

ITEM 7

APPLICATION NO.	11/01253/OUTS
APPLICATION TYPE	OUTLINE APPLICATION - SOUTH
REGISTERED	02.06.2011
APPLICANT	Perbury Developments Ltd
SITE	Land Off Nutburn Road And Botley Road, North Baddesley, Southampton, NORTH BADDESLEY
PROPOSAL	Outline application for residential development (for 44 dwellings) with vehicular access from Nutburn Road and pedestrian access to Botley Road
AMENDMENTS	Amended documents to confirm that no links are to be provided from the site to the adjacent SINC
CASE OFFICER	Mrs Georgina Wright

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

1.1 This application is referred to Planning Control Committee (PCC) because the Southern Area Planning Committee (SAPC) was minded to refuse planning permission contrary to Officer's advice and the reasons given could result in an application for costs against the Council if the applicant should appeal the decision.

1.2 A copy of the Officer's report and update sheet to the 18th October 2011 SAPC, from which the application was deferred, are attached as **Appendix A** and **Appendix B** respectively.

2.0 REPRESENTATIONS:

2.1 Since the previous agenda report and update papers were written a letter of support for the scheme has been received from the Owner of the Hardware Store (on Botley Road) part of whose site is incorporated in the application site area. The following comments are made:

- There have been rumours around the village that the shop will close as a result of this application but as owner of the shop I can confirm I do not intend to close the shop.
- I am fully aware of the application for new homes and fully support it as it will bring extra business to shops like mine in the village

3.0 PLANNING CONSIDERATIONS

3.1 The main planning considerations in the determination of this application are the principle for development; material considerations; impacts upon nature conservation; impact upon the highway infrastructure; impact upon the character of the area; residential amenity; local amenities and services; trees; and hydrology and drainage. All of which are discussed in detail in the SAPC report.

Considerations Of SAPC:

- 3.2 Members of SAPC resolved to refuse planning permission contrary to the Officer recommendation because they were not convinced that the situation in relation to the 5 year Housing Land Supply had altered since the Council successfully defended the appeal for an identical application at the same site earlier in the year (ref: 10/00494/OUTS); and considered that the mitigation measures put forward by the applicant to mitigate the impact of the development on the adjacent ecological sites (Nutburn Meadow SINC, Emer Bog SAC and Baddesley Common SSSI) would not be sufficient.
- 3.3 All of these points are addressed in detail in the attached Officers report and the Inspector's decision for the previous scheme is also attached as **Appendix C** to this report. There is nothing further to add to these reports.

4.0 **CONCLUSION:**

- 4.1 It is considered that the situation with regard the housing land supply for Southern Test Valley has changed since the previous Inquiry was held earlier in the year, which previously resulted in the refusal of this scheme. The current situation is that there is an identified shortfall in available and *deliverable* land to provide a housing supply for a 5 year period. This material consideration, as contained in PPS3 - Housing, is such to justify granting planning permission, contrary to TVBLP policy SET03 (Development in the Countryside), given the Inspector's findings that *'The appeal site is sustainably located...'* for development.
- 4.2 Furthermore as the illustrative layout and supporting documentation in all other respects is the same as was considered by the Inspector at the previous Inquiry; the mitigation measures currently put forward as part of this application were previously agreed prior to the appeal for the previous scheme; the Inspector at the recent Inquiry was persuaded that *'the mitigation measures would be effective'* and that *'the proposed development would be unlikely to have a significant effect on the integrity of the protected sites, either alone or in combination with other plans or projects'*; and there were no other previous reasons for refusal upheld by the Inspector, it is considered that this proposal is now acceptable in all respects. Therefore, and subject to the completion of the Section 106 Agreement, which is in the advanced stages of being completed, it is recommended that the application should be approved.

5.0 **RECOMMENDATION OF SOUTHERN AREA PLANNING COMMITTEE**

5.1 **REFUSE for the following reasons:**

1. **The proposal is contrary to Policy SET03 of the Test Valley Borough Local Plan (2006) in that there is no overriding need for the development in a countryside location nor any material considerations that would require a departure from the policies contained within the Test Valley Borough Local Plan (2006).**

2. **The site lies within the countryside and adjacent to Nutburn Meadow Site of Importance for Nature Conservation (SINC), Baddesley Common Site of Special Scientific Interest and Emer Bog Special Area for Conservation. In the absence of a legal agreement to secure mitigation measures comprising additional local mitigation land (secured in perpetuity) and a contribution towards new green infrastructure provision, there is an absence of certainty that the development, either alone or in combination with other proposed plans or projects will not have any likely significant effect upon the integrity of these designated sites from additional recreational pressures. The proposed development is considered contrary to the Conservation of Habitats and Species Regulations 2010, PPS9 Biodiversity and Geological Conservation and policies ENV01 (Biodiversity & Geological Conservation), ENV04 (Sites of Importance for Nature Conservation and ENV05 (Protected Species) of the adopted Test Valley Borough Local Plan and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).**
3. **In the absence of a legal agreement to secure financial contributions towards off-site public open space, the proposed development would exacerbate deficiencies in the provision or quality of recreational open space in the locality. The development would therefore be contrary to guidance to Planning Policy Guidance Note 17 ‘Planning for Open Space, Sport and Recreation, Policy ESN22 of the Test Valley Borough Local Plan 2006 and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).**
4. **In the absence of a legal agreement to secure financial contributions towards improving the local transport infrastructure for North Baddesley and/or towards sustainable modes of transport to minimise its impact on the transport network, the proposal is contrary to Hampshire County Council’s Transport Contributions Policy Document, policy TRA04 of the Test Valley Borough Local Plan 2006 and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).**
5. **In the absence of a legal agreement to secure the provision of affordable housing and its retention in perpetuity to occupation by households in housing need, the proposal is contrary to policy ESN04 of the Test Valley Borough Local Plan 2006 and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).**

6.0 RECOMMENDATION OF HEAD OF PLANNING AND BUILDING SERVICES

DELEGATE to the Head of Planning and Building Services for the applicant to enter into a legal agreement to secure financial contributions and other mitigation measures and then PERMISSION subject to the following conditions & notes:

1. **Applications for the approval of all the reserved matters referred to herein shall be made within a period of three years from the date of this permission. The development to which the permission relates shall be begun not later than whichever is the later of the following dates:**
 - i) **three years from the date of this permission: or**
 - ii) **two years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.**

Reason: To comply with the provision of S.92 of the Town & Country Planning Act 1990.

2. **Approval of the details of the appearance, layout and scale of the buildings, and the landscaping of the site (herein after called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To comply with Article 4 of the Town and Country Planning (General Development Procedure) Order 1995 (or any order revoking and re-enacting that Order).

3. **No development shall take place until samples and details of the materials to be used in the construction of all external surfaces within the development plot have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure the development has satisfactory external appearance in the interest of the visual amenities of the area in accordance with Test Valley Borough Local Plan (June 2006) policy DES07.

4. (i) **No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:**
 - (a) **a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;**
and (unless otherwise agreed in writing by the local planning authority)
 - (b) **a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;**
and (unless otherwise agreed in writing by the local planning authority)
 - (c) **a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminated land and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.**

- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition (I)c that any remediation scheme required and approved under the provisions of condition (I)c has been implemented fully in accordance with the approved details (unless with the written agreement of the local planning authority in advance of implementation). Unless agreed in writing by the local planning authority such verification shall comprise:
- a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination;
 - d) thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (I)c.

Reason: To ensure a safe living/working environment in accordance with Test Valley Borough Local Plan 2006 policy HAZ04.

5. All demolition and construction work in relation to the development hereby approved, including works of preparation prior to operations, shall only take place between the hours of 07:30 hours and 18:00 hours Monday to Friday and 08:00 hours and 13:00 hours Saturdays and at no time on Sundays or Public or Bank Holidays.

Reason: In the interests of amenity of local residents in accordance with Test Valley Borough Local Plan (June 2006) policies AME01 and AME04.

6. No development shall take place until full details of a Construction Routing Plan, to ensure the most direct route of construction traffic between the A27 and the site, shall be submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of local residents in accordance with the Test Valley Borough Local Plan policies AME01, AME04 and TRA09.

7. No development shall take place until the Local Planning Authority has approved in writing details of:

- a) the width, alignment, gradient and surface materials for any proposed roads / footpath / cycleway including all relevant horizontal and longitudinal cross sections showing existing and proposed levels;
- b) the type of street lighting including calculations, contour illumination plans and means to reduce light pollution. The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: To ensure that the roads, footway, footpath, cycleway, street lighting and surface water drainage are constructed and maintained to an appropriate standard to serve the development in accordance with Test Valley Borough Local Plan 2006 policies TRA06.

8. Prior to the commencement of development the access to Nutburn Road shall be constructed with the visibility splays of 2.4m by 90m (by 1m metre high) and maintained as such at all times. Within these visibility splays notwithstanding the provisions of the town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no obstacles, including walls, fences and vegetation, shall exceed the height of 1m metres above the level of the existing carriageway at any time. The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policy TRA06.

9. No development shall take place until full details of the layout for the parking and manoeuvring onsite of contractor's and delivery vehicles during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period.

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policy TRA06.

10. Any garage /carport which faces direct on to the highway shall be built at least 6 metres from the highway boundary.

Reason: To provide space in front of the garage to enable vehicles to wait off the highway whilst garage doors are open/closed and in the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

11. Any single garage on the site shall measure a minimum of 3m (width) x 6m (depth) internally and any double garage on the site shall measure a minimum of 6m x 6m internally. Either shall be constructed as such, unless the proposed residential property is also served by at least a separate bicycle shed, in which case any single garage shall measure a minimum of 3m (width) x 5m (depth) internally and any double garage shall measure 6m (width) x 5m (depth) internally unless otherwise agreed in writing by the Local Planning Authority. Any garage on the site shall be made available for the parking of motor vehicles at all times.

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA02 and TRA09.

- 12. Prior to the commencement of development hereby permitted, details of the measures to be taken to physically and permanently close the existing access(es) marked {X} on the approved plan shall be submitted to and approved in writing by the Local Planning Authority. This approved scheme shall be implemented on first use of the new access and before the use commences/occupation of the building(s) and, notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), no access other than that shown on the approved plan shall be formed.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

- 13. At least the first 4.5 metres of the access track measured from the nearside edge of carriageway of the adjacent future highway shall be surfaced in a non-migratory material prior to the use of the access commencing and retained as such at all times.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

- 14. No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. All site work to be undertaken strictly in accordance with the requirements, specifications and timing detailed within the method statement. Specifically the method statement must:**

- i) Provide a schedule of trees to be retained within 15m of the proposed dwellings, the schedule to include the required root protection areas as set out in British Standard 5837:2005;**
- ii) Provide a shade diagram to illustrate the effect of the trees on the occupation of both the dwellings and the associated gardens;**
- iii) Provide a specification for such tree protective fencing, either in accordance with the above standard or as otherwise agreed in writing with the Local Planning Authority;**
- iv) Confirm timing of erection and dismantling of such tree protective fencing, which must in any case be erected prior to commencement of any site clearance or ground works, and be retained and maintained for the full duration of works until onset of final landscape work or as otherwise agreed in writing with the Local Planning Authority;**
- v) Provide a plan at 1:200 or better, detailing the location of such tree protective fencing, including annotation that such fencing shall remain in this position for the full duration of works or unless by prior written agreement with the Local Planning Authority;**
- vi) Require a sign to be hung on such tree protective fencing, repeated as necessary, which clearly states 'Tree Root Protection Area, do not enter, do not move this fence', or such other similar wording as may be agreed in writing with the Local Planning Authority;**

- vii) Provide a plan demonstrating that all trenching, excavation, soakaways, pipe and cable runs required by the development can be installed wholly outside the tree protection zones;
- viii) Demonstrate that all proposed structures can be built without the construction process impacting upon the retained trees or required tree protection areas;
- ix) Demonstrate that all site works, mixing areas, storage compounds, site buildings and associated contractor parking areas remain wholly outside any tree protection zones and at a suitable separation to prevent damage to retained trees;
- x) Provide details of any specific precautions to be adopted where scaffolding may be required to be erected within the required minimum distances in line with Figure 3, chapter 9 of British Standard 5837:2005;
- xi) Provide a schedule of all tree felling and tree surgery works proposed, including confirmation of phasing of such work.

The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: To prevent the loss during development of trees and natural features and to ensure so far as is practical that development progresses in accordance with current best and the Test Valley Borough Local Plan (June 2006) policy DES08.

15. All existing trees, hedges and hedgerows shall be retained, unless shown on the approved drawings as being removed. All trees, hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any tree or parts of hedges or hedgerows removed without the local planning authority's consent or which dies or become in the opinion of local planning authority seriously diseased or otherwise damaged within five years following completion of the approved development shall be replaced as soon as is reasonably practicable and in any case by not later than the end of the first available planting season with plants of such size and species and in such positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing trees, hedges and hedgerows in accordance with Test Valley Borough Local Plan (June 2006) policy DES10.

16. Notwithstanding details submitted on the Indicative Masterplan (dwg no. BRS.1811_14-7), the tree belt on the north-western site boundary to Nutburn Meadow shall have a buffer zone of a minimum depth of 10 metres from the north-western site boundary into the site, or an area equivalent to the root protection area as defined by British Standard BS5837:2005, whichever is the greater. No development will be allowed in this area.

The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: To ensure the development has an acceptable relationship with the adjacent SINC and mature trees in accordance with Test Valley Borough Local Plan (June 2006) policies ENV04 ENV05, DES 08 and DES10.

17. No development shall take place on site until a management plan for a period of 25 years for the tree belt on the north-western boundary and associated buffer zone as defined by Condition 16 shall be submitted in writing to and approved by the Local Planning Authority. The management plan shall include long term design objectives, proposed management prescriptions and maintenance schedules, the appointed management organisation and how it will operate, and implementation details. The management plan shall be implemented in accordance with the agreed details.

Reason: To ensure due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features of communal, public and nature conservation significance in accordance with policies DES01, DES10, and ENV01 of the Test Valley Borough Local Plan.

18. Notwithstanding any of the submitted documents or plans, there shall be no direct pedestrian, cycle or vehicular link along the north-western boundary of the site between the site and the adjacent Nutburn Meadow Site of Importance for Nature Conservation.

Reason: To reduce the potential recreational pressures that the proposed development could have on the sensitive ecological resources on the nearby SINC, SAC and SSSI in accordance with PPS9 - Biodiversity and Geological Conservation and Test Valley Borough Local Plan (June 2006) Policies ENV01 (Biodiversity & Geological Conservation) ENV03 (Sites of Special Scientific Interest) and ENV04 (Sites of Importance for Nature Conservation).

19. No development shall take place on site, including site clearance, until the vegetation management has been undertaken in accordance with paragraph 4.5.12 of the Environmental Statement, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: to avoid killing or injury of reptiles in accordance with PPS9 - Biodiversity and Geological Conservation and Test Valley Borough Local Plan (June 2006) policies ENV05 (Protected Species); ENV01 (Biodiversity & Geological Conservation); and DES09 (Wildlife & Amenity Features).

20. No development shall take place on site until full details of the measures to be taken to mitigate impacts to bats have been submitted to and agreed in writing by the Local Planning Authority.

Such details shall include the measures set out in the Bat Mitigation Strategy (EPR, 2011), including further details of the timings of the works; a construction and post construction lighting plan; a strategy to deal with bats found during the supervised demolition of the existing building; and detailed specification of the bat roosting measures to be incorporated into the new dwelling on the footprint of the existing house and the seven new dwellings along the western site boundary. The development shall be implemented in accordance with the agreed.

Reason: To ensure the favourable conservation status of bats, in accordance with PPS9 - Biodiversity and Geological Conservation and Policy ENV05 of the Test Valley borough local plan.

- 21. Works to bore and excavate the surface water drain in the SINC and construct the headwall and new ditch shall follow the method set out on drawing 2816/500/SK05 rev C. In addition, all work within the Nutburn Meadow SINC shall be carried out under the supervision of a competent ecologist. The supervising ecologist shall provide on-site advice and supervision, including identification and protection where necessary of notable plant species during initial set-up, access creation, cutting and storage of turf and reinstatement of that turf. No materials or spoil other than the turf to be reinstated shall be stored within the SINC; if stored on the SINC, the turf shall be stored on a suitable surface such as geotextile membrane or plywood board.**

Reason: To protect BAP Habitat adjacent to the development site, which is identified under The UK Biodiversity Action Plan 1994 (UK BAP) and includes species and habitats of 'principal' importance for the conservation of biological diversity nationally in accordance with PPS9 – Biodiversity and Geological Conservation and to avoid adverse impacts to the Nutburn Meadow Site of Importance for Nature Conservation in accordance with policy ENV04 of the Test Valley Borough Local Plan (June 2006).

- 22. No development shall take place until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water and the Environment Agency. If a SUDS scheme is to be used, details must be submitted and agreed to specify the responsibilities of each party for the implementation of the SUDS scheme; specify a timetable for implementation; provide a management and maintenance plan for the lifetime of the development; arrangement for adoption by a statutory undertaker or other arrangement to secure the operation of the scheme throughout its lifetime. The works shall be implemented in accordance with the approved details.**

Reason: To prevent a negative impact from the development on the existing drainage infrastructure in accordance with Test Valley Borough Local Plan (June 2006) policy ESN30.

- 23. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2010 by Cole Easdon Consultants and the following mitigation measures detailed within the FRA & ES:**
- 1. Limiting the surface water run-off generated by the 1 in 100 year critical storm 30% climate change allowance so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.**
 - 2. Implementation of the drainage strategy within section 4 of the FRA and associated SUDS, storage and mitigation measures.**
Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- 24. The properties shall be constructed in accordance with the Noise Environment Mitigation Recommendations contained within Section 6.6 of the Environmental Statement Volume 1 (March 2010) to provide appropriate sound insulation measures for the properties unless otherwise agreed in writing with the Local Planning Authority.**
Reason: In the interests of the amenity of the occupants in accordance with Test Valley Borough Local Plan 2006 policies AME01 and AME04.
- 25. No development shall take place until details, including plans and cross sections, have been submitted to and approved in writing by the Local Planning Authority of the existing and proposed ground levels of the development and the boundaries of the development plot, and the height of the ground floor slabs and damp proof courses in relation thereto. The works shall be carried out in accordance with the approved details.**
Reason: To ensure satisfactory relationship between the new development and the adjacent buildings, amenity areas and trees in accordance with Test Valley Borough Local Plan 2006 policies AME01, AME02, DES06.
- 26. There should be no burning on site during the construction phase of the development.**
Reason: To avoid causing a nuisance to people living and working in the vicinity of the site in accordance with Test Valley Borough Local Plan (June 2006) policy AME05.

Notes to applicant:

- 1. The following Government Guidance and policies in the Development Plan are relevant to this decision: PPS1 - Delivering Sustainable Development; PPS3 -Housing; PPS7 - Sustainable Development in Rural Areas; PPS9 - Biodiversity & Geological Conservation; PPG13 - Transport; PPG16 - Archaeology and Planning; PPG17 - Planning for Open Space, Sport & Recreation; PPS23 - Planning & Pollution Control; PPG24 - Planning and Noise;**

PPS25 - Development & Flood Risk; Circular 01/06 Guidance on Changes to the Development Control System; Circular 05/2005 Planning Obligations; Conservation of Habitats and Species Regulations 2010; The Town & Country Planning (Environmental Impact Assessment) Regulations 1999; Wildlife and Countryside Act 1981; 06/05: Biodiversity and Geological Conservation - Statutory Obligations and their impact within the Planning System; Natural Environment and Rural Communities (NERC) Act 2006; The Draft National Planning Policy Framework; and Ministerial Statement – Planning For Growth; South East Plan policies H1 (Regional Housing Provision 2006-2026); H2 (Managing the Delivery of the Regional Housing Provision); and SH5 (Scale & Location of Housing Development 2006-2026); Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside); ENV01 (Biodiversity & Geological Conservation); ENV04 (Sites of Importance for Nature Conservation); ENV05 (Protected Species); ENV09 (Water Resources); ENV11 (Archaeology & Cultural Heritage); HAZ02 (Flooding); HAZ03 (Pollution); ESN03 (Housing Types, Density & Mix); ESN04 (Affordable Housing in Settlements); ESN22 (Public Recreational Open Space Provision); ESN30 (Infrastructure Provision With New Development); TRA01 (Travel Generating Development); TRA02 (Parking Standards); TRA03 (Public Transport Infrastructure); TRA04 (Financial Contributions to Transport Infrastructure); TRA05 (Safe Access); TRA06 (Safe Layouts); TRA07 (Access For Disabled People); TRA08 (Public Rights Of Way); TRA09 (Impact on Highway Network); DES01 (Landscape Character); DES02 (Settlement Character); DES03 (Transport Corridors); DES04 (Route Networks); DES05 (Layout & Siting); DES06 (Scale, Height & Massing); DES07 (Appearance, Details & Materials); DES08 (Trees & Hedgerows); DES09 (Wildlife and Amenity Features); DES10 (New Landscaping); AME01 (Privacy & Private Open Space); AME02 (Daylight & Sunlight); AME03 (Artificial Light Intrusion); AME04 (Noise & Vibration); Infrastructure and Developer Contributions Supplementary Planning Document (February 2009); Affordable Housing (March 2008); Cycle Strategy and Network (March 2009); The Local Biodiversity Action Plan for Test Valley (May 2008); HCC Highways Contributions 2008; and the Test Valley Five Year Housing Land Supply Statement 2011/12 – 2015/2016.

- 2. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**

3. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.
4. Attention is drawn to the requirements of the Agreement under Section 106 of the Town and Country Planning Act 1990 which affects this development.
5. No vehicle shall leave the site unless its wheels have been sufficiently cleaned as to minimise mud being carried onto the highway. Appropriate measures, including drainage disposal, should be taken and shall be retained for the construction period. (Non compliance may breach the Highway Act 1980.)
6. With regard to the above condition 7 on the submission of highway details, they should be designed to enable an appropriate body in due course to adopt the roads, footway, footpath, cycleway, street lighting and surface water drainage network. The adoption of street lighting and surface drainage will be subject to appropriate arrangements for its maintenance.
7. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (tel: 01962 858688) or www.southernwater.co.uk
8. The applicant's attention is drawn to the advice and requirements discussed by the Environment Agency in their consultation responses dated 28 June and 15 August 2011
9. Under the terms of the Land Drainage Act 1991, the prior written consent of the Environment Agency is required for any proposed works that involve realignment, damming, (de)culverting or diversion of an 'ordinary watercourse'. This permission is separate from planning permission and cannot be considered retrospectively. Please be aware that the Environment Agency has up to two months to determine applications for Flood Defence Consent and you are therefore advised to contact the local Environment Agency Office as soon as possible to discuss making an application. Consent will only be issued if the works do not pose a flood risk to people and property, and do not conflict with the Environment Agency's other duties.
10. It is likely that the existing building to be demolished will contain elements comprising asbestos. It is important prior to demolition works commencing, the building is surveyed by a competent person for the presence of asbestos containing materials and suitable precautions are taken to ensure safe removal. Further advice should be sought if necessary from the Health and Safety Executive.

- 11. Best practicable means should be used to prevent dust emissions from all demolition and construction activities (e.g. the use of water to suppress dust) to prevent causing a nuisance to people living and working in the vicinity of the site.**
 - 12. Permission is required under the Highway Act 1980 to alter a vehicular access. Please contact the Chief Engineer, Hampshire County Council, Jacobs Gutter Lane, Hounslow, Totton, SOUTHAMPTON, SO40 9TQ (02380 427000) at least 6 weeks prior to the works commencing for detail of the procedure.**
 - 13. The applicant is reminded that this grant of planning permission does not absolve the compliance with any obligations relating to protected species or the requirements of any European Protected Species Licence or other licences that may be required issued by Natural England. If any protected species are discovered during the course of the development, all works should cease immediately and Natural England should be contacted directly for advice before work is recommenced.**
 - 14. Birds' nests, when occupied or being built, receive legal protection under the *Wildlife and Countryside Act 1981* (as amended). It is highly advisable to undertake clearance of potential nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.**
 - 15. The applicant is advised that in the interests of sustainable development, it would be desirable for the dwellings to be constructed to a minimum standard of Level 3 of the Code for Sustainable Homes.**
 - 16. Please note, the illustrative Masterplan has been used for illustrative purposes only. The identified layout is not accepted by the Local Planning Authority, in particular because of the implications for landscaping.**
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APPENDIX A

Officer's Report to Southern Area Planning Committee - 18 October 2011

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CASE OFFICER	Mrs Georgina Wright
	Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 The application is referred to SAPC because it is considered to be of more than local interest.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The 1.46 hectare site is situated in the countryside as defined by the Test Valley Borough Local Plan (June 2006) (TVBLP). It is not allocated for development within the current TVBLP. It comprises of unimproved grassland stretching north from Botley Road with a return towards the north east of the site onto Nutburn Road. The land is used for grazing, although it does also contain a residential bungalow and its associated amenity/parking provision which fronts onto Nutburn Road. A small parcel of land is also included in the site that currently forms part of the Hardware Store (fronting onto Botley Road) site. To the north west, the site is enclosed by a line of mostly mature oak trees which are protected by virtue of a Group Tree Preservation Order (TPO) with vegetation and fenced boundaries associated with the adjacent residential curtilages demarcating the remaining boundaries. To the south, the site opens up onto a gap in the Botley Road frontage between numbers 101 and 109 where a mature oak tree (protected by a TPO) is sited.

- 2.2 The site abuts residential properties to the north, south and east comprising a mix of single storey and two storey dwellings of detached or terraced form. To the west of the site sits Nutburn Meadow which is separated from the aforementioned Group TPO trees. Nutburn Meadow is designated as a Site of Importance for Nature Conservation (SINC). To the north west of the site (approximately 0.75km away) lies Baddesley Common Site of Special Scientific Interest (SSSI) and adjacent to this is a the Emer Bog Special Area of Conservation (SAC). No public rights of way cross or border the site, the closest public right of way runs to the east of Nutburn Road.

3.0 PROPOSAL

- 3.1 This is an Outline application proposing the development of this site with 44 residential dwellings. The principle of the development and the means of access are the only full matters that the application seeks to agree at this stage with all other matters, including appearance; landscaping; layout; and scale, being reserved for future approval at the 'Reserved Matters Stage'. The indicative Masterplan submitted to accompany the application seeks to only demonstrate that 44 dwellings can fit onto the site, and the Council will not be bound by this layout when considering the full details of the proposals at any subsequent Reserved Matters Stage.
- 3.2 As has been discussed, the matter of access is to be agreed at this stage and therefore full details are provided regarding this aspect of the scheme. The only vehicular access serving the site is to be gained from the north eastern corner of the site directly off Nutburn Road, which will necessitate the demolition of the property known as *Broxborne*, which is within the site edge. An additional cycle/pedestrian link into the site is also proposed directly from the Botley Road, along the southern boundary of the site. Within the site, the properties will be serviced via an internal estate road containing shared surfaces and private driveways. The application as originally submitted also previously proposed a cycle/pedestrian link into the adjacent SINC directly from the site's western boundary, however amended plans and supporting documentation has been submitted to confirm that this is not going to be provided as part of the current proposal.
- 3.3 At this stage, the indicative Masterplan demonstrates that the site could provide a mix of two, three and four bedroom dwellings of 1½ and 2 storeys in height. Properties proposed to be of 1½ storeys are generally arranged to back onto existing residential properties fronting onto Nutburn Road with the 2 storey dwellings being proposed across the remainder of the site. Whilst only illustrative, the Masterplan also shows an indicative mix across the site of 9x 2 bed units; 27 x 3 bed units; and 8 x 4 bed units. The area of land currently used by the adjacent Hardware Store is also to be cleared and incorporated into the site, providing additional land to accommodate the proposed development. Existing vegetation along the western boundary of the site is shown to be retained and incorporated into the proposals with additional planting occurring within the remainder of the development to assist with developing a landscaped setting for the new residential estate. Of this range of properties, 40% (equating to a total of 17 units) will be provided as affordable housing to meet local housing needs.

- 3.4 The application has been supported by an Environmental Statement and an Addendum to this statement which together form an Environmental Impact Assessment (EIA) as required following a Screening Opinion for the site undertaken within the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. This EIA considers the potential impact of the development on issues such as landscaping; ecology and nature conservation; transport; noise; hydrology and drainage; and contaminated land. Also submitted with the application is a Design & Access Statement (incorporating Sustainability Statement & Waste Management Statement); A Planning Statement; Draft S106 Agreement; Bat Mitigation Strategy; Visitor Questionnaire of Emer Bog & Baddesley Common; Non Technical Summary (of the EIA); and a Flood Risk Assessment (FRA). During the course of the application, all of these documents were amended to essentially omit any reference to a direct pedestrian link from the site to the adjacent SINC and to make it clear that this is not proposed as part of the current scheme.
- 3.5 This application is a resubmission of an identical scheme that was submitted and refused by the Local Planning Authority in 2010 (ref: 10/0094/OUTS). This application therefore seeks to address and overcome the previous reasons for refusal.
- 4.0 **HISTORY**
- 4.1 10/00494/OUTS Outline application for the erection of 44 dwellings and full details of vehicular access to Nutburn Road. Refused – 21.09.2010. Appeal Dismissed – 12.05.2011.
- 4.2 This most recent application was refused by the Local Planning Authority for the following reasons:
1. *The proposal is contrary to Policy SET03 of the Test Valley Borough Local Plan (2006) in that there is no overriding need for the development in a countryside location nor any material considerations that would require a departure from the policies contained within the Test Valley Borough Local Plan (2006).*
 2. *The site lies within the countryside and adjacent to Nutburn Meadow Site of Importance for Nature Conservation (SINC), Baddesley Common Site of Special Scientific Interest and Emer Bog Special Area for Conservation. In the absence of a legal agreement to secure mitigation measures comprising additional local mitigation land (secured in perpetuity) and a contribution towards new green infrastructure provision, there is an absence of certainty that the development, either alone or in combination with other proposed plans or projects will not have any likely significant effect upon the integrity of these designated sites from additional recreational pressures.*

The proposed development is considered contrary to the Conservation of Habitats and Species Regulations 2010, PPS9 Biodiversity and Geological Conservation and policies ENV01 (Biodiversity & Geological Conservation), ENV04 (Sites of Importance for Nature Conservation and ENV05 (Protected Species) of the adopted Test Valley Borough Local Plan and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).

3. *Insufficient information has been submitted to detail mitigation measures that may be necessary to ensure the favourable conservation status of the bats. It is therefore not possible for the Local Planning Authority to confidently conclude that the proposed development would not have an adverse impact on protected species. The proposed development is therefore considered to be contrary to Conservation (Natural Habitats &c) Regulations 1994; Wildlife and Countryside Act 1981 (as amended); PPS9 (Biodiversity & Geological Conservation) and Test Valley Borough Local Plan (June 2006) policies ENV01 (Biodiversity & Geological Conservation); ENV05 (Protected Species); and DES09 (Wildlife & Amenity Features).*
4. *In the absence of a legal agreement to secure financial contributions towards off-site public open space, the proposed development would exacerbate deficiencies in the provision or quality of recreational open space in the locality. The development would therefore be contrary to guidance to Planning Policy Guidance Note 17 'Planning for Open Space, Sport and Recreation, Policy ESN22 of the Test Valley Borough Local Plan 2006 and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).*
5. *In the absence of a legal agreement to secure financial contributions towards improving the local transport infrastructure for North Baddesley and/or towards sustainable modes of transport to minimise its impact on the transport network, the proposal is contrary to Hampshire County Council's Transport Contributions Policy Document, policy TRA04 of the Test Valley Borough Local Plan 2006 and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).*
6. *In the absence of a legal agreement to secure the provision of affordable housing and its retention in perpetuity to occupation by households in housing need, the proposal is contrary to policy ESN04 of the Test Valley Borough Local Plan 2006 and the Infrastructure and Developer Contributions Supplementary Planning Document (2009).*

4.3 The applicant appealed this decision. However before the Public Inquiry was held in March 2011, the Local Planning Authority were satisfied that reasons 2-6 had been satisfied (essentially as a consequence of the negotiation and completion of a Section 106 Agreement to secure contributions and mitigation measures) and therefore only the first reason for refusal was pursued by the Local Planning Authority at the appeal.

- 4.4 Whilst third party groups continued to argue the issues regarding nature conservation at the appeal, the Inspector dismissed the appeal in May 2011 and in doing so confirmed that reason for him dismissing the appeal related solely to the first reason for refusal (i.e. that he considered that Test Valley Borough Council did have a 5 year housing land supply and therefore there was no special justification for allowing the proposed development of a site currently designated as countryside).
- 4.5 09/02279/SCOS Request for Scoping Opinion under the Environmental Impact Assessment Regulations for development of 40 dwellings with the possibility of small offices or residential use on the Botley Road frontage and opportunity for cycle route diversion through the site. Issued – 12.09.2009.
- 4.6 09/01419/SCRS Screening Opinion under Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 for development of 40 dwellings with the possibility of small offices or residential use on the Botley Road frontage and opportunity for cycle route diversion through the site. Issued – 04.08.2009.
- 4.7 Further planning history is recorded for this site and comprises of alterations to the property, Broxbourne and for the insertion of an additional dwelling within the curtilage of this same property.

5.0 CONSULTATIONS

5.1 Policy:

1st Round – Objection:

- Note the appeal decision for the previous application 10/00494/OUTS (appeal reference APP/C1760/A/10/2140657/NWF) and the Council's proof of evidence.
- The adopted Borough Local Plan (2006) forms part of the Development Plan.
- Policy SET03 (Development in the Countryside) – The proposal would be contrary to this policy as the site lies within the defined countryside where there is a general policy of restraint against development unless an overriding need can be demonstrated or a rural location is considered appropriate.
- South East Plan (May 2009) Policies H1 (Regional Housing Provision 2006- 2026) and SH5 (Scale and Location of Housing Development 2006- 2026) outline the housing requirements for Test Valley in the 20 year period between 2006 and 2026. They identify a requirement for 10,020 new dwellings in the Borough up to 2026, of which 3,920 are to be provided in Southern Test Valley (forming part of the South Hampshire sub region).
- Paragraphs 54, 70 and 71 of PPS3 require local planning authorities to demonstrate a five year housing land supply (HLS).

- South East Plan Policy SH5 – This policy outlines a separate housing requirement for Southern Test Valley than for the rest of the borough. Based on the South East Plan requirement of 3,920 dwellings, the five year HLS for Southern Test Valley for the period 2011/12 to 2015/16 (as at April 2011) is set out below. This may need to be updated following the formal receipt of the housing completion figures for the last financial year from Hampshire County Council.

April 2011 5 Year Land Supply 2011/12 – 2015/16
South East Plan Requirement 2006 – 2026 = 3,920
3,920 – 559 (5 years completions 2006/07 – 2010/11) = 3,361
3,361 ÷ 15 (15 years of plan period remaining 2011/12 – 2025/26) = 224
224 x 5 years = Five year land supply requirement = 1,120.

Supply	Site	Dwellings	Total
Existing Commitments			
	Abbotswood	782	
	Redbridge Lane	350	
	Romsey Brewery	13	
	Romsey Primary School	6	
	79 Station Rd	6	
	White House	6	
<i>Sub total</i>		1,163	1,163
Identified Capacity			
	Romsey Infant School	34	
	Eastwood Court	5	
<i>Sub total</i>		39	39
Total			1,202

- Five year land supply = 5.4 Years or 107 % (1,202 ÷ 1,120).
- It is considered that the requirement of PPS3 to maintain a five year HLS has therefore been met for Southern Test Valley. On the basis of more than a five year land supply being demonstrated there is no overriding need for this proposal within the countryside.

- Other pertinent policies should be taken into consideration including those within the DES/AME/TRA/ESN/ENV chapters of the Borough Local Plan 2006, as well as relevant policies within the South East Plan and national planning guidance.
- Emer Bog SAC to the north is designated as an Internationally Important Wildlife Site. Consult HCC Ecologist and Natural England regarding impact of the development on this area.
- A study undertaken by Ron Allen shows that this site falls within the boundary of the Emer Bog Discharge Constraint Zone. Emerging work on Green Infrastructure for PUSH identifies this area as an opportunity to enhance value for biodiversity.
- Policy ENV 02 is no longer saved in the Borough Local Plan.
- There may be concern over recreational pressure from a potential increase in visitors to Emer Bog - seek advice from Natural England. Mitigation may be required to compensate for any adverse impact.
- Contributions towards the provision of a Forest Park required in line with the Forest Park Feasibility Study (August 2009). It is noted that this contribution was secured within the Section 106 Agreement that was agreed at the Public Inquiry on the previous planning application.
- Baddesley Common SSSI lies to the north - seek advice from HCC Ecologist and Natural England.
- The site lies adjacent to Nutburn Meadow SINC - seek advice from HCC Ecologist.
- In line with ENV 09 and SE Plan policies CC2 and CC4 it is considered appropriate to seek that all new residential development would attain Code for Sustainable Homes level 3 as a minimum.
- Affordable housing would need to be secured as part of the proposal. The application includes an obligation to provide up to 40% of the total housing as affordable housing which is in line with the ESN04. Consult Housing about this matter.
- As no public open space (POS) is proposed on-site, financial contributions are sought towards off-site provision in accordance with policy ESN22.
- The development should make appropriate contributions (in lieu of on-site provision) towards community infrastructure related to and necessary for the proposed development (Infrastructure & Developer Contributions SPD provides further details). It is noted that a Section 106 Agreement covering the relevant contributions was agreed by all parties at the Public Inquiry on the previous planning application.
- Consult Hampshire County Council's Children's Services Department as proposal is for 10+ units.
- The site benefits from good access to shops and services and has good bus, pedestrian and cycle links. There is the potential to improve access by developing links to existing network of routes and enhancing existing routes. Highways team to advise on the proposals.
- Contributions will be sought towards the provision of transport infrastructure in accordance with TRA04 and the Test Valley Access Plan SPD (2010). Seek advice from the Highways team.

- There are trees subject to TPOs along the boundaries of the site- seek advice from the Tree Officer.
- The Design & Access Statement demonstrates that the community has been involved in various ways (via presentation, public exhibition, letters, website) and states that a number of changes have been made to the emerging indicative Masterplan in response to the views and information provided by local residents. It is considered that the requirements of the Council's Statement of Community Involvement (2009) have been met.

2nd Round – No Objection submission to financial contributions:

- A revised policy response has been produced to take account of additional material considerations.
- The other considerations as listed in the original policy response dated 29th June 2011 remain and should be taken into account when determining the application.

Principle:

- The site is located within the defined countryside where there is a general policy of restraint (Policy SET03). Only development where an overriding need can be demonstrated (criterion a); or which is appropriate in the countryside, as set out in policies of the BLP, (criterion b) would allow the principle of the proposal to be permitted.
- The proposal does not constitute 'appropriate' countryside uses.
- The requirement to have a deliverable five year supply of housing land is a material consideration that would justify going contrary to SET03.

South East Plan:

- Whilst it is the intention of Government to remove Regional Spatial Strategies through the Localism Bill until that occurs the SE Plan remains part of the Development Plan.
- Policy H1 of the SE Plan sets out the housing requirement that local planning authorities will need to provide between 2006 – 2026.
- Table H1a in the SE Plan states that 10,020 dwellings should be provided for the whole of Test Valley.
- Policy SH5 outlines a separate housing requirement for Southern Test Valley than for the rest of the borough which is 3,920 dwellings.

Planning Policy Statement 3 (Housing):

- Paragraphs 54, 70 and 71 of PPS3 require local planning authorities to demonstrate a five year housing land supply (HLS).
- Para 71 is specific in stating that "*where Local Planning Authorities cannot demonstrate an up to date five year supply of deliverable sites.....they should consider favourably planning applications for housing..*"

Housing Land Supply:

- The housing land supply is calculated on the basis of evidence of anticipated delivery of dwellings provided by developers and their agents as part of the Strategic Housing Land Availability Assessment.
- In defending the earlier appeal on this site the Council were able to demonstrate a 5 year land supply which the Inspector accepted.

- Since the appeal a revised delivery rate has been submitted by the agent for the Redbridge Lane, Nursling site stating that the rate of delivery has decreased from 350 dwellings to 149.
- The agent has provided reasons for revision.
- The radical change in the rate of delivery has resulted in severe consequences for the housing land supply in southern Test Valley to such an extent that a five year supply can no longer be demonstrated.
- The result of this is that para 71 of PPS3 is triggered. The Council has no evidence to counter or challenge the reduced delivery rate.
- Based on the SE Plan requirement of 3,920 dwellings, the five year HLS for Southern Test Valley for the period 2012/13 to 2016/17 (as at April 2011) is set out below:

April 2011 5 Year Land Supply 2012/13 – 2016/17
South East Plan Requirement 2006 – 2026 = 3,920.
3,920 – 559 (5 years completions 2006/07 – 2010/11) = 3,361.
3,361 – 99* (estimated completions 2011/12) = 3,262.
3,262 ÷ 14 (14 years of plan period remaining 2012/13 – 2025/26) = 233.
233 x 5 years = Five year land supply requirement = 1,165.

Supply	Site	Dwellings	Total
Existing Commitments			
	Abbotswood	738	
	Redbridge Lane	149	
<i>Sub total</i>		887	887
Identified Capacity			
	Romsey Infant School	34	
	Romsey Primary School	6	
	Eastwood Court	5	
<i>Sub total</i>		45	45
Total			932

- Five year land supply = 4.0 Years or 80 % (932 ÷ 1,165)

* estimated completions include:-

Site	Dwellings
Romsey Brewery, Princes Road, Romsey	13
Rear White Horse Hotel, Latimer St, Romsey	12
Abbotswood, Romsey	62
79 Station Road, Romsey	6
White House, 33 Cupernham Lane, Romsey	6
TOTAL	99

Planning for Growth:

- The recent ministerial statement on ‘Planning for Growth (March 2011) and the ‘presumption in favour of sustainable development’ are material considerations.
- The governments “*clear expectation is that the answer to development and growth should wherever possible be ‘yes’ except where this would compromise the key sustainable development principles set out in national planning policy*”.
- The statement goes onto state that LPAs should, when deciding to grant planning permission, “*consider the range of likely economic, environmental and social benefits of the proposal; including long term or indirect benefits...*”.
- The Nutburn Rd Inspector, in para 37 of the decision, considered that the appeal site “*.is sustainably located, would secure early jobs and would support local economic growth...*”
- If this is read in the context of the Planning for Growth statement i.e. supporting sustainable development and growth, then the proposal follows the government’s position.

National Planning Policy Framework:

- The government published the draft National Planning Policy Framework (NPPF) for consultation in July 2011.
- It reiterates the content of the earlier ministerial statement in promoting sustainable growth.
- It demonstrates a ‘direction of travel’ for future government policy but it is still a draft and is subject to amendment following the close of the consultation.

Conclusion:

- Para 33 of the Nutburn Inspectors decision states, in referring to delivery rates, that “*were there evidence of serious delay it would be right to modify predictions accordingly*”.
- As such the land supply has been recalculated.
- It is on this basis that to refuse the application on housing land supply grounds is no longer sound.
- It can no longer be assumed that 350 dwellings will come forward in the five year period from the Redbridge Lane site.
- This has resulted in only four years of deliverable housing land being demonstrated.

- This, coupled with the guidance in PPS3 and more recent ministerial statements, forces a revised policy response of no objection to the application.

5.2

Landscape:

1st Round – Objection:

- I note from a range of documents submitted with this application that the layout does not appear to have taken account of the changes put forward as a result of landscape and ecology concerns expressed against the previous application 10/00494/OUTS, or as considered within the resulting planning appeal.
- The proposal appears to re-instate the rural path across the adjacent SINC, which has already been clearly identified as unacceptable due to impacts to Nutburn Meadow (SINC) and the mature belt of Oak trees (TPO) to the west of the site. It should be removed as previously proposed, to avoid landscape impacts on the SINC and TPO trees.
- Furthermore the rural path is shown in two different routes in the different documents
- It is also not necessary, as a cycle path is proposed through the site itself.
- The proposals also put forward public access to the SINC as mitigation for the development. This has also previously been identified as unacceptable.
- The SINC cannot be offered as mitigation for the impacts on the international site at Emer Bog. Additional land needs to be offered; otherwise this will result in a net loss to biodiversity due to recreational pressures being introduced to the SINC, as a result of introducing public access, where none was present before.
- The re-introduction of these proposals and the resulting inadequacy of the landscape mitigation is of considerable concern and disappointment.
- The corresponding EIA does not correctly or adequately identify the landscape and biodiversity impacts and appropriate mitigation for the development, particularly in respect of Oak trees to the west of the site, adjacent SINC and Emer Bog.
- The EIA should describe the impacts and mitigation for these environmental assets as clearly identified within the planning process in respect of 10/00494/OUTS.
- The landscape mitigation described within the EIA conflicts with the Bat mitigation strategy.
- The land put forward as mitigation adjacent to Botley Road is already the subject of a Legal Agreement dated 11th October 2005, related to another planning permission TVS. 00928/8 for the Yellow Dot Nursery. This legal agreement includes a landscape management plan, in which one of the objectives is to improve the species diversity of the grassland.
- As this area of land is already part of landscape mitigation from a planning obligation for another approved development it cannot be offered as mitigation for this development.

- If no new land is offered as mitigation, this would double counting and a net loss to biodiversity.
- The site is well screened from the wider landscape and is associated visually with the core of built development of North Baddesley. Whilst appearance is not a matter for consideration at this stage, there are a number of issues raised by the Indicative Masterplan submitted via plan drwg no. BRS.1811_14-6 which still need to be resolved
- The site is screened by a mature belt of trees in the western boundary. I would agree that the success of any scheme in this location is the appropriate treatment of these trees. They are an important landscape feature in that they provide the soft edge and landscape setting of the built area of North Baddesley. But they are also an important feature in their own right. They form the edge of the adjacent SINC, and provide part of the biodiversity interest of the Meadow and Common area to the west of the site.
- The design and layout need to provide for sufficient buffer to ensure there is no future conflict between canopy edge and the position of any future dwellings. Policy DES08 informs us of the expected buffer which is approximately 15 metres from edge of canopy.
- The design proposed turns the buildings to face the trees with a soft grassed edge in the intervening space. This is a design philosophy which has proved successful in dealing with development adjacent to mature trees elsewhere in Test Valley and this approach should be part of any layout proposed.
- The current layout brings a number of units very much closer to the canopy than is recommended in DES08, and the buildings are proposed as two storey. Further consideration will need to be given to drawing back units from the edge the tree canopy to ensure adequate daylight and sunlight reach proposed properties reducing future pressure to reduce canopy or remove trees. It is essential to maintain this landscape feature. An adequate buffer should be determined by condition.
- A management plan to deal with the management of the trees as a communal asset should be sought by condition to demonstrate the mechanism and responsibilities of how this area is to be managed in the longer term.
- Another important feature is the hedgerow on northern boundary, as this forms part of a larger hedgerow feature extending west in to the Common and Meadow area. This is a wildlife corridor, and adequate protection should be provided during any construction period.
- There are number of advantages to the current design in placing units back to back, both in the context of existing development along Nutburn Road and within the centre of the development. This can provide an uninterrupted garden area with the opportunity to green the development over time.
- However, Block 5 and the 'Flats Over Garages' (FOGs) to the rear of Block 5 appear cramped and unsympathetic with the surrounding residential layout. It limits the scope of back gardens and provide space and setting for the adjacent TPO'd tree on Botley Road.

- Possible recreational impacts to Internationally designated sites within the vicinity may fall foul of the Habitats Regs.
- Ecological concerns have also been raised over the provision of a new footway across the adjacent SINC.
- I understand the footway element has been withdrawn, and a closed boundary treatment along the north west boundary of the site could then be possible.
- However, the open space provision proposed remains all off-site. It is clear from the submission that there is a deficit in public open space provision in the area across all categories, and the suggestion is that compensation can be gained through access to Nutburn Meadow SINC, Baddesley Common and Emer Bog, This continues to raise concerns over potential recreational pressures on the surrounding designated landscapes.
- Sufficient landscape mitigation needs to be provided on site, as well as off site, and if that is not in the form of public open space provision, then sufficient garden space needs to be provided for play and informal recreation.
- The addition of units such as the Flats over Garages with no gardens or communal space does not help this equation.
- Similarly the unit in the top north west corner looks to be completely overshadowed, with little useable garden area.
- The removal of FOGs and reconsideration of the layout and distribution of units within the blocks will be essential to provide adequate private space to help address ecological and Arboricultural concerns.
- There is also a case for contributions to be required for the management and enhancement of the adjacent SINC to deal with any additional pressures of proposed development in whatever form. This should be clearly defined within a management plan and contributions secured via the S106.
- Similarly contributions to identified improvements to the public rights of way network to cope with the additional pressure should be secured, in particular to the east to draw away recreational pressures from the SINC.

2nd Round – Objection:

- The accompanying documentation to the amended/revised document seeks to make it abundantly clear that any reference to the rural footpath would be removed from the Design and Access Statement and ES.
- However, public access to Nutburn Meadows and its use as a recreational asset is still running as a theme throughout the Design and Access Statement (paras 2.12, 2.14, 4.8, 5.8, 5.15, 7.7) and the ES (paras 4.7.5, 4.7.7. and 9.4.7).
- This includes putting forward public access to Nutburn Meadows as part of the mitigation package for open space provision, and the justification as to why childrens' play areas or recreational space is not provided within the scheme.

- As this is now not the case, then I would have expected to see further consideration of that mitigation package and landscape provision on and off site.
- In particular the position and extent of the additional mitigation land does not appear to have been clarified, which was the subject of some discussion at the previous appeal.
- As per my previous comment this cannot include the land already secured for nature conservation as a result of planning permission for the Yellow Dot nursery.
- With regard to landscape mitigation, in comparing plans BRS.1811_25-2 Indicative Masterplan and BRS.1811_24-2 Parameters Assessment Plan, both included in Chapter 2 of the Environmental Statement (Volume 1) it is clear it will be made impossible to plant the trees proposed in the 'landscape square' as they sit directly over the top of the underground water storage tank proposed as part of the SuDS scheme.
- Full details of the of the hydrological impacts and proposed drainage scheme are given in Chapter 7 of the ES.
- This includes on-site water storage by means of a box culvert/tank to accommodate and control the flow of water run off in to the downstream drainage system within the adjacent Nutburn Meadow. The tank measures 10m by 35m x 0.75m deep and can be clearly seen in direct conflict with trees on plan drg. under drg. 2816/503 Rev A Proposed Site Layout (Cole Easdon) submitted in the Flood Risk Assessment, referred to within the ES.
- Therefore, this cannot be relied upon to provide the main landscape mitigation suggested in the Design and Access Statement (identified as a key feature in paras 4.2, 5.5, 5.10, 7.12), the ES (para. 2.2.7) or the Flood Risk Assessment (para. 4.10 page 18).
- The other main area of tree planting along the main access road from Nutburn Road is also in conflict with the proposed position of the adoptable surface water sewer.
- Due to the position of existing properties and the proposed layout of new properties, there is little, if any room to move the positions of these trees to accommodate the required easements around the surface water sewer.
- Whilst the Landscape Design is identified as a matter for Reserved Matters stage, it should be noted that the current indicative Masterplan cannot deliver most of the proposed landscape planting due to other constraints.
- Either the SUDS proposals will need to be re-designed to better incorporate the landscape features or the landscape provision will need to be provided elsewhere in the overall design.
- Policy ESN 22 indicates that in the supporting text that much of the recreational open space is to be provided on site as an integral part of the design and layout of the development and the only exceptions to this will be where the site is not sufficient size in itself to make the appropriate provision feasible.

- It advises that it should be considered possible to provide equipped and casual children play space on most sites of over 20 dwellings developments.
- No such provision is made here, as proposals are all off site, reducing further any possibility of amenity planting.
- Mitigation in the Environmental Statement in relation to impacts on Emer Bog still includes the provision of public access to Nutburn Meadow which is unacceptable, and the provision of public open space associated with the land at great Covert proposals which cannot be relied upon. See page Chapter 4 para 4.7.7.
- Revised mitigation will need to be provided to the satisfaction of HCC ecologist, and should include sufficient landscape amenity provision on site which cannot be achieved in the proposed indicative Masterplan.

5.3 **Trees:**

1st Round – No Comments received.

2nd Round – No Comments received at the time of writing.

5.4 **Highways:**

1st Round – No Objection subject to conditions & financial contributions.

2nd Round – No Objection subject to conditions & financial contributions.

5.5 **Refuse:**

1st Round – No Comments received.

2nd Round – No Comments received at the time of writing.

5.6 **Environmental Protection:**

1st Round – No Objection subject to conditions.

- Happy with the Geo-Environmental Desk Study Report submitted.

2nd Round – No additional comments received.

5.7 **Housing:**

1st Round – No Objection subject to legal agreement.

- 40% affordable housing required equating to 17.6 dwellings on this site for 44 dwellings.
- There is an identified housing need in this area.
- The TV Homes housing waiting list for North Baddesley confirms that there is a greater need for family accommodation in the area.
- 12 units should be secured as social rented tenure and 5 should be secured as intermediate tenure.
- The affordable units should blend in with the open market dwellings in terms of their size and type of dwelling.

2nd Round – No Objection subject to legal agreement.

- The amendments do not change the affordable housing requirements/elements of the scheme. Previous comments therefore still apply.

5.8 Environment Agency:

1st Round – No Objection subject to conditions and notes.

- Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information relating to the proposals to an acceptable standard to ensure that the proposed development can go ahead without posing an unacceptable flood risk.
- The site is shown to be within Flood Zone 1 and will require a Flood Risk Assessment, which will need to take the form of a comprehensive drainage strategy.
- Under Planning Policy Statement 25, a drainage strategy will need to be included with the planning application due to the size of the site. This should incorporate a drainage design strategy and promote the use of SUDS for management of runoff.
- An appropriate storm water master plan must be agreed with the Environment Agency (it is essential that this is included as part of the requirements of the design code). A holistic approach towards surface water is required to provide water quality and water quantity control, as well as increased biodiversity and amenity value. The increased flows and pollution from surface water should be controlled through systems which utilise a management train approach (as described in CIRIA C697 the SUDS Manual) and should achieve equal standing in both of these areas.
- The developer will be required to accommodate excess water and control its release into watercourses
- Surface water discharges to watercourses must not exceed a velocity of 1 m/s.
- It is essential that the ownership and responsibility for maintenance of every SUDS element is clear; the scope for dispute kept to a minimum; and durable, long term accountable arrangements made, such as management companies.
- These issues should be addressed as part of the Flood Risk Assessment. The construction and ongoing maintenance costs should be fully funded by the developers. Section 106 agreements may be appropriate to secure this.
- We would advise early liaison with service providers. This is with particular mention to foul and possibly surface water drainage. It is important to ensure existing infrastructure has the capacity for the greatly increased volumes.
- The proposals include the construction of a rural footpath through Nutburn Meadows SINC, (designated for its unimproved grassland habitat and associated species). As the ecological statement (section 4.5.6) suggests, this would lead to a permanent loss of BAP grassland habitat with the boundary of the SINC. Although the ES proposes to manage an area of land to the south of Nutburn Meadows, we would question the notion to encourage the residents to use the SINC for recreation instead of the SAC/SSSI as being acceptable. The SINC is an important habitat for biodiversity in its own right.

- If the rural footpath is approved, the proposed development will only be acceptable if a planning condition is imposed requiring a scheme to be agreed to ensure that the unimproved grassland BAP habitat and associated species within the Nutburn SINIC are protected.
- Section 4.6.9 of the ES states that there are unlikely to be any long-term irreversible impacts to the SAC/SSSI due to increased recreation provided the given considerations and proposed avoidance measures are followed.
- We are not satisfied that the given measures will mitigate against the increase in recreational demand placed upon the SAC/SSSI from the in-combination effects of the developments proposed within this sensitive area. We would recommend further information is sought to address this.
- The Hampshire and IOW Wildlife Trust should also be consulted as the managers of the SAC/SSSI.

2nd Round – No Objection subject to conditions and notes as before.

5.9 **Southern Water:**

1st Round – No Objection subject to conditions and notes.

- An onsite pumping station with controlled discharge to public sewer is proposed which is not acceptable.
- Site should drain to unattenuated foul flow to a point of adequate capacity suggest an informative to this effect.
- Consult EA or your building control team on the adequacy of soakaways to dispose of surface water from the proposed development.
- Reference is made to SUDS which have a significant land take and it is not clear how the SUDS facilities can be accommodated within the proposed layout.
- Before the layout is finalised we recommend that the applicant give consideration to this to ensure that the proposed means of surface water disposal can be accommodated.
- SUDS are not adoptable by sewerage undertakers and therefore arrangements for the long term maintenance of the SUDS facilities will need to be secured. Suggest a condition to this effect.

2nd Round – No Objection subject to conditions and notes.

- Previous comments still remain valid.
-

5.10 **Police Crime Prevention Design Advisor:**

1st Round – Comments.

- There has been no consultation with the Crime Prevention Design Advisor with regard to crime profiling or layout and design of the development. Early consultation can save time and expensive changes to proposals at a later date.
- I understand that affordable housing will be built on this development and therefore the HCA specify that all publicly-funded homes should meet level 4 of the Sustainable Homes Code and that all credits under the Security issue should be gained.

- The layout and structure of a place - how the buildings, spaces, uses and activities relate to one another - affects its safety and sustainability. Some uses are incompatible with one another. Some dwelling or layout types are safer than others. Safe and sustainable places are also either robust enough to cope with changing requirements, or they are flexible enough to evolve. Crime prevention should be 'planned in' to developments from the outset. However, this may not always be possible and there is sometimes the need for a degree of post completion adaptation in response to unforeseen situations or new opportunities. Careful planning will help keep this - and the consequent 'running-cost' solutions such as site management and maintenance - to a minimum.
- Places should include necessary, well designed security features. This attribute concerns 'target hardening' and other measures that make it more difficult to commit offences and instil a feeling of safety in users. Some measures are directly deliverable through the planning process. Others complement what can be achieved by good planning.
- Places should promote a sense of ownership, respect, territorial responsibility and community.
- Encouraging residents and users of places to feel a sense of ownership and responsibility for their surroundings can make an important contribution to crime prevention. This can be facilitated by clarity in where public space ends and where communal, semi-private or private space begins. Uncertainty of ownership can reduce responsibility and increase the likelihood of crime and anti-social behaviour going unchallenged.
- Good lighting can deter criminal activity and lower the fear of crime. However, it is important to recognise that it is not the lighting by itself that is generally deterring crime, but the potential for natural surveillance that the lighting provides in conjunction with feelings of perceived ownership, concern for others and civic duty and pride in the potential observer.
- Vehicles, motor cycles and cycles are at their most vulnerable when parked on the street or in unsupervised spaces such as remote parking courts. They are particularly vulnerable where there is a conflict of usage with parking space and pedestrian routes.
- There is a trend toward allocating under croft parking without installing garage doors. Experience has shown that garages/parking bays which are designed under FOGs or similar lend themselves to becoming dumping grounds for rubbish etc. Garage doors should therefore be installed.

5.11 **HCC Ecologist:**

1st Round – Objection.

- The application is supported by the Environmental Statement (ES), Chapter 4 of which deals with Ecology and Nature Conservation issues.

- I have a number of concerns regarding the implications of the proposals on various ecological receptors, mainly the adjacent Nutburn Meadows SINC. Until these issues are more fully addressed, this application would be contrary to Policy ENV 04 (Sites of Importance for Nature Conservation).
- The documents submitted for the current application are confusing and potentially misleading. My main concern over the current proposals is around whether or not the proposed new rural footway is in fact part of the development or not. It was included in the original documents for the previous application (10/00494/OUTS), but subsequently removed. The ES for that application was amended through an addendum, stating that the rural footway was no longer part of the scheme.
- The current application is supported by an ES and an addendum to the ES, both of which appear to be nearly identical to those submitted for the previous application.
- However, with the exception of the addendum, the documents for the current application all appear to have included the rural footway across the SINC again, suggesting that this element of the scheme is to be provided, despite the addendum to the ES stating that it has been removed.
- This is not particularly helpful and it would have been more useful to include accurate and up to date drawings, rather than the mixture of possibly current or superseded and amended drawings that have been presented here.
- It is therefore difficult to make a thorough and accurate assessment of the ecological implications of the proposals.
- Natural England is the statutory consultee regarding legally protected sites.
- While they have not objected to the application, they have identified that the Local Planning Authority needs to be satisfied that the proposed mitigation measures will ensure that there is no significant effect on the SAC, or conduct an Appropriate Assessment.
- The proposals in place to mitigate any adverse impacts on the nearby SAC include contributions to the proposed Forest Park and the provision of approximately 0.36ha of adjacent open space for the purpose of exercise and recreation.
- The additional 0.36ha of land (referred to as the Mitigation Land in the draft S106 agreement) was agreed and provided following discussions during the application 10/00494/OUTS. At that time, it was agreed that this was an acceptable means of absorbing sufficient recreational pressure to ensure there was no adverse impact on the SAC.
- Also during application 10/00494/OUTS, it was agreed to remove the proposed rural footway from the adjacent Nutburn Meadows SINC.
- However, this new application has reintroduced the rural footway, thus making the walking route from the application site to the SAC shorter and more attractive. I therefore believe that potential impacts on the SAC do need to be examined further, as identified by Natural England.
- I would urge that the issue of the rural footway is clarified.

- It is difficult to really provide robust comments on the potential impacts to the SINC as the rural footway appears to have been re-introduced to the scheme on many of the drawings and statements, while the addendum submitted at the same time states it has been removed.
- For the avoidance of doubt, I have serious concerns over the inclusion of the footway due to the habitat loss associated with this element of the proposals and the inadequacy of the proposed mitigation measures (as well as concerns over potential changes to how this development may now affect the SAC, mentioned previously).
- Similarly, I have concern over the impacts associated with the drainage infrastructure to be constructed within the SINC. While the addendum includes a more well-developed and lower impact solution, this is not included in the main documents.
- Given that all these documents were submitted at the same time and there is significant discrepancies in other elements of the scheme, I would seek clarification of this.
- That said, if the proposals regarding the ditch works in the addendum are followed, I would be satisfied that impacts to the SINC have been minimised as far as possible.
- The Design and Access Statement (page 20) has labelled the SINC as a potential recreation area. At present I do not believe that this would be compatible with the current management regime (i.e. grazing) for the SINC as there are likely to be conflicts between people (with or without dogs) and cattle.
- Indeed, the assessment of recreational impacts on the Emer Bog SAC notes that the use of cattle for management makes that site less suitable for dog walkers, so the same should be seen to apply for the SINC.
- I am also concerned over the potential impacts of recreation (formal, informal and unauthorised) on conservation interests of the site. At present, the ditch systems are a valuable biodiversity resource. Frequent access to these, particularly by dogs, is likely to have a detrimental effect.
- Additionally, the area is likely to support ground nesting birds such as lapwing – successful breeding of species such as these on the site is likely to be compromised by dog walking or other recreation on the site. No bird survey work has been undertaken, so it is not possible to rule out this potential impact at this time.
- Overall the application would be contrary to policy ENV04 of the local plan.
- The bungalow on site has been found to support a bat roost and the application is supported by an appropriate level of survey and assessment work.
- Bats and their roosts are legally protected under both UK and EU law and are a material consideration in the planning process.
- In order to legally carry out an unlawful act such as destruction, damage or disturbance to a bat roost, the work would require a derogation from the law, and in order to be granted such a derogation, a licence must be applied for and granted by Natural England.

- Such a licence can only be granted if the development proposal is able to meet the three derogation tests:
 1. *the consented operation must be for ‘preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment’; (Regulation 53(2)(e));*
 2. *there must be ‘no satisfactory alternative’ (Regulation 53(9)(a)); and*
 3. *the action authorised ‘will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range’ (Regulation 53(9)(b)).*
- Local Planning Authorities are also required to fully engage with these Regulations and therefore planning permission should not be granted unless these three tests can be met and the LPA could therefore be confident that a licence would be forthcoming.
- The first two tests will need to be assessed by the Local Planning Authority.
- With regard the third test, a detailed method statement (Bat Mitigation Strategy, EPR, 2011) has been submitted.
- As this is an outline application, they will need to be worked up into a more detailed scheme at reserved matters stage. However, I would support the measures contained in this strategy so far and believe they are sufficient for an outline application.
- Therefore, provided that you are satisfied that the proposal meets the first two tests, I believe that a licence would reasonably expected to be granted, if applied for.
- Survey work at the application site found a very low population of slow worms, confined to only limited habitat.
- It is proposed to avoid impacts to slow worms through habitat manipulation rather than a trapping / translocation exercise, and I would support this approach in this case.

2nd Round – Comments:

- Although I welcome the removal of references to the rural footway through Nutburn Meadow SINC from the ES, I note that there are still a number of references to the recreational potential of the SINC, such as within the Design and Access Statement.
- Despite numerous representations from consultees identifying concern over access to the SINC at various points during this project (both during this current and recently amended application and the previously refused application), I am concerned that despite the rural footway as a tangible recreational asset having been removed from the ES, there is still this apparent aspiration to promote Nutburn Meadow as a recreational resource associated with the new development.
- I would also note that paragraph 5.15 gives one of the reasons for not providing an on-site children’s play area is because Nutburn Meadows would present a nearby new recreational facility.

- I appreciate that the applicant has advised that they would make it ‘abundantly clear’ that the rural footway was no longer part of the scheme by removing all reference to it from the ES and the Design and Access Statement. However, it is still referenced in the Design and Access Statement. I would therefore reiterate my concerns and furthermore, clarify that the removal of the rural footway as a tangible feature from the plans does not appear to be removing the general aspiration to promote the SINC for recreation.
- If there is an aspiration to have public access to the SINC then I would advise that the LPA needs to be able to be in a position to understand how this would affect the nature conservation impacts of the SINC, so that it can give proper consideration to this issue.
- As you know, under Policy ENV04 of the local plan, developments that affect SINC’s can be permitted as long as those impacts are understood, are proportionate to the need for the development and can be compensated.
- I am therefore not raising an objection on this point, but feel that there is currently a lack of clarity on whether the LPA needs to consider this, and if so, what information would be required.
- My comments on all other aspects of the development proposals would remain as stated in my previous letter.
- I would however add, for your information and assistance, that paragraph 5.15 referred to previously also identifies that Emer Bog is accessible from the site by existing footpaths and again, this is one of the reasons given to justify why on-site play is not provided. You may wish to consider this when considering Natural England’s requirement to undertake a consideration of the impacts of the development on Emer Bog as set out in their consultation response.

5.12 **Natural England:**

1st Round – No Objection subject to an Appropriate Assessment, mitigation measures and contributions being secured by legal agreement, and conditions.

- Site lies close to habitats which form part of the Baddesley Common SSSI. This SSSI is part of the Emer Bog SAC.
- Current application is nearly identical to the previous application.
- Welcome the submission of the S106 agreement and note the supplement which specifies that green space at Forest Park is included in the mitigation land proposed for the development.
- We note that through the S106 developer contributions towards Forest Park and local mitigation land will be secured.
- The incorporation of measures to secure ongoing access management of the designated site is desirable.
- Before determining the application the Local Planning Authority should undertake an Appropriate Assessment to ensure that there is no significant effect on the designated site.

- Note that the trigger for the mitigation land is 30 dwellings. Would ask the Council to consider whether this arrangement is sufficient to ensure no likely significant effect upon the European site. Would recommend that this land is provided up front and available for public use prior to any occupation of the site if it is to be a successful alternative recreational space.
- Under the Habitats and Species Regulations 2010, the Local Planning Authority must be certain that the proposals will not have a likely significant effect on the internationally important feature of the site, leading to an adverse effect on the integrity of the European site.
- As per the Wildlife & Countryside Act 1981 you should also take reasonable steps to further conservation and enhancement of the flora, fauna, or geological or physiographical features by.
- Welcome the submission of ecological surveys and recommend that you consult your ecologist with regard the appropriateness of the mitigation proposed.
- Also welcome the inclusion of an assessment of landscape and visual issues within the EIA.
- We note that adverse visual effects are likely on some of the identified receptors and would recommend that all mitigation measures should be implemented.

2nd Round – No Objection subject to an Appropriate Assessment, mitigation measures and contributions being secured by legal agreement, and conditions.

- The amendments do not represent a significant alteration to the proposals and as such, our previous comments remain valid.

5.13 **Hampshire & Isle of Wight Wildlife Trust:**

1st Round – Objection:

- No substantially different to the previous application which was refused by the Local Planning Authority and dismissed at appeal.
- Piecemeal growth in the vicinity of the SSSI and SAC is prejudicial to the conservation of the designated features, contrary to PPS9 - Biodiversity and Geological Conservation, NRM5 of the South East Plan and the Habitat Regulations 2010.
- Recently published White Paper and associated Lawton Review recognises the vulnerability of fragmented wildlife sites and promotes the expansion and joining up such sites. If approved this development would be directly contrary to Chapter 2 of this paper.
- Consider that the Inspector's reasoning for dismissing the ecological concerns at the recent appeal are flawed.
- The SSSI/SAC and the environs of Baddesley Common should be subject to a specific policy in the forthcoming Core Strategy.
- Do not agree with Natural England's conclusions that the impact on the SAC and SSSI can be mitigated by contributions to the Forest Park.
- Forest Park is isolated from the application site and we are not aware of any evidence to suggest that the new residents will travel to Forest Park rather than use the SSSI for recreation.

- Unclear about what is proposed at Nutburn Meadow SINC.
- Applicant confirms that Baddesley Common and Emer Bog will be readily accessible by footpath from the proposed development and the rural footway connecting the Nutburn Road to Botley Road via the SINC has been reintroduced. This seems to offer a more appealing and easy route to the designated sites.

2nd Round – Objection:

- The amendments do not sufficiently alter the proposal nor offer any means of addressing the issue of recreational impacts on Emer Bog SAC and Baddesley Common SSSI.
- Previous comments therefore remain valid.
- A piecemeal approach to determining applications in the vicinity of the SAC and SSSI will jeopardise the conservation interests of both.
- A strategic approach is essential and should be incorporated in the Core Strategy.

6.0 **REPRESENTATIONS** Expired 26.08.2011

6.1 **North Baddesley PC:**

1st Round – Objection:

- Loss of shop.
- There are rare plants in the SINC site.
- Concerns over opening the SINC up to the public. The footpath will increase access to this area and can see no merit in providing it.
- The car parking spaces allocated for allotment holders are unlikely to be used.
- If the nearby church remains in North Baddesley, there will be highway concerns.

2nd Round – Objection:

- Previous comments still stand.
- Developer has failed to demonstrate how their application integrates various elements of sustainable development and does not achieve outcomes that enable social, environmental and economic objectives as set out in the SHLAA process.
- The sites recognised through the SHLAA should be used to meet the housing need and there is as a result no need to develop this site.
- The level of potential supply within settlements of STV does not warrant a need for a change in policy.
- The development will result in the increase of development on a Greenfield site which is a direct contradiction of policy.
- The SHLAA does not identify a need for this site in North Baddesley.
- This is not a sustainable location as the development will not in real terms reduce the need to travel.
- Development will not increase the sense of community as it is isolated from existing large conurbation of North Baddesley.
- This site has never been perceived as suitable or put forward for residential development by either TVBC or the Parish Council.
- Concerned about loss of a shop.
- There are rare plants in the SINC.

- Concerned about the opening up of the SINC to the public.
- The footpath will increase its use and can't see any merit in providing it.
- The parking spaces allocated for allotment holders are unlikely to be used by them.
- If the nearby church remains in the village there will be highway concerns.

6.2 **Romsey & District Society:**

1st Round – Objection:

- A number of significant changes were made to the previous application prior to the application being determined which reduced the impact on the SINC.
- We are aware that the inspector concluded that if the measures set out in the addendum to the ES were implemented then there would be no impact on the SINC. However we are still concerned about these measures.
- Documents seem to be identical to those submitted originally last time and are thus confusing.
- We comment on the basis that the submitted design and access statement has been superseded by the Addendum to the ES. If it isn't please accept our previous comments as objections to the scheme.
- The ES sets out three options for connecting the site to the foul sewer one of which would require excavation work in the SINC. The ecology section provides no details of the potential impact of this on the SINC or how damage might be minimised. Whilst it may not be the preferred option it is one of 3 identified and can't be ruled out. Therefore its impact on the SINC needs to be identified now.
- No wildlife survey information is provided on the area of the proposed swale. The position as shown in the Addendum report may avoid Southern Marsh Orchids but there are no survey data to show what the impact will be on current habitats.
- The design is an improvement to the original proposal but it will still result in habitat loss.
- The addendum demonstrates that efforts have been made to mitigate for the impacts of the SINC during construction and thereafter in relation to pollution but these are complex and leaves room for error.
- The report also confirms that 66% of runoff will continue to drain in to the soil beneath this area, including from gardens within the development. We remain concerned about nitrates and phosphates entering the SINC from this source especially as there is no information about how the SUDS are to be accommodated and maintained in the long term.
- The compensation land that is to be provided to compensate for damage caused to the SINC is not the same habitat as the SINC and does not therefore provide compensation for it.
- Fuller survey information is required to help assess the overall interest and value of the compensation site proposed.

- Removing the fence and opening up the whole area of the compensation land to allow grazing is likely to do more harm than good as it is likely to result in trampling and a loss of ground flora.
- It is also not clear if the compensation land is available in any event.
- We consider that the SINC will be deleteriously affected, that some impacts are not satisfactorily dealt with or fully known and the proposed mitigation is inadequate.
- Do not believe that development in the countryside is essential.
- Remain concerned about the potential cumulative impacts from all of the proposals at various stages in the planning system and from which relatively easy access to the SSSI and SAC would be possible – namely this application, the Halterworth Application, Possible development at Baddesley Close, and the recently withdrawn application at Great Covert.
- Taken individually they might not be considered to have a significant impact but the combined impacts will be significant.
- The impact on the whole suite of important biodiversity sites in this area, including 13 SINC, a SAC and a SSSI, have not been assessed. A proper study needs to be undertaken to assess what the area can accommodate without adverse impacts on biodiversity.
- The impacts on the Nature Reserve and SAC will not be neutralised by the provision of access to an urban edge 0.9 acre site as an alternative to visiting the nature reserve or the possible availability at some time of a Forest Park.
- It was accepted by the Inspector that the Nutburn application will generate extra visits to the Nature Reserve. It is clear that future development would also do so.
- Any developers will only deal with the perceived pressure on the SAC generated by their development they are unlikely to offer mitigation for their application plus the cumulative ones from previous sites which were at the time not considered to be significant but when combined with others could have a serious impact. This in combination impact therefore needs to be dealt with at this stage.
- The application fails the test of whether it is essential or if there is an overriding need for it.

2nd Round – Objection:

- Revised documents are still confusing with regard the provision of a rural footpath. Whilst it is removed from plans it is still referred to in text.
- As a result of this doubt our previous comments on this point still stand.
- Also not clear if the compensation land is still being offered.
- The issues previously raised about.
- The foul sewerage pipeline has also not been dealt with.
- Even though no mitigation now seems to be on offer, the ES concludes that there will be no impacts on the SINC which seems to be incorrect.

6.3 **Ramblers Association:**

1st Round – Objection:

- Object to the further ingress into the green lung of Romsey.

2nd Round – No additional comments received.

6.4 **Letters:**

1st Round – 16 letters of Objection received from the residents/owners of 91 & 109 Botley Road; 1, 5, 7, 8a & 9 Street End; 4, 7 & 11 Baddesley Close; Rushworth, Grassmere & Lavendar Cottage, Nutburn Road; 16 Laburnham Close; and Jalna & Amish Mell, Sandy Lane. The following comments made:
General/Principle:

- Set a precedent and increase likelihood of further development north of the A27.
- Amenities in the village are already overstretched and the village cannot sustain any more large development.
- Doctor's Surgery already overwhelmed.
- Bordens caused considerable impact on traffic, schools, health centre and vandalism. This will exacerbate these problems.
- The village does not need more housing. Lots for sale in North Baddesley and permission just been given for 800 more at nearby Abbotswood.
- Will result in the loss of a hardware shop which is an important amenity and would be disastrous for the village as a whole.
- Loss of service yard and parking for the Hardware store will threaten its viability.
- No large developments should be approved until the Core Strategy is decided upon.
- Don't see why the objections raised should be cast aside and North Baddesley should be lumbered with 44 new houses just because there is a perceived shortfall in new houses for the next 5 years.
- Shortfall of housing is based on assumptions not hard facts and assumes that there is a need for the same number of houses every year.
- Even if the estimated shortfall turns out to be accurate, 44 houses can be built elsewhere in the village which would be better than this site.
- The committee should not be bought by the S106.
- This proposal has been refused at a number of levels. It should not now be allowed on a technicality.
- If there is a housing need, should be speeding up the development of sites that already have planning permission.
- Just because delays are forecast at Redbridge Lane should not mean that development on this Greenfield, countryside site should now be allowed.
- Perbury are currently actively investigating a site in Ampfield which undermines their commitment to developing this site if it got permission.

- The documents are not accurate and do not relate to each other. For instance the transport statement refers to allotment parking spaces which are not part of this current scheme. Makes understanding the submission very difficult.
- Shouldn't turn into a first past the post situation. If North Baddesley is going to expand it should do so in a properly planned manner.

Character:

- Change the character to that of a housing estate.
- North Baddesley is already the largest village in Britain. If it is to retain its village character it needs to retain its countryside views.
- The development breaks up what is essentially a rural scene.
- This area of green helps to maintain the rural nature of the village.
- Completely out of character with the present area of very old cottages, bungalows and houses.
- Block 5 is completely out of character with the properties along Botley Road.
- Overdevelopment both of the site and North Baddesley.

Highway Issues:

- Unsafe to have a pedestrian footpath directly from the site onto the main road.
- Road infrastructure cannot cope with more traffic. 44 houses mean 60+ new vehicles.
- North Baddesley is in gridlock at rush hour at the moment.
- Insufficient work opportunities in and around North Baddesley that can be accessed without a car.
- There are no school buses to Mountbatten School and so parents take their children to school.
- Hard enough to exit Street End at the moment with the church, allotment holders, parking etc.
- Proposed access is too close to Street End and too close to the crossroads with the A27.
- Allotment holder parking shown on the plans but this would not work given the equipment that they would need to bring with them or take away from the allotments and it would not be safe for them to have to cross Nutburn Road.
- The extra traffic/cars will increase the pollution in the village.
- The traffic count survey that has been submitted is inaccurate and misleading, taken in the summer when traffic is at its lowest.
- The Nutburn/Botley Road junction is already going to be overloaded by the development of 800 houses at Abbotswood a few miles away.
- There is not a good level of public transport in the village.
- Nutburn Road is already dangerous with low visibility, people regularly exceeding the speed limit and lots of parked cars and accesses on to it.
- Insufficient parking provision so that people will park on the spine road and Nutburn Road.
- Pedestrian traffic will increase which in turn will cause additional congestion for road traffic by more people using the crossings.

Neighbouring Amenities:

- Proposed footpaths too close to existing residential boundaries and thus likely to result in noise, disturbance, vandalism.
- Loss of privacy and overlooking on neighbouring properties.
- Disputes between neighbours are already at an all time high because we have to live in such close proximity to each other. This will exacerbate this.

Detail of the Scheme:

- Clarification of boundary treatment needed. 1.8m high fence around 109 Botley Road should be upgraded to a brick wall.
- Trees to the rear of 109 Botley Road is within that site and do not form part of the application site.
- Gardens proposed for the dwellings are too small.

Nature Conservation:

- Cause damage to wildlife on the adjacent nature reserves.
- Concerned about pollution and the altering of the water courses and changes in the water table permanently.
- Concerned about the proposed footpath which will encourage access into Nutburn Meadow.
- Concerned that the SINC status will be lost as a result of this development.
- It will increase the recreational use of Emer Bog and reduce the drainage of much needed water into the bog.
- Unhappy that the Inspector was persuaded regarding bats and environmental impacts by evidence provided by the appellant. Hardly impartial evidence is it?
- Will harms protected species such as bats and owls.
- What will happen to the line of Oak Trees?
- The SINC and Emer Bog are entitled to protection and form an important gap between Romsey and North Baddesley. They should not be used as open recreational land.
- The Governments new White Paper puts nature conservation at the heart of planning and gives communities the power to protect green spaces.

Flooding, Drainage & Sewerage:

- Flooding of roads and properties in the area is a regular problem. Several acres of new concrete will not help.
- Will TVBC insure nearby residents/businesses against future flooding as a result of the development.
- Sewage and drainage is already a serious problem for the village as the present system is not adequate. Increase in population will exacerbate this problem.
- Site floods every year and there is standing water on the site.

Crime:

- The social housing will bring with it a rise in crime in an area that currently has very low crime rate.
- Crime and community safety are a particular concern.

2nd Round - 2 letters of objection received from the residents of Grassmere, Nutburn Road; and 17 Mortimer Way. The following comments made:

General/Principle:

- Inadequate justification made for siting development on land that is allocated as countryside.
- No evidence that this is the only site that is available to meet the alleged shortfall in housing.
- Level of unsold houses locally could actually demonstrate that there is a surplus of housing in the area.
- The developers at Redbridge may have come to the conclusion that there is actually a surplus of housing which is why they have decided to delay building and reduce their build out rate.
- As the Inspector pointed out, there are plenty of Brownfield sites in the area that would be more suited to this type of development.
- North Baddesley has already had its fair share of development in recent years.
- There is no need for new housing.

Nature Conservation:

- Development will have a severe impact on the ecology of the area.
- The mitigation measures put forward do nothing to avoid permanent harm to the area.
- There are bats in the dwelling that is to be demolished.

Highway Issues:

- Volume of traffic using Nutburn Road since last writing has increased.
- Access and increased traffic will cause a highway danger.
- Will cause a bottleneck in the area at peak times.
- Cause traffic congestion.

Flooding, Drainage & Sewerage:

- The existing infrastructure is insufficient.
- The works will effect the water table in the area.

6.5 Comments received from the Agent regarding the new National Planning Policy Framework

- Whilst this is only a consultation document also have to take into account the recent Ministerial Statement. The decision on this application is likely to take place before the outcome of the ongoing consultation is known, but the document is likely to be place by the time that this application would be heard at appeal (if nec).
- Clear that Government have a pressing desire to facilitate economic growth in a manner not currently addressed by current government guidance.
- There is now a presumption in favour of development.
- Planning must operate to encourage growth and not act as an impediment.
- Para 14 says LPAs should approve all individual proposals wherever possible.

- Para 10 says that the planning system has a duty to plan for people and promote strong, vibrant and healthy communities by providing an increased supply of housing to meet the needs of present and future generations.
- Seeks to significantly increase the delivery of new housing in well designed communities where people want to live by increase the supply; deliver a wide choice of high quality homes; and widen opportunities for home ownership.
- This is the only site in North Baddesley that is coming forward and can deliver new homes for this community in the next few years. It is sustainably located in relation to the centre and shops etc.
- There is now a requirement to provide not only 5 years worth of housing land but an additional 20% contingency allowance to ensure choice and competition in the market.
- This site is too small to be critical to the long term housing strategy but is a specific site that can help to meet local housing need in the short term.
- The NPPF makes it even more apparent to not only meet the need for a 5 year housing supply of deliverable suites but to have a contingency allowance on top of this.
- There are no planned new housing development coming forward in North Baddesley. All planned new development in S.TV is in Romsey and Nursling but these do not meet the needs of North Baddesley which is a sustainable village settlement with a population of c 6000 people.
- This development is also hoping to deliver 17 affordable units.

7.0 **POLICY**

7.1 **Government Guidance:** PPS1 - Delivering Sustainable Development; PPS3 -Housing; PPS7 - Sustainable Development in Rural Areas; PPS9 - Biodiversity & Geological Conservation; PPG13 - Transport; PPG16 - Archaeology and Planning; PPG17 - Planning for Open Space, Sport & Recreation; PPS23 - Planning & Pollution Control; PPG24 - Planning and Noise; PPS25 - Development & Flood Risk; Circular 01/06 Guidance on Changes to the Development Control System; Circular 05/2005 Planning Obligations; Conservation of Habitats and Species Regulations 2010; The Town & Country Planning (Environmental Impact Assessment) Regulations 1999; Wildlife and Countryside Act 1981; 06/05: Biodiversity and Geological Conservation - Statutory Obligations and their impact within the Planning System; Natural Environment and Rural Communities (NERC) Act 2006; The Draft National Planning Policy Framework; and Ministerial Statement – Planning For Growth.

7.2 **South East Plan (SEP):** H1 (Regional Housing Provision 2006-2026); H2 (Managing the Delivery of the Regional Housing Provision); and SH5 (Scale & Location of Housing Development 2006-2026).

- 7.3 **Test Valley Borough Local Plan (June 2006) (TVBLP):** SET03 (Development in the Countryside); ENV01 (Biodiversity & Geological Conservation); ENV04 (Sites of Importance for Nature Conservation); ENV05 (Protected Species); ENV09 (Water Resources); ENV11 (Archaeology & Cultural Heritage); HAZ02 (Flooding); HAZ03 (Pollution); ESN03 (Housing Types, Density & Mix); ESN04 (Affordable Housing in Settlements); ESN22 (Public Recreational Open Space Provision); ESN30 (Infrastructure Provision With New Development); TRA01 (Travel Generating Development); TRA02 (Parking Standards); TRA03 (Public Transport Infrastructure); TRA04 (Financial Contributions to Transport Infrastructure); TRA05 (Safe Access); TRA06 (Safe Layouts); TRA07 (Access For Disabled People); TRA08 (Public Rights Of Way); TRA09 (Impact on Highway Network); DES01 (Landscape Character); DES02 (Settlement Character); DES03 (Transport Corridors); DES04 (Route Networks); DES05 (Layout & Siting); DES06 (Scale, Height & Massing); DES07 (Appearance, Details & Materials); DES08 (Trees & Hedgerows); DES09 (Wildlife and Amenity Features); DES10 (New Landscaping); AME01 (Privacy & Private Open Space); AME02 (Daylight & Sunlight); AME03 (Artificial Light Intrusion); AME04 (Noise & Vibration).
- 7.4 **Other:** Infrastructure and Developer Contributions Supplementary Planning Document (February 2009); Affordable Housing (March 2008); Cycle Strategy and Network (March 2009); The Local Biodiversity Action Plan for Test Valley (May 2008); HCC Highways Contributions 2008; Test Valley Five Year Housing Land Supply Statement 2011/12 – 2015/2016.
- 8.0 **PLANNING CONSIDERATIONS**
- 8.1 The main planning considerations in the determination of this application are the principle for development; material considerations; impacts upon nature conservation; impact upon the highway infrastructure; impact upon the character of the area; residential amenity; local amenities and services; trees; and hydrology and drainage. Consideration is additionally given to the Heads of Terms required by the legal agreement that is currently being finalised.
- Principle**
- 8.2 The site is situated in the countryside as defined by TVBLP policy SET03 (Development in the Countryside) and is not allocated for housing development in any current adopted policy. Therefore there is a presumption against new residential development unless it can be demonstrated that there is an overriding need for such development; it is appropriate as an exception to this policy; or other material considerations determine otherwise. The proposal does not constitute ‘appropriate’ countryside uses, nor is there an overriding need. However the requirement to have a deliverable five year supply of housing land is a material consideration that would justify granting permission contrary to TVBLP SET03 (Development in the Countryside).
- 8.3 The consideration of this application also needs to have due regard for recent planning history, most pertinent of which is a recent dismissed appeal for the same proposals at this site (ref: 10/00494/OUTS).

Other Material Considerations

Appeal History

- 8.4 As has been discussed above, the previous application at this site (ref: 10/00494/OUTS) was for an identical proposal on this same site and whilst there were originally 6 reasons for refusal of the scheme in 2010, by the time the application was heard at the Inquiry, the Local Planning Authority considered that all but one of these reasons had been addressed and overcome, primarily as a result of the completion of a legal agreement securing mitigation measures to overcome the potential impact of the development on the adjacent ecological sites. Furthermore, whilst third parties continued to argue the ecological issues, and whilst the scheme was ultimately dismissed at appeal, the Inspector agreed that the only reason why the application should fail was because it was considered that Test Valley Borough Council did have a 5 year housing land supply and therefore there was no special justification for allowing the proposed residential development of a site that is currently designated as countryside. The Inspector did not support a reason for refusal on ecology grounds as discussed in paragraphs 21 and 40 of the decision).
- 8.5 However paragraph 33 of the Inspector's decision stated, in referring to the housing land supply issue and delivery rates, that "*were there evidence of serious delay it would be right to modify predictions accordingly*". It is the applicant's assertion that there is now evidence that the delivery rates put forward at the Inquiry have significantly reduced to such an extent that they now justify the proposed development of this site in North Baddesley. This point is addressed and discussed in more detail below.

Housing Land Supply

- 8.6 PPS3 – Housing, requires Local Planning Authorities to identify suitable locations for housing development which have a reasonable prospect of being available for, and could be developed at the point envisaged. Once identified, this supply of land should be managed in a way that ensures a rolling supply of deliverable sites is maintained to deliver housing requirements over a five year trajectory. Paragraph 71 is specific in stating that "*where Local Planning Authorities cannot demonstrate an up to date five year supply of deliverable sites...they should consider favourably planning applications for housing...*" and it is this requirement that should be regarded as a 'material consideration' which may supersede the policies in the existing Development Plan.
- 8.7 Whilst it is the intention of Government to remove Regional Spatial Strategies through the Localism Bill, until that occurs the South East Plan (SEP) remains part of the Development Plan. Policy H1 of the SEP sets out the housing requirement that Local Planning Authorities in the South East will need to provide between 2006 – 2026. Table H1a in the SEP states that 10,020 dwellings should be provided for the whole of Test Valley. Policy SH5 further identified a separate housing requirement for Southern Test Valley (STV) than for the rest of the borough, which is 3,920 dwellings.

- 8.8 The housing land supply is calculated on the basis of evidence of anticipated delivery of dwellings provided by developers and their agents as part of the Strategic Housing Land Availability Assessment. In defending the last appeal at this site the Council were able to demonstrate a 5 year land supply which the Inspector accepted, resulting in the previous application being dismissed.
- 8.9 Since the appeal Inquiry was heard however, a revised delivery rate has been submitted by the agent for the Redbridge Lane, Nursling site stating that the rate of delivery has decreased from 350 dwellings to 149 dwellings. The agent has provided reasons for this revision and the Council has no evidence to counter or challenge the reduced delivery rate. The radical change in the rate of delivery has resulted in severe consequences for the housing land supply in STV to such an extent that a five year supply can no longer be demonstrated. The result of this is that paragraph 71 of PPS3 - Housing (outlined above) is triggered.
- 8.10 As has been set out in the tables provided by the Council's Policy Team (in Section 5.1 above), there are currently 559 dwellings that have been completed between 2006/07 and 2010/11. It is estimated that a further 99 dwellings will be completed in 2011/12. This leaves a residual housing requirement of 3,262 houses for STV. When this figure is divided evenly between the remaining years left of the plan period (14 between 2012/12 – 2025/26) and multiplied by 5 to provide the 5 year housing land supply trajectory, it is clear that 1,165 houses need to be built in STV in the next 5 years. Taking into account the existing commitments in STV (i.e. those that have planning permission such as Abbotswood and Redbridge Lane); and those housing sites that are being currently being considered by the Local Planning Authority (such as Romsey Infant School); and their expected build/delivery rates, this demonstrates that The Council only currently has a 4 year housing land supply.

Current Changes to Planning Policy

- 8.11 The recent Ministerial Statement on 'Planning for Growth (March 2011) and the 'presumption in favour of sustainable development' are also material considerations. The Government's "*clear expectation is that the answer to development and growth should wherever possible be 'yes' except where this would compromise the key sustainable development principles set out in national planning policy*". The statement goes on to state that Local Planning Authorities should, when deciding to grant planning permission, "*consider the range of likely economic, environmental and social benefits of the proposal; including long term or indirect benefits...*".
- 8.12 The Inspector for the recent appeal at this site, in paragraph 37 of his decision, considered that the appeal site "*...is sustainably located, would secure early jobs and would support local economic growth...*" If this is read in the context of the 'Planning for Growth' statement, i.e. supporting sustainable development and growth, then the proposal is also considered to be in line with the Government's current policy position.

- 8.13 The Government also published the draft 'National Planning Policy Framework' (NPPF) for consultation in July 2011. Whilst only a consultation draft, this document reiterates the content of the earlier Ministerial Statement in promoting sustainable growth and demonstrates a 'direction of travel' for future Government policy.
- 8.14 Having due regard to the new evidence that has been put forward regarding reduced delivery rates of the houses on the Redbridge Lane site; the implications this has on the 5 year Housing Land Supply for STV; the guidance in PPS3 - Housing; and the direction that national planning policy is currently going as set out in recent Ministerial Statements, it is considered that a refusal of this current application on housing land supply grounds would no longer be realistic or defensible position. It is therefore considered that this previous reason for refusal has been overcome and the Council's Policy Team has therefore raised no objection to the scheme.

Impact on Nature Conservation

- 8.15 The site is immediately adjacent to the Nutburn Meadow site which is designated as a Site of Importance for Nature Conservation (SINC). Emer Bog Special Area of Conservation (SAC); and Baddesley Common Site of Special Scientific Interest (SSSI) are also in close proximity. As has been discussed above, the last application was originally also refused by the Local Planning Authority on the grounds of its potential impact on these nature conservation sites in relation to the potential habitat effects; mitigation measures; and its direct impact on bats. Whilst this was subsequently addressed before the appeal and was thus not upheld as a reason for refusal, it is considered necessary to readdress these issues for the proper and complete consideration of this current application.

Impact on Bats

- 8.16 The existing bungalow on the site, which is to be demolished to enable access to the rest of the site from Nutburn Road, has been found to support bats. Such species are protected by both UK and EU law and are therefore a material consideration of the planning process. This issue was previously used as a reason for refusal by the Local Planning Authority (reason 3) as at the time insufficient information had been submitted to detail mitigation measures that may be necessary to ensure the favourable conservation status of bats. Before the Inquiry was held however, this issue had been properly addressed and overcome by the submission of a bat mitigation strategy. This document has been resubmitted to accompany the current application at this site.
- 8.17 Natural England has released a statement relating to such proposals where protected species are found to be present which states:
"... in the course of its consideration of a planning application, where the presence of a European protected species is a material consideration, the planning authority must satisfy itself that the proposed development meets three tests as set out in the Directive. The ruling states that if it is clear or perhaps very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable 'other imperative reasons of over-riding public interest' then the authority should act on that and refuse permission."

- 8.18 The three tests referred to above are the three derogation tests which require the following:
1. *The consented operation must be for 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'; (Regulation 53(2)(e));*
 2. *There must be 'no satisfactory alternative' (Regulation 53(9)(a)); and*
 3. *The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range' (Regulation 53(9) (b)).*
- 8.19 Whilst it is considered that more detail will be required to accompany the Reserved Matters application, the County Ecologist has confirmed that the submitted strategy is sufficient for this Outline application and considers that the 3rd derogation test has therefore been met.
- 8.20 With regard the first and second derogation tests; it is considered that the issues discussed above regarding the overriding need for housing in the STV area and in the absence of any allocated sites to meet this need, that this provides the justification to satisfy the first and second tests. Therefore it is considered that this issue has been addressed and the current application is considered to accord with the requirements of PPS9 - Biodiversity and Geological Conservation, and TVBLP policy ENV05 (Protected Species) in this regard.

Habitat Effects & Mitigation Measures

- 8.21 The last application was also originally refused by the Local Planning Authority because it was considered that the development, either alone or in combination with other development in the area, would have a significant and detrimental impact on the integrity of the adjacent SINC, SAC, and SSSI (reason 2). It was also considered that previous mitigation measures and proposals, including the provision of a 'Rural Footpath' across the site, into the adjacent SINC and ultimately linking it to the Botley Road were inappropriate and would actually add additional recreational pressures on these nearby designated sites.
- 8.22 Before the previous application was considered at the Inquiry, the rural footpath and any proposals to encourage the recreational benefits of the adjacent sites was however omitted from the scheme. Additional mitigation measures, including the provision of an area of nearby land to the north of the site (further along Nutburn Road) and contributions towards the Forest Park scheme and towards off site public open space facilities were put forward by the applicant in order to mitigate against this potential recreational pressure on these adjacent sites by effectively providing alternative recreational facilities for the future residents of the application site. These were accepted by Natural England to be sufficient to mitigate any issue. The Local Planning Authority and Inspector also considered these to be effective and despite third parties pursuing this issue, it was not upheld as a reason for refusal by the Inspector.

- 8.23 For this application a number of consultees and local representation have again raised objection on this basis. This is because, in their haste to resubmit the application, the applicant inadvertently submitted everything that had been submitted for the last application. This has led to confusion, ambiguity and concern that elements that had been omitted from the previous scheme were now being reintroduced. A set of amended documentation and plans have subsequently been submitted during the course of this application and the applicant's agent has confirmed that they categorically want the Local Planning Authority to consider exactly what was considered at the time of the Inquiry, i.e. with the rural footpath being omitted and the same mitigation measures being put forward. For the avoidance of doubt, it is also suggested that a condition can be imposed on this recommendation making it clear that there shall be no direct access from the site to the adjacent SINC, SAC and SSSI. Subject to this and the mitigation measures being secured by legal agreement (to be discussed below); it is considered that the application continues to be acceptable in this regard in line with the Inspector's findings at the recent appeal and that this issue does not therefore warrant a reason for refusal of the current scheme.

Appropriate Assessment

- 8.24 Part 6 of the Conservation of Habitats and Species Regulations 2010 refers to the Assessment of Plans & Projects with section 61(1)(a) to part 6 requiring that:
- 'A competent Authority, before deciding to undertake, give any consent, permission or other authorisation for a plan or project which –*
- a) Is likely to have a significant effect on a European Site...(either alone or in combination with other plans and projects); and*
 - b) Is not directly connected with or necessary to the management of that site.*
- Must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.'*

- 8.25 As the Local Planning Authority originally refused the previous application, an appropriate assessment was not therefore undertaken as part of the last application. Likewise as the Inspector upheld the Local Planning Authority's decision and dismissed the appeal, he never undertook the assessment either. Indeed the Inspector also questioned the need for such an assessment because he considered that *'the proposed development would be unlikely to have a significant effect on the integrity of the protected sites, either alone or in combination with other plans or projects'* (paragraph 21) and in his conclusion (paragraph 40) confirmed *'The proposed development would have no adverse implications for nature conservation...'* However in this instance, as the recommendation is now heading for permission the issue of the need for an Appropriate Assessment has been reconsidered. The Local Planning Authority considers it is necessary to undertake such an assessment to consider the potential impact of the development, either alone or in combination of the development on the protected sites.

- 8.26 The County Ecologist has undertaken the required assessment on behalf of the Local Planning Authority. His assessment has concluded that given the mitigation measures being secured by the Section 106 Agreement (S106) discussed below, and conditions to be imposed which will limit access to the adjacent SINC, the development is unlikely to have an adverse effect on the SAC.

Highway Infrastructure

- 8.27 The site under consideration is ideally located to enable residents to have choice in their modes of travel, meeting the intentions of PPG13 – Transport which emphasises that residents should not have to rely on the car for making all journeys. The need to ensure accessibility to a range of transport modes is also reiterated within TVBLP policy TRA01 (Travelling Generating Development) which seeks to ensure that development is located as to be well served by public transport and is accessible to pedestrians and cyclists.
- 8.28 The location of the site ensures that good access is available to local services and facilities by pedestrians and cyclists, with the site also within reach of nearby bus stops to encourage the use of sustainable modes of travel. North Baddesley is well served by regular bus services to Romsey and Southampton with further services connecting to Eastleigh and Winchester. The proposal also seeks to encourage non car modes of transport by providing a direct and convenient link with the local area via a pedestrian link to Botley Road. Local Concern has been raised regarding the provision of a footpath to the rear of 109 Botley Road, but this is not proposed as part of this scheme.
- 8.29 As per the previous application, the current application, whilst in outline, has matters of 'access' included for consideration at this stage. TVBLP policy TRA05 (Safe Access) requires development to ensure safe access to the highway for proposed users. The application proposes a priority junction from Nutburn Road with adequate visibility splays in both directions to be commensurate with a highway subject to a 30mph speed limit. This access will sit opposite the gated access to the local allotments (which generates some traffic and parking upon Nutburn Road) but receives no objection from the Highways Officer in terms of its design and positioning. The junction is considered to enable safe access into and from the site to serve the vehicular movements likely to be generated by the development. Internally, the illustrative Masterplan proposes a main spine road linking to shared surfaces and private driveways which will be subject to detailed design at the Reserved Matters stage. To date this layout has again not received adverse comment from the Highways Officer and these issues were not previously used to form reasons for refusal of the previous scheme. The access and the illustrative site layout therefore continue to comply with TVBLP policies TRA05 (Safe Access) and TRA06 (Safe Layouts).

- 8.30 The proposal will generate traffic and therefore TVBLP policy TRA01 (Travelling Generating Development) determines that no adverse impact on the users of the highway should result. Third party representations to the proposal have raised a number of concerns relating to highway matters relating to the local highway network, addressing in particular the generation of additional traffic onto Nutburn Road and using the Botley Road/Rownhams Road/Nutburn Road junction. As per the previous application however, the proposal is accompanied by a Transport Statement which details assessments undertaken of the Baddesley crossroads, the Castle Lane/Botley Road junction, and the Rownhams Lane/Rownhams Road junctions having regard also to traffic data for existing sites having been granted permission and not implemented (e.g. Test Valley Business Park), previous planning applications (Great Covert, Highwood Lane/Halterworth Lane) and for further development such as at Baddesley Close which is not a committed development, nor an allocated site but has been subject to an EIA Screening application (10/00317/SCRS) bringing it into the public realm.
- 8.31 The traffic assessment acknowledges that the A27 Botley Road/Nutburn Road/Rownhams Lane crossroads and the A27 Botley Road/Castle Lane signal junctions operate overcapacity during the morning and afternoon peak times and this situation is predicted to continue. The conclusions of the Transport Statement predict that other developments, such as Great Covert (now withdrawn) would have a significant impact upon local junctions whereas the effect of the development at Nutburn Road/Botley Road is considered negligible with no infrastructure works at the junction considered necessary. For instance, the proposed development is anticipated to generate up to 28 two-way vehicle trips in either of the am or pm peak hour periods and 224 two-way vehicle trips across a typical 24 hour period. This figure assumes that there is little or no transfer of journeys to other modes such as walking, cycling or public transport. As such, the actual impact may be lessened given the convenient access to key local facilities and services by sustainable modes such as walking, cycling or public transport. Contributions have also been sought towards highway improvements in line with TVBLP policy TRA04 (Financial Contributions to Transport Infrastructure) (as will be outlined below).
- 8.32 Finally, parking provision is to be provided on site and at the detailed design stage, parking capacity would have to accord with the parking standards set out in TVBLP Policy TRA02 (Parking Standards) and Annexe 2 in order to be acceptable. The numbers of parking spaces would be determined by the size of the properties whilst accounting for the accessible location, with the parking standards within the TVBLP also incorporating parking provision for visitors. The proposal previously also incorporated further parking provision for users of the allotment holders opposite to offset some need to park on Nutburn Road, however this aspect of the proposal was not positively received by local residents or allotment holders and has since been removed from the scheme. Therefore in respects of highway safety, the scheme is considered to be acceptable and as such the Highway Authority has raised no objection to the application accordingly.

Impact upon the character and appearance of the area

- 8.33 TVBLP policy DES02 (Settlement Character) requires that new development should respond positively to the character and appearance of the surrounding settlement; to not harm open areas or landscape features that contribute to the character of the area; or disrupt a view. The detailed design of the proposal will be subject to assessment at the Reserved Matters stage however, regard is given at this stage to the principle of developing the site for residential development in relation to the context and character of the settlement.
- 8.34 The historic settlement pattern of North Baddesley has evolved from the crossroad junction with later development extending predominately in a south westerly bias. This site however is set to the north of Botley Road contrary to this bias but does not sit in isolation by abutting properties fronting onto Nutburn Road and in proximity to dwellings in Street End. To the east and west of the site sit further residential and commercial development, all to the north of the A27 highway, giving the area a suburban context when travelling through the village with public views predominately of the built environment with glimpses of countryside beyond.
- 8.35 Subject to assessment of the detailed design and submission of landscaping at the reserved matters stage, the application site in visual terms would be commensurate with the locality and would relate well to the existing settlement. The site is not prominent to the public domain being mainly viewed when in close range from Botley Road and Nutburn Road. Notably a change would occur from these vantage points with the loss of views into a green ‘gap’ provided by the existing field from the Botley Road frontage. Views into the site however would remain by virtue of the pedestrian/cycle access, but would be of the new dwellings in their landscaped setting, rather than grazing and open space.
- 8.36 From the wider landscape, the location of the site, ground levels and tree belts (which are to be supplemented), will ensure that the development is viewed within the context of the existing built environment. Whilst it is appreciated that views perceived from public vantage points will change, this is not considered to be of such harm as to give rise to significant adverse harm. The proposal is therefore considered to comply with TVBLP policy DES02 (Settlement Character) given that it will respond to the surrounding settlement and not result in adverse harm to open areas, woodlands or landscape features that contribute to the character of the area, nor breach recognisable boundary features that define the edge of the settlement.

Design

- 8.37 The outline nature of this application determines that issues regarding detailed design and layout are to be decided at the later reserved matters stage. Despite this outline format, indicative parameters have been provided to ensure that the submission accords with guidance contained in Circular 01/2006 which requires outline applications to be informative and structured in order to provide the Local Planning Authority and interested parties with more understanding of how a site will be developed.

For example, applications for this type of development should identify as a minimum, the proposed use; amount of development; indicative layout; upper and lower scale parameters (heights/widths etc); and access points. While these only provide an indication and parameters within which any development will be developed on the site, any future reserved matters application must be in general conformity with these factors identified at this outline stage in order to be acceptable.

- 8.38 The TVBLP seeks to guide development for housing with policy ESN03 (Housing Types, Density & Mix) seeking to ensure that a mix of dwelling sizes and types are provided to ensure choice, to meet the needs of the local community and to contribute towards creating mixed communities. Such developments should be located in accessible locations as previously addressed and also make efficient use of land achieving a minimum density of 30 dwellings or more. In addition, TVBLP policy ESN04 (Affordable Housing in Settlements) requires that development proposals for 15 or more units to provide 40% of the dwellings to be 'affordable' and retained as such in perpetuity.
- 8.39 The purpose of the submitted illustrative layout plan is to demonstrate that 44 dwellings can fit on to the site taking the constraints into account. It is also demonstrated that the properties proposed are to comprise a mix of 2 – 4 bedrooms of single storey, 1 ½ storeys and 2 storeys in height with inclusion also of a single apartment which are to be arranged in a combination of detached, semi-detached and terraced form. The mix in property type and siting provides identifiable 'pockets' of development also influenced by the changing nature of the vehicular access, shape of the site and its natural features creating a sense of place and legibility. Alignment of the main access through the site (Street 1 and Street 2) provides a connection between Botley Road and Nutburn Road and views through the development ensure that a feeling of space and vistas are retained. The blocks of housing are additionally supplemented by landscaping to the frontage and provision of private amenity space.
- 8.40 It is not considered that the design and layout of the site as shown at this outline stage would fundamentally change the character of the area, but instead will seek to create a sensitive, inclusive and sustainable development appropriate for the area. At a density of 30 dwellings per hectare, the development is consistent with TVBLP policy ESN03 (criteria b) by providing an efficient use of land. This density is commensurate with later development in the wider locality but in particular is not considered to be out of character with the immediate vicinity noting the presence of smaller semi or terraced properties to Botley Road and Street End interspersed with detached properties set in individual plots visible to Nutburn Road and to either side of Botley Road. The indicative layout additionally suggests that public and private spaces will be clearly defined and the public domain to be overlooked as to provide passive surveillance.

- 8.41 Concern has been raised by both consultees and local representation about detailed aspects of the layout submitted, however given the outline nature of the application, with most matters reserved for the later stage, it is considered that some of these concerns are premature and cannot be considered at this stage. Conditions can be imposed to ensure some issues relating to the layout do not continue into the final worked up scheme at the Reserved Matters stage. However it should be noted that the layout remains unchanged to that previously considered both by the Local Planning Authority, where no reasons for refusal were used on this basis, and the Inspector who also did not raise any concern about the indicative layout put forward. In this regard it is therefore considered that the design approach of the developer is acceptable.

Residential Amenity

- 8.42 The TVBLP AME policies seek to safeguard amenity with consideration of aspects such as privacy and private open space, sunlight, and noise for both the neighbouring properties to a new development as well as occupiers of the said development. In this location, those residents abutting the boundaries of the site, namely those in Nutburn Road, Botley Road and Street End, are most affected. Given that the matters of 'layout' and 'appearance' are to be reserved for future approval, issues of amenity cannot be fully taken into account until the final design of the development and the relationship of the proposed housing with the surrounding built form can be properly assessed.
- 8.43 It is evident that the outlook from the properties abutting the site will change, however the illustrative master plan suggests that consideration has already been given to this relationship. For instance, dwellings backing onto existing properties in Nutburn Road are shown to be of a maximum 1 ½ storeys in height to respect privacy and have been sited with an acceptable intervening garden distances, commensurate with principles adopted within a built up area. For the purposes of this outline application, the impact upon neighbouring amenity is therefore considered to be acceptable against the requirements of TVBLP policies AME01 (Privacy & Private Open Space) and AME02 (Daylight & Sunlight).

Noise

- 8.44 The Scoping Opinion to the Environment Assessment identified that consideration should be given to the relationship of the development to Botley Road and the potential effects of road traffic noise upon residential amenity. When considering the effects of noise upon a development proposal, reference is made to PPG24 (Planning and Noise) which provides guidance on how the planning system may minimise the adverse impact of noise upon residential amenity. Locally, TVBLP policy AME04 (Noise & Vibration) seeks to ensure that noise-sensitive developments will only be permitted provided that the intended users would not be subject to unacceptable noise from existing noise-generating users having accounted for proposed attenuation and other measures.

8.45 It is accepted that at this location, the principle source of noise will be derived from traffic on the local highway network and that such noise levels will vary throughout a 24 hour period. Survey work undertaken to support the application incorporated anticipated growth in transport levels and assumes no change in how cars are powered. The conclusions drawn from the assessment indicate that, in accordance with the appropriate guidance (e.g. PPG24 – Planning & Noise), noise need not be considered as a determining factor in granting planning permission when mitigation measures (e.g. double glazing) is incorporated within the final construction. Such mitigation measures are seen to ensure a satisfactory internal and external acoustic environment can be achieved.

8.46 Third party representations have additionally raised concern regarding increased noise from the activities taking place on the site. The construction phase of any development is most likely to affect amenity with the greatest receivers of this disturbance sitting along the boundaries of the site. This however will last for a temporary period only. Upon completion, domestic activities would be brought into closer proximity to properties abutting the site, with the properties Rowan Cottage and Downholme also receiving vehicular noise from the proposed access. The impact of the development however has to be balanced against the nature of the proposal, relationship to the built up areas, proximity of the main road and presence of non-planning legislation (enforceable by Environment Protection) to address adverse noise disturbance arising from occupation of new dwellings. Given that the proposal is not for a notable noise generating activity (e.g. industry) and that the relationship of the existing and proposed properties at this outline stage is commensurate with a built up area, it is not considered that a refusal on noise grounds could be substantiated.

Local Amenities and services

8.47 The application site is located close to the main concentration of shops within North Baddesley near its junction with Rownhams Road and Nutburn Road and also within proximity to schools, health, recreational and community facilities, public houses and restaurants. Indeed as a result of these factors, the Inspector concluded at the last appeal that the site is sustainably located, would secure early jobs and would support local economic growth. As per the previous application however, local concern has been raised regarding the impact of the development upon local services from an increase in the local population. This however is not considered to be of such significance that would give cause for a refusal of the application in this respect and indeed it is not for the planning system to dictate market forces in terms of supply and demand.

Hardware Store

8.48 A number of the third party representations have raised concern regarding the actual or potential loss of the hardware store which sits adjacent to the site on its Botley Road frontage. Whilst the application site incorporates land to the rear of this store, the store itself does not form part of the application site and remains in place, albeit with a smaller curtilage.

The application therefore does not require the closure of the shop in order to facilitate development. As such, the long term operations of the store and the future intentions to continue trading would be decisions of the owners of the site/store and not that of the applicant. Alternatively, the opinion could be expressed that a modest increase in the population within the immediate vicinity of the site could help support the use and viability of a local shop in the long term. This issue is therefore not considered to be one that would warrant a refusal of the application.

Trees

- 8.49 TVBLP policy DES08 (Trees & Hedgerows) seeks to ensure that development will not result in the loss of individual trees, groups of trees, woodlands or hedgerows that have amenity or landscape value. The main body of the site is devoid of landscape features however areas of the boundary are demarcated by hedgerow which also contains a number of trees covered by tree preservation orders, comprising an Oak to the southern boundary and the tree belt to the west. These trees form an important landscape feature contributing to the landscape setting of the site and soft edge to the adjacent sites recognised for their conservation value.
- 8.50 The application was supported by an Arboricultural assessment which is indicated to have informed the indicative site layout of the proposal as well as indications that further landscaping will be provided on site. As per with the previous application, the Landscape Officer has commented on the relationship between the existing trees and proposed dwellings. It was previously considered that this concern could be addressed by a condition requiring an appropriate buffer along this boundary (previously suggested at 10 metres). It is considered that this will serve to reduce the potential conflict and this issue can be re-examined for the reserved matters application.
- 8.51 No comments have at the time of writing been received from the Council's Tree Officer however no objection was previously raised about the application and content of the Arboricultural Assessment and it did not form a reason for refusal of the previous application. It is therefore considered that subject to conditions, the application has adequately considered the potential impact with trees and can accord with the requirements of TVBLP policy DES08 (Trees & Hedgerows).

Hydrology and Drainage

- 8.52 PPS25 (Development and Flood Risk) determines that proposals should not only address issues of direct flooding (e.g. from rivers), but also be mindful of the effective disposal of surface water which can otherwise threaten the development and also increase risk of flooding to others. This is reiterated within the TVBLP policies HAZ02 (Flooding) and HAZ03 (Pollution) which are relevant to this proposal by virtue of site conditions and the proximity to a sensitive ecological site. Flooding and surface water issues have additionally been subject of concern expressed through third party representations noting local problems with an aging foul drainage system and poor surface water drainage in North Baddesley.

- 8.53 The land is located within Flood Zone 1 (lowest risk) as determined by the Environment Agency which indicates that there is only a 1 in 1000 year likelihood of the site being flooded. Notwithstanding this, the application is supported by a Flood Risk Assessment (FRA) as required by PPS25 – Development & Flood Risk, due to the site area being greater than 1 hectare. The FRA seeks to address flood risk from all sources, includes a Sustainable Urban Drainage System (SUDS) for the site as well as proposals to address minor localised groundwater problems at the frontage to Botley Road which can occasionally result in surface ponding. Works to the site include raising ground levels by a maximum of 500mm in the lowest part of the site to avoid ground water flooding to new properties whilst also being mindful of the need to protect adjacent trees and also providing infiltration to the strata beneath the site and controlling surface water discharges via SUDS facilities. The SUDS are likely to comprise the provision of on site water storage mechanisms that discharge waters to the receiving watercourse in Nutburn Meadow at the same rate as presently experienced on site. The storage facilities will minimise flood risk and provide water quality treatment to ensure that discharges to the receiving environment are not contaminated.
- 8.54 Southern Water has confirmed that there is currently inadequate capacity in the local foul sewage network to provide foul sewage disposal to service the proposed development. As such, existing properties and land may be subject to a greater risk of flooding as a result. This issue however can be addressed through the provision of additional off-site sewers or improvements to the existing sewers in order to achieve sufficient capacity to service the development. The provision of such infrastructure is not controlled by planning legislation but secured through the Water Industry Act 1991 as enforced by Southern Water as the statutory undertaker. They and the Environment Agency have both therefore raised no objection to this application subject to conditions requiring details and agreement of the proposed surface water and drainage infrastructure that is to be provided on the site. It is therefore considered that the scheme also continues to be acceptable in this regard.

Crime

- 8.55 Local concern has been raised regarding the level of antisocial behaviour and a risk of this increasing within the locality from an increase in the number of dwellings. There is no evidence to suggest that by permitting this proposal and a resultant increase in population would result in an increase in anti-social behaviour or crime in the area. Furthermore, this hypothesis cannot be used to refuse new housing developments as it is made on assumption rather than reality. The Crime Prevention Design Advisor has commented on the application and they have not raised any particular objections to the proposals. Whilst specific issues have been highlighted, these relate to particular design aspects which are not yet known for this outline application. These comments can inform the detailed design of the scheme and the site layout and design at any reserved matters stage will be assessed to ensure that ensuring opportunities for reducing crime are incorporated.

Legal Agreement

- 8.56 The application involves a net increase in the number of dwellings in the area which in turn will result in a subsequent increase in population. As such references have been made within this report about the need for a number of mitigation measures to ensure that the new development does not cause or exacerbate deficiencies in the general provision or quality of open space; makes provision for the local highway infrastructure; secures affordable housing; and addresses means to avoid harm to the nearby nature conservation interests. Seeking such measures is in response to policies contained within the TVBLP (e.g. ESN04 (Affordable Housing in Settlements), ESN22 (Public Recreational Open Space Provision), TRA04 (Financial Contributions to Transport Infrastructure) and ENV01 (Biodiversity & Geological Conservation)) and the Test Valley Infrastructure and Developer Contributions SPD (2009) to ensure that new development off sets potential pressures related to the locality in order to make the development acceptable in planning terms.
- 8.57 Such mitigation measures to address local deficiencies are to be secured through a legal agreement (Section 106 Agreement (S106)) with the level of measures being directly related to the development and fairly and reasonably related in scale to the proposal. Where financial contributions are sought, these are calculated against the number and size of additional dwellings proposed and only requested because specific and related projects have been identified in the Parish to which the development sits. Such an agreement was completed before the last Inquiry which secured the area of mitigation land to the north of the site in perpetuity; contributions towards the Forest Park scheme; off site public open space provision and improvements of existing facilities; off site highway infrastructure works; and 17 units of on site affordable housing. These measures were considered to address a number of concerns by consultees and the Inspector also considered that they satisfied *'the appropriate statutory tests and places no unnecessary burdens on development'*.
- 8.58 An amended agreement is required to relate directly to the current application and is in the process of being completed. This recommendation is therefore made subject to the required agreement being completed prior to a decision being issued. However as the 13 week determination timeframe for this application has already been exceeded there is no alternative recommendation of refusal being proposed should the agreement not be completed by any specified date.

9.0 CONCLUSION

- 9.1 It is considered that the situation with regard the housing land supply for Southern Test Valley has changed since the previous Inquiry was held earlier in the year, which previously resulted in the refusal of this scheme. The current situation is that there is an identified shortfall in available and deliverable land to provide a housing supply for a 5 year period. This material consideration, as contained in PPS3 - Housing, is such to justify granting planning permission, contrary to TVBLP policy SET03 (Development in the Countryside), given the Inspector's findings that *'The appeal site is sustainably located...'* for development.

9.2 Furthermore as the illustrative layout and supporting documentation in all other respects is the same as was considered by the Inspector at the previous Inquiry, and there were no other previous reasons for refusal upheld by the Inspector, it is considered that this proposal is now acceptable in all respects. Therefore, and subject to the completion of the Section 106 Agreement, it is recommended that the application should be approved.

10.0 **RECOMMENDATION**

DELEGATE to the Head of Planning and Building Services for the applicant to enter into a legal agreement to secure financial contributions and other mitigation measures and then OUTLINE PERMISSION subject to:

1. **Applications for the approval of all the reserved matters referred to herein shall be made within a period of three years from the date of this permission. The development to which the permission relates shall be begun not later than whichever is the later of the following dates:**

- i) **three years from the date of this permission: or**
- ii) **two years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.**

Reason: To comply with the provision of S.92 of the Town & Country Planning Act 1990.

2. **Approval of the details of the appearance, layout and scale of the buildings, and the landscaping of the site (herein after called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To comply with Article 4 of the Town and Country Planning (General Development Procedure) Order 1995 (or any order revoking and re-enacting that Order).

3. **No development shall take place until samples and details of the materials to be used in the construction of all external surfaces within the development plot have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure the development has satisfactory external appearance in the interest of the visual amenities of the area in accordance with Test Valley Borough Local Plan (June 2006) policy DES07.

4. (i) **No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:**

- (a) **a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice;**

and (unless otherwise agreed in writing by the local planning authority)

- (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175;
and (unless otherwise agreed in writing by the local planning authority)
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminated land and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.
- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the local planning authority verification by a competent person approved under the provisions of condition (I)c that any remediation scheme required and approved under the provisions of condition (I)c has been implemented fully in accordance with the approved details (unless with the written agreement of the local planning authority in advance of implementation). Unless agreed in writing by the local planning authority such verification shall comprise:
 - a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination;
 - d) thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (I)c.

Reason: To ensure a safe living/working environment in accordance with Test Valley Borough Local Plan 2006 policy HAZ04.

5. All demolition and construction work in relation to the development hereby approved, including works of preparation prior to operations, shall only take place between the hours of 07:30 hours and 18:00 hours Monday to Friday and 08:00 hours and 13:00 hours Saturdays and at no time on Sundays or Public or Bank Holidays.

Reason: In the interests of amenity of local residents in accordance with Test Valley Borough Local Plan (June 2006) policies AME01 and AME04.

6. No development shall take place until full details of a Construction Routing Plan, to ensure the most direct route of construction traffic between the A27 and the site, shall be submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenity of local residents in accordance with the Test Valley Borough Local Plan policies AME01, AME04 and TRA09.

7. No development shall take place until the Local Planning Authority has approved in writing details of:
- a) the width, alignment, gradient and surface materials for any proposed roads / footpath / cycleway including all relevant horizontal and longitudinal cross sections showing existing and proposed levels;
 - b) the type of street lighting including calculations, contour illumination plans and means to reduce light pollution. The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: To ensure that the roads, footway, footpath, cycleway, street lighting and surface water drainage are constructed and maintained to an appropriate standard to serve the development in accordance with Test Valley Borough Local Plan 2006 policies TRA06.

8. Prior to the commencement of development the access to Nutburn Road shall be constructed with the visibility splays of 2.4m by 90m (by 1m metre high) and maintained as such at all times. Within these visibility splays notwithstanding the provisions of the town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no obstacles, including walls, fences and vegetation, shall exceed the height of 1m metres above the level of the existing carriageway at any time. The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policy TRA06.

9. No development shall take place until full details of the layout for the parking and manoeuvring onsite of contractor's and delivery vehicles during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period.

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policy TRA06.

10. Any garage /carport which faces direct on to the highway shall be built at least 6 metres from the highway boundary.

Reason: To provide space in front of the garage to enable vehicles to wait off the highway whilst garage doors are open/closed and in the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

11. Any single garage on the site shall measure a minimum of 3m (width) x 6m (depth) internally and any double garage on the site shall measure a minimum of 6m x 6m internally.

Either shall be constructed as such, unless the proposed residential property is also served by at least a separate bicycle shed, in which case any single garage shall measure a minimum of 3m (width) x 5m (depth) internally and any double garage shall measure 6m (width) x 5m (depth) internally unless otherwise agreed in writing by the Local Planning Authority. Any garage on the site shall be made available for the parking of motor vehicles at all times.

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA02 and TRA09.

- 12. Prior to the commencement of development hereby permitted, details of the measures to be taken to physically and permanently close the existing access(es) marked {X} on the approved plan shall be submitted to and approved in writing by the Local Planning Authority. This approved scheme shall be implemented on first use of the new access and before the use commences/occupation of the building(s) and, notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), no access other than that shown on the approved plan shall be formed.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

- 13. At least the first 4.5 metres of the access track measured from the nearside edge of carriageway of the adjacent future highway shall be surfaced in a non-migratory material prior to the use of the access commencing and retained as such at all times.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

- 14. No development shall take place until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. All site work to be undertaken strictly in accordance with the requirements, specifications and timing detailed within the method statement. Specifically the method statement must:**

- i) Provide a schedule of trees to be retained within 15m of the proposed dwellings, the schedule to include the required root protection areas as set out in British Standard 5837:2005;**
- ii) Provide a shade diagram to illustrate the effect of the trees on the occupation of both the dwellings and the associated gardens;**
- iii) Provide a specification for such tree protective fencing, either in accordance with the above standard or as otherwise agreed in writing with the Local Planning Authority;**
- iv) Confirm timing of erection and dismantling of such tree protective fencing, which must in any case be erected prior to commencement of any site clearance or ground works, and be retained and maintained for the full duration of works until onset of final landscape work or as otherwise agreed in writing with the Local Planning Authority;**

- v) Provide a plan at 1:200 or better, detailing the location of such tree protective fencing, including annotation that such fencing shall remain in this position for the full duration of works or unless by prior written agreement with the Local Planning Authority;
- vi) Require a sign to be hung on such tree protective fencing, repeated as necessary, which clearly states 'Tree Root Protection Area, do not enter, do not move this fence', or such other similar wording as may be agreed in writing with the Local Planning Authority;
- vii) Provide a plan demonstrating that all trenching, excavation, soakaways, pipe and cable runs required by the development can be installed wholly outside the tree protection zones;
- viii) Demonstrate that all proposed structures can be built without the construction process impacting upon the retained trees or required tree protection areas;
- ix) Demonstrate that all site works, mixing areas, storage compounds, site buildings and associated contractor parking areas remain wholly outside any tree protection zones and at a suitable separation to prevent damage to retained trees;
- x) Provide details of any specific precautions to be adopted where scaffolding may be required to be erected within the required minimum distances in line with Figure 3, chapter 9 of British Standard 5837:2005;
- xi) Provide a schedule of all tree felling and tree surgery works proposed, including confirmation of phasing of such work.

The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.

Reason: To prevent the loss during development of trees and natural features and to ensure so far as is practical that development progresses in accordance with current best and the Test Valley Borough Local Plan (June 2006) policy DES08.

15. All existing trees, hedges and hedgerows shall be retained, unless shown on the approved drawings as being removed. All trees, hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any tree or parts of hedges or hedgerows removed without the local planning authority's consent or which dies or become in the opinion of local planning authority seriously diseased or otherwise damaged within five years following completion of the approved development shall be replaced as soon as is reasonably practicable and in any case by not later than the end of the first available planting season with plants of such size and species and in such positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing trees, hedges and hedgerows in accordance with Test Valley Borough Local Plan (June 2006) policy DES10.

- 16. Notwithstanding details submitted on the Indicative Masterplan (dwg no. BRS.1811_14-7), the tree belt on the north-western site boundary to Nutburn Meadow shall have a buffer zone of a minimum depth of 10 metres from the north-western site boundary into the site, or an area equivalent to the root protection area as defined by British Standard BS5837:2005, whichever is the greater. No development will be allowed in this area.**
The development shall be carried out in accordance with the approved details unless agreed in writing with the Local Planning Authority.
Reason: To ensure the development has an acceptable relationship with the adjacent SINC and mature trees in accordance with Test Valley Borough Local Plan (June 2006) policies ENV04 ENV05, DES 08 and DES10.
- 17. No development shall take place on site until a management plan for a period of 25 years for the tree belt on the north-western boundary and associated buffer zone as defined by Condition 16 shall be submitted in writing to and approved by the Local Planning Authority. The management plan shall include long term design objectives, proposed management prescriptions and maintenance schedules, the appointed management organisation and how it will operate, and implementation details. The management plan shall be implemented in accordance with the agreed details.**
Reason: To ensure due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features of communal, public and nature conservation significance in accordance with policies DES01, DES10, and ENV01 of the Test Valley Borough Local Plan.
- 18. Notwithstanding any of the submitted documents or plans, there shall be no direct pedestrian, cycle or vehicular link along the north-western boundary of the site between the site and the adjacent Nutburn Meadow Site of Importance for Nature Conservation.**
Reason: To reduce the potential recreational pressures that the proposed development could have on the sensitive ecological resources on the nearby SINC, SAC and SSSI in accordance with PPS9 - Biodiversity and Geological Conservation and Test Valley Borough Local Plan (June 2006) Policies ENV01 (Biodiversity & Geological Conservation) ENV03 (Sites of Special Scientific Interest) and ENV04 (Sites of Importance for Nature Conservation).
- 19. No development shall take place on site, including site clearance, until the vegetation management has been undertaken in accordance with paragraph 4.5.12 of the Environmental Statement, unless otherwise first agreed in writing by the Local Planning Authority.**

Reason: to avoid killing or injury of reptiles in accordance with PPS9 - Biodiversity and Geological Conservation and Test Valley Borough Local Plan (June 2006) policies ENV05 (Protected Species); ENV01 (Biodiversity & Geological Conservation); and DES09 (Wildlife & Amenity Features).

- 20. No development shall take place on site until full details of the measures to be taken to mitigate impacts to bats have been submitted to and agreed in writing by the Local Planning Authority. Such details shall include the measures set out in the Bat Mitigation Strategy (EPR, 2011), including further details of the timings of the works; a construction and post construction lighting plan; a strategy to deal with bats found during the supervised demolition of the existing building; and detailed specification of the bat roosting measures to be incorporated into the new dwelling on the footprint of the existing house and the seven new dwellings along the western site boundary. The development shall be implemented in accordance with the agreed.**

Reason: To ensure the favourable conservation status of bats, in accordance with PPS9 - Biodiversity and Geological Conservation and Policy ENV05 of the Test Valley borough local plan.

- 21. No development shall take place on site until a plan for the protection and/or mitigation of damage to the unimproved grassland BAP Habitat, including management responsibilities and implementation timetable, has been submitted to and approved in writing by the local planning authority. The BAP habitat protection plan shall be carried out in accordance with the agreed details.**

Reason: To protect the BAP Habitat adjacent to the development site, which is identified under The UK Biodiversity Action Plan 1994 (UK BAP) and includes species and habitats of ‘principal’ importance” for the conservation of biological diversity nationally in accordance with PPS9 - Biodiversity and Geological Conservation and Test Valley Borough Local Plan (June 2006) Policies ENV01 (Biodiversity & Geological Conservation) and ENV05 (Protected Species).

- 22. No development shall take place until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water and the Environment Agency. If a SUDS scheme is to be used, details must be submitted and agreed to specify the responsibilities of each party for the implementation of the SUDS scheme; specify a timetable for implementation; provide a management and maintenance plan for the lifetime of the development; arrangement for adoption by a statutory undertaker or other arrangement to secure the operation of the scheme throughout its lifetime. The works shall be implemented in accordance with the approved details.**

Reason: To prevent a negative impact from the development on the existing drainage infrastructure in accordance with Test Valley Borough Local Plan (June 2006) policy ESN30.

- 23. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2010 by Cole Easdon Consultants and the following mitigation measures detailed within the FRA & ES:**
- 3. Limiting the surface water run-off generated by the 1 in 100 year critical storm 30% climate change allowance so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.**
 - 4. Implementation of the drainage strategy within section 4 of the FRA and associated SUDS, storage and mitigation measures.**
Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- 24. The properties shall be constructed in accordance with the Noise Environment Mitigation Recommendations contained within Section 6.6 of the Environmental Statement Volume 1 (March 2010) to provide appropriate sound insulation measures for the properties unless otherwise agreed in writing with the Local Planning Authority.**
Reason: In the interests of the amenity of the occupants in accordance with Test Valley Borough Local Plan 2006 policies AME01 and AME04.
- 25. No development shall take place until details, including plans and cross sections, have been submitted to and approved in writing by the Local Planning Authority of the existing and proposed ground levels of the development and the boundaries of the development plot, and the height of the ground floor slabs and damp proof courses in relation thereto. The works shall be carried out in accordance with the approved details.**
Reason: To ensure satisfactory relationship between the new development and the adjacent buildings, amenity areas and trees in accordance with Test Valley Borough Local Plan 2006 policies AME01, AME02, DES06.
- 26. All work within the Nutburn Meadow SINC shall be carried out under the supervision of a competent ecologist. The supervising ecologist shall provide on-site advice and supervision during initial set-up, access creation, cutting and storage of turf and reinstatement of that turf. No materials or spoil other than the turf to be reinstated shall be stored within the SINC; if stored on the SINC, the turf shall be stored on a suitable surface such as geotextile membrane or plywood board. All spoil shall be immediately removed from the SINC. Works to bore and excavate the surface water drain in the SINC and construct the headwall and new ditch shall follow the method set out on drawing 2816/500/SK05 rev C, unless otherwise agreed in writing with the Local Planning Authority.**
Reason: To avoid adverse impacts to the Nutburn Meadow Site of Importance for Nature Conservation in accordance with policy ENV04 of the Test Valley Borough Local Plan (June 2006).

27. The development shall be carried out in accordance with the approved mitigation strategy contained within Chapter 4 in the Addendum to the Environmental Statement – Ecology and Nature Conservation (ref BRS.1811.58) dated May 2010 and the EPR Nutburn Road, North Baddesley Bat Mitigation Strategy Final Report (ref P09/41) dated 1 June 2011 unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to ensure adequate protection is made for legally protected species in accordance with policy ENV05.

28. There should be no burning on site during the construction phase of the development.

Reason: To avoid causing a nuisance to people living and working in the vicinity of the site in accordance with Test Valley Borough Local Plan (June 2006) policy AME05.

Notes to applicant:

1. The following Government Guidance and policies in the Development Plan are relevant to this decision: PPS1 - Delivering Sustainable Development; PPS3 -Housing; PPS7 - Sustainable Development in Rural Areas; PPS9 - Biodiversity & Geological Conservation; PPG13 - Transport; PPG16 - Archaeology and Planning; PPG17 - Planning for Open Space, Sport & Recreation; PPS23 - Planning & Pollution Control; PPG24 - Planning and Noise; PPS25 - Development & Flood Risk; Circular 01/06 Guidance on Changes to the Development Control System; Circular 05/2005 Planning Obligations; Conservation of Habitats and Species Regulations 2010; The Town & Country Planning (Environmental Impact Assessment) Regulations 1999; Wildlife and Countryside Act 1981; 06/05: Biodiversity and Geological Conservation - Statutory Obligations and their impact within the Planning System; Natural Environment and Rural Communities (NERC) Act 2006; The Draft National Planning Policy Framework; and Ministerial Statement – Planning For Growth; South East Plan policies H1 (Regional Housing Provision 2006-2026); H2 (Managing the Delivery of the Regional Housing Provision); and SH5 (Scale & Location of Housing Development 2006-2026); Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside); ENV01 (Biodiversity & Geological Conservation); ENV04 (Sites of Importance for Nature Conservation); ENV05 (Protected Species); ENV09 (Water Resources); ENV11 (Archaeology & Cultural Heritage); HAZ02 (Flooding); HAZ03 (Pollution); ESN03 (Housing Types, Density & Mix); ESN04 (Affordable Housing in Settlements); ESN22 (Public Recreational Open Space Provision); ESN30 (Infrastructure Provision With New Development); TRA01 (Travel Generating Development); TRA02 (Parking Standards); TRA03 (Public Transport Infrastructure); TRA04 (Financial Contributions to Transport Infrastructure);

TRA05 (Safe Access); TRA06 (Safe Layouts); TRA07 (Access For Disabled People); TRA08 (Public Rights Of Way); TRA09 (Impact on Highway Network); DES01 (Landscape Character); DES02 (Settlement Character); DES03 (Transport Corridors); DES04 (Route Networks); DES05 (Layout & Siting); DES06 (Scale, Height & Massing); DES07 (Appearance, Details & Materials); DES08 (Trees & Hedgerows); DES09 (Wildlife and Amenity Features); DES10 (New Landscaping); AME01 (Privacy & Private Open Space); AME02 (Daylight & Sunlight); AME03 (Artificial Light Intrusion); AME04 (Noise & Vibration); Infrastructure and Developer Contributions Supplementary Planning Document (February 2009); Affordable Housing (March 2008); Cycle Strategy and Network (March 2009); The Local Biodiversity Action Plan for Test Valley (May 2008); HCC Highways Contributions 2008; and the Test Valley Five Year Housing Land Supply Statement 2011/12 – 2015/2016.

- 2. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**
- 3. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
- 4. Attention is drawn to the requirements of the Agreement under Section 106 of the Town and Country Planning Act 1990 which affects this development.**
- 5. No vehicle shall leave the site unless its wheels have been sufficiently cleaned as to minimise mud being carried onto the highway. Appropriate measures, including drainage disposal, should be taken and shall be retained for the construction period. (Non compliance may breach the Highway Act 1980.)**
- 6. With regard to the above condition 7 on the submission of highway details, they should be designed to enable an appropriate body in due course to adopt the roads, footway, footpath, cycleway, street lighting and surface water drainage network. The adoption of street lighting and surface drainage will be subject to appropriate arrangements for its maintenance.**
- 7. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service the development. Please contact Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (tel: 01962 858688) or www.southernwater.co.uk.**

8. **The applicant's attention is drawn to the advice and requirements discussed by the Environment Agency in their consultation responses dated 28 June and 15 August 2011.**
9. **Under the terms of the Land Drainage Act 1991, the prior written consent of the Environment Agency is required for any proposed works that involve realignment, damming, (de)culverting or diversion of an 'ordinary watercourse'. This permission is separate from planning permission and cannot be considered retrospectively. Please be aware that the Environment Agency has up to two months to determine applications for Flood Defence Consent and you are therefore advised to contact the local Environment Agency Office as soon as possible to discuss making an application. Consent will only be issued if the works do not pose a flood risk to people and property, and do not conflict with the Environment Agency's other duties.**
10. **It is likely that the existing building to be demolished will contain elements comprising asbestos. It is important prior to demolition works commencing, the building is surveyed by a competent person for the presence of asbestos containing materials and suitable precautions are taken to ensure safe removal. Further advice should be sought if necessary from the Health and Safety Executive.**
11. **Best practicable means should be used to prevent dust emissions from all demolition and construction activities (e.g. the use of water to suppress dust) to prevent causing a nuisance to people living and working in the vicinity of the site.**
12. **Permission is required under the Highway Act 1980 to alter a vehicular access. Please contact the Chief Engineer, Hampshire County Council, Jacobs Gutter Lane, Hounslow, Totton, SOUTHAMPTON, SO40 9TQ (02380 427000) at least 6 weeks prior to the works commencing for detail of the procedure.**
13. **The applicant is reminded that this grant of planning permission does not absolve the compliance with any obligations relating to protected species or the requirements of any European Protected Species Licence or other licences that may be required issued by Natural England. If any protected species are discovered during the course of the development, all works should cease immediately and Natural England should be contacted directly for advice before work is recommenced.**
14. **Birds' nests, when occupied or being built, receive legal protection under the *Wildlife and Countryside Act 1981* (as amended). It is highly advisable to undertake clearance of potential nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts.**

If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.

- 15. The applicant is advised that in the interests of sustainable development, it would be desirable for the dwellings to be constructed to a minimum standard of Level 3 of the Code for Sustainable Homes.**
 - 16. Please note the illustrative Masterplan has been used for illustrative purposes only. The identified layout is not accepted by the Local Planning Authority, in particular because of the implications for landscaping.**
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APPENDIX B

Update Report to Southern Area Planning Committee – 18 October 2011

APPLICATION NO.	11/01253/OUTS
SITE	Land off Nutburn Road and Botley Road, North Baddesley, Southampton, NORTH BADDESLEY
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1.0 CONSULTATIONS

1.1 Trees – No Objection subject to conditions

- I am satisfied that the accompanying arb report (Pegasus Environmental June '09/ Feb 2010) contains a fair reflection of the trees present and that that report correctly presents required tree root protection areas, constraints and precautions required.
- Submitted plans show indicative buildings all to be built outside required tree root protection areas – which is good.
- One should also look for an allowance (additional separation of 2m) for working / construction space. Increasing this separation to front and rear elevations of proposed housing is desirable in order to reduce future pressure to prematurely prune or fell (as stated at para 5.17 of their arb report – *the design should incorporate sufficient distance form the canopy edge...*) will need to revisit plots to west, northern corner and block 5 will need revisiting with the above in mind.
- Plans show storm water drain to pass through western tree line. Open trenching here would be unacceptable.
- Proposal contain within arb report is for a thrust bored installation at greater than 750mm depth. Provided launch and recovery pits for this are kept outside of and clear from the required tree root protection areas, this is an acceptable solution.
- In general terms the tree works recommended within the arb report are appropriate and acceptable. However it would be more appropriate for any overall schedule of tree works to only be agreed once detailed design layout becomes known.

2.0 REPRESENTATIONS

2.1 Letters – 1 additional letter of comment received from eth current occupiers of the Hardware Store, Botley Road (part of the site of which is incorporated into the current application site). The following comments made:

- The present situation is that should this application be passed I will be given 2 years notice to vacate the premises.
- However should this situation change and I be given the opportunity to remain at these premises without the car park and outbuildings to the rear of the main shop this opportunity would have to be declined on the grounds that the business without this land would not be viable.

- We obviously need the car parking spaces for our customers but also a large part of our business is timber, which is housed in the outbuildings, composts, garden stones, paving slabs, building materials, coal and calor gas are all large items which are presently housed in the area which is included in this application site.
- In order to supply these goods to our customers it is imperative that we have this area to the rear of the shop as this is where the articulated lorries that deliver these goods are unloaded with our fork lift truck.
- The main road at the front of the shop is a very busy road and it would not be possible for us to unload these large lorries at the roadside.
- Even the smaller lorries which bring much of our smaller goods would be a nuisance if they were continually stopping in the road (under the proposed plans it is unlikely they would be able to fit into the car park).
- Our turnover would be reduced by approximately 50% if we were unable to supply these bulky items to our customers and the business would become untenable.

2.2 Letter of Response - from the Applicant's Ecological Consultants regarding comments made about the application to date. The following comments made:

- In their letter, The Hampshire & Isle of Wight Wildlife Trust (HIWWT) state that: *"The amendments to the application do not sufficiently alter the proposal, nor offer any further means of addressing the issue of recreation impacts on the Emer Bog SAC and Baddesley Common SSSI"*.
- The rural footway was removed from the scheme to eliminate any prospect of an effect on Nutburn Meadow SINC; the decision was not made in order to reduce impacts from recreation upon the interest features of either Emer Bog SAC or Baddesley Common SSSI, because there will not be any.
- Secondly however, and notwithstanding the fact that we have demonstrated that Emer Bog.
- SAC and Baddesley Common SSSI will not be adversely affected, I would like to first point out the conflicted and confusing nature of the HIWWT statements.
- They originally raised a complaint regarding the rural footway stating that it would *"appear to offer an even more appealing and easy route to access the designated sites"*. But then states in their letter of 15 August 2011, following the removal of the rural footway, that the amendment does not offer any further means of addressing the issue of recreation on the SAC/SSSI.
- Clearly, their opinion must *either* be that the rural footway could contribute towards an effect on the designated sites, or that it does not. If their position is the former, then the removal of the rural footway from the scheme must surely be a positive change and the statement in her most recent letter is incorrect. If however their position is the latter, that the rural footway does not contribute towards an effect on the designated sites, then the later statement of 15 August might then be true.
- These two separate positions are mutually exclusive, and both cannot be correct.
- The proposals do not cause any additional fragmentation of the SAC or SSSI habitats.

- The Inspector concluded, following consideration of the evidence put forward both by ourselves and by the HIWWT, that the proposals would have no adverse implications for nature conservation (paragraph 40 of his decision).
- The appeal was refused due to other reasons that lie outside the scope of my expertise as an ecologist.
- The situation at Emer Bog SAC and Baddesley Common SSSI is not analogous with that encountered elsewhere in the Country, such as on the Dorset Heaths or Thames Basin Heaths SPA. This is because the features that underpin the designations in this case (mainly vegetation) are not vulnerable to recreational pressure in the same way as the ground nesting birds of the heath land SPAs elsewhere.
- Test Valley Borough Council's own Habitats Regulations Assessment of the withdrawn Core Strategy reached this conclusion.
- The HIWWT also conceded at the Inquiry, I believe correctly, that neither the SAC nor SSSI vegetation was directly vulnerable to recreational pressure (through what he termed "abrasion" from footfall), although he maintained the view that indirect effects might occur as a result of recreation interfering with the grazing regime or demotivating conservation volunteers.
- The Inspector mentioned the HIWWT comments at paragraph 16 of his report, where he notes that *"...no recreational problems affect the bog or common or the stock which grazes its vegetation, which HIWT describes as 'robust'"*.
- The Inspector further concluded, after considering information from both EPR and HIWWT (including a visitor survey of the subject designated areas designed by EPR to inform the Inquiry, and which the HIWWT sought initially to prevent from taking place) that he would find it *"challenging"* to conclude that the proposal would lead to a likely significant effect on vegetation, or lead to a 'step change' in recreation as the Trust suggested.
- The Inspector specifically considered the potential for other proposed residential developments to generate recreational pressure, but rightly noted that they would have to provide their own mitigation to address their effects, as the Nutburn Road proposals had done by providing dog walking land and contributions to Forest Park.
- In summary therefore, the Inspector considered the evidence, and concluded that the Nutburn Road proposal was not likely to have a significant effect, either alone or in combination with other plans and projects, and that an Appropriate Assessment was not therefore required. In other words, he took into account the available information and correctly applied the test set by the Conservation of Habitats and Species Regulations 2010 before concluding that there would be no adverse implications for nature conservation as a result of granting the proposals.

- It is also noted that neither Natural England nor Hampshire County Council's ecologist has objected to the resubmitted scheme, though both have indicated the conditions/obligations that they would wish to see imposed if the project were to proceed. My client has I believe accepted, and is willing to be bound by these, *despite* the fact that they are stricter than the conditions that were previously considered acceptable by the Inspector at the previous appeal.
- The conditions / obligations now require the delivery of the proposed mitigation land before the occupation of any increase in dwelling numbers, *despite* the Inspector's conclusion that the proposal was not going to lead to a recreational impact on the features for which the subject sites were designated.
- At the time the previous application for the Nutburn Road site was submitted, HIWWT were not willing to discuss with us whether the development might make contributions towards helping or supporting the HIWWT to better manage the SAC/SSSI, and to help improve its condition. They also refused to release the management plan for the site, which would have greatly assisted EPR in identifying opportunities for delivering biodiversity enhancements in conjunction with the proposals.
- At the Inquiry, the HIWWT explained that they had been unwilling to enter into discussions with either EPR or the appellant, because they did not believe that it was possible to develop a mitigation strategy to address the potential effects of the development.
- This is considered to be a wholly obstructive approach that is counter-productive to the objectives of nature conservation. HIWWT ought at least to have heard what was being offered/proposed, and then considered whether or not they thought that a solution might be possible.
- It is considered that the HIWWT should not have pre-judged the efficacy of a package of measures that they had not had sight of, and consider it unreasonable that they declined to attend discussions without knowing what might have been offered.
- In fact, the HIWWT made mention at the Inquiry of a number of difficulties that the HIWWT trust had faced in managing the site, and raised his concern that they might find it difficult in the future to secure a grazier for the site (both EPR and the HIWWT are I believe in agreement that grazing is essential for the best management of habitats at Emer Bog / Baddesley Common).
- Grazing, as an example, would have been something that the proposals could certainly have been able to support. However, sadly, such options were closed to us by the HIWWT, and we were consequently forced to develop other options for mitigation that did not rely upon the cooperation of the Trust.
- In the event, EPR was successful in assembling a package of impact avoidance and mitigation measures to address any potential effects of the development such that the Inspector was able to arrive at the unequivocal conclusion that there would be no adverse implications for nature conservation. I do however feel that in this instance a more constructive approach would have been possible if HIWWT had been willing to engage more openly with our efforts.

- I sympathise with the difficulties that the Trust have apparently experienced in trying to appropriately manage Emer Bog and Baddesley Common. It is certainly not the easiest site to graze in terms of topography or ground conditions. This however has nothing to do with the Nutburn Road proposals, which I am sure will have no adverse effect upon the management regime (although they might possibly have had a positive effect, if the HIWWT had been willing to discuss how they might support their efforts to secure better grazing and management).
- In terms of the suggestion that conservation volunteers might be demotivated, I can only say that as a conservation volunteer myself I am inclined to give them, as a group, rather more credit for their tenacity.
- The specific points that the HIWWT have raised in their correspondence have already been addressed exhaustively in evidence during the previous application and subsequent Inquiry.

- 2.3 • **Planning Position Statement** - A planning Position Statement has also been circulated by the Applicant's Agent.

3.0 **PLANNING CONSIDERATIONS**

- 3.1 Since the report was put on the agenda, the Council's Tree Officer has commented on the application (as summarised above). The Tree Officer has also confirmed that the tree condition that has been added to the Agenda Recommendation (Condition 14) is sufficient to overcome any concerns raised.
- 3.2 With regard the letter submitted by the Applicant's Ecological Consultant in response to the Hampshire & Isle of Wight Wildlife Trust's comments, it is considered that the issues of ecology have been fully addressed in the Officer's Report and there is therefore nothing further to add.
- 3.3 With regard the issues raised by the current occupier of the Hardware Store, it is confirmed that the site area has not changed since the previous application was submitted; considered by the Local Planning Authority; and determined by the Planning Inspectorate. The Inspector therefore considered the potential impact of the development on the business operating from this site and yet did not consider it to be a reason for refusal of the scheme.
- 3.4 The area of the adjacent site's curtilage that has been incorporated into the current application site remains unchanged and has always been part of the application proposals. Whilst the assumptions in 8.48 of the officer report regarding the particular business operating from this existing retail unit are incorrect, in planning terms the overall premise is still considered to be correct and accurate. It is still considered that the proposed development will not directly result in, or directly require the loss of a retail unit. In addition, the planning system has no control over the specific type of business or activity that may operate from the site and cannot therefore ensure that even without the proposed development being allowed, that the specific Hardware Store will continue to operate from this site. As such it continues to be the case that the use of part of this adjacent site as part of the development site does not create an unacceptable issue that would warrant a refusal of the scheme.

4.0 AMENDED RECOMMENDATION

- 4.1 In discussion with the County Ecologist a number of changes need to be made to the conditions listed in the agenda report. Firstly, condition 27 on the agenda recommendation needs to be removed because it duplicates things that will be secured by condition 20 on the recommendation.
- 4.2 Also, conditions 21 and 26 on the agenda recommendation also need to be amalgamated to create a new condition 21 which should read as follows:

**21. Works to bore and excavate the surface water drain in the SINC and construct the headwall and new ditch shall follow the method set out on drawing