housing strategy includes housing delivery on the appeal site. The Housing Delivery Test results for 2020 are significantly below the expectation in the Framework and the borough's housing needs continue not to be met. The proposal would help to rectify this situation more quickly than waiting for the emerging local plan to allocate sites across the borough.
119. The Framework<sup>41</sup> is clear that the Government's objective is to significantly boost the supply of homes to meet peoples' housing needs. The scheme would provide 35 units of much-needed market housing and 15 units of affordable housing in an area where there is a significant waiting list for affordable housing. The Council and appellant agree that the delivery of the proposed housing, in an area where housing delivery requirements are not being met, is

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<sup>39</sup> Framework paragraph 193

<sup>40</sup> Paragraph: 020 Reference ID: 18a-020-20190723 - Revision date: 23 07 2019

<sup>41</sup> Framework Paragraph 59



a material consideration of substantial weight. The proposal would provide a high quality environment for future residents and good access to local services and facilities. As such, I give substantial weight to the provision of both the affordable and market housing on the site.

120. The proposed development would include significant areas of public open space, including the provision of children's allotments, a community orchard, the removal of the harmful coniferous shelter belt and provision of other landscaped areas. This approximate 2 hectares of open space would make appropriate provision for prospective residents and would, given the linkages through to Lower Road, also attract users from the wider community. The open space would, therefore, promote health and well-being within the wider community in accordance with Framework paragraph 91. I afford moderate weight to the benefits derived from the public open space.
121. The site is of limited ecological value and proposed enhancements to biodiversity include introducing species rich grassland, native hedgerow, new trees and water features. Bird and bat boxes would also be provided. The cessation of intensive agriculture and the provision of public open space will also benefit the habitats of the nearby European sites. The proposed ecological enhancements go beyond just mitigation for the effects of the development. As such, I find the net biodiversity gain resulting from the proposal is supported by Framework paragraph 170(d) and afford this benefit moderate weight.
122. The development would result in supporting direct and indirect jobs during construction, with additional contributions to the economy generally through the activity and spending of future occupiers. Although the economic benefits may be ones that would result from any residential development, they are nonetheless important and are ones to which I attach moderate weight.
123. I acknowledge that the development includes a significant number of electric vehicle charging points and water efficiency will be secured by condition. I give some weight to these measures given their support within paragraph 148 of the Framework which requires the planning system to support the transition to a low carbon future.

#### *Heritage Balance Conclusion*

124. Overall, I find that the delivery of the proposed housing would yield significant social, economic and environmental benefits. Furthermore, I find that the public benefits would be of sufficient importance to outweigh the harm that would arise to the significance of the OBCA.

#### *The Tilted Balance*

125. By virtue of the agreed absence of a 5YHLS and the Council's most recent Housing Delivery Test result, the tilted balance under paragraph 11 d) of the Framework is engaged and the policies most important for determining the application are thereby deemed to be out-of-date. In view of my conclusions on the heritage balance, and taking account of my findings concerning the Appropriate Assessment under the Habitats Regulations, the relevant approach is to consider the balance in accordance with paragraph 11d)ii). This means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

126. I give great weight to the harm to the significance of the OBCA as set out above. In the case of non-designated heritage assets, paragraph 197 of the Framework makes clear that a balanced judgement should be made, having regard to the scale of any harm and the significance of the asset. As such, given the limited significance of Narrow Marsh Lane, I give limited weight to the harm to its significance.
127. Framework paragraph 170(b) requires planning decisions to recognise the intrinsic character of the countryside and the economic benefits of the best and most versatile agricultural land. Given a relatively small area of BMV agricultural land would be lost and the landscape harm would be localised, I attach limited weight to these harms.
128. Weighing against these negative impacts are the public benefits listed above in the heritage balance. In particular, the delivery of housing to address the supply shortfall, even taking the most favourable position of 4.1 years supply, is a benefit of substantial weight.
129. Overall, the adverse impacts of granting planning permission in this instance would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

### ***Final Planning Balance***

130. I have found the proposal conflicts with the development plan as a whole. However, whilst I recognise the importance of the plan-led system<sup>42</sup>, it is necessary to consider whether there are material considerations of sufficient weight or importance to indicate that the decision should be made other than in accordance with the development plan.
131. I acknowledge the strength of local opposition to the proposal and have given significant consideration to the many concerns raised.
132. I also acknowledge that the principle of developing the site with the quantum of development proposed is currently supported by the emerging plan. Nevertheless, given the potential for modifications to Policy H20, I afford that policy's support for the development only limited weight.
133. There is, however, substantial policy support for the proposal within the Framework given the economic, social and environmental benefits of the proposal as variously set out above. The presumption in favour of sustainable development, as set out at paragraph 11d)ii) of the Framework, provides very substantial weight in favour of the proposal.
134. As such, overall, I find that the conflict with the development plan as a whole is outweighed by other material considerations.

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<sup>42</sup> Framework Paragraph 15

## Conditions

135. I have considered the conditions agreed between the Council and the appellant against the requirements of the PPG and the Framework. Where necessary, I have amended the set of conditions for clarity, to ensure compliance with national policy and guidance, and in light of the discussions at the inquiry. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG. The numbers in brackets relate to the conditions in the schedule.
136. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant plans and documents as this provides certainty (2).
137. A number of the detailed plans suggested to be included in condition 2 reflect a superseded site plan and do not, therefore, provide complete detail in relation to the amended site plan. I have therefore omitted those plans from condition 2 and have secured submission of the relevant detail through other conditions where necessary. The omitted plans are:
- MJA Consulting Drawing No: 5992: P92 Estate Car Tracking
  - MJA Consulting Drawing No: 5992: P05 Rev A Surface Strategy
  - MJA Consulting Drawing No: 5992: P03 Rev A Kerb Strategy
  - MJA Consulting Drawing No: 5992: P02 Rev A Levels Strategy
138. In the interests of heritage, character and appearance, it is necessary to attach conditions in relation to: landscaping (4, 10, 16); materials to be used externally on the buildings (11); removal of permitted development rights (23) and finished floor levels (14). I have considered the removal of permitted development rights for the dwellings on plots 26 to 41 but do not find that there is clear justification to do so given their separation from the OBCAA.
139. In the interests of ecology, a condition ensuring appropriate protection of biodiversity and habitats is necessary (3). Conditions 3 and 4 are pre-commencement conditions as ecology and tree protection measures will need to be agreed before works begin to prevent the development resulting in harm in these regards.
140. In the interests of living conditions, ecology, highways safety and efficiency, a condition requiring a Construction and Environmental Management Plan Statement is necessary to appropriately address potential pollution and other environmental effects (5). It is necessary that details are approved prior to the commencement of development as the arrangements must be put in place at the outset of the development commencing to avoid harm.
141. It is necessary to include a condition to address potential issues of contaminated land (17) to ensure the development can be safely occupied. A condition requiring details of noise attenuation measures (18) is necessary to ensure the satisfactory living conditions of future residents.
142. In order to prevent increased risks of flooding and pollution, and in the interests of the principles of sustainable drainage, conditions are necessary to ensure the appropriate surface water drainage of the site (6, 7). These conditions are pre-commencement due to the environmental risk of inappropriate surface water run-off.

143. In the interests of highway safety and accessibility, conditions are necessary to ensure visibility splays (19), surfacing (20), car parking (21), delivery of permissive paths (13), appropriate kerbing and vehicle tracking (15).
144. In the interests of water efficiency and sustainable transport, conditions are necessary to secure water efficiency measures (12) and to secure provision of electric charging points (22).
145. In the interest of protecting and recording archaeology, conditions are necessary to secure archaeological surveying and recording (8, 9). These details need to be agreed before works begin to prevent the development resulting in harm in this regard.

**Conclusion**

146. For the reasons above, the appeal is allowed subject to the conditions in the attached Schedule.

*S D Castle*

INSPECTOR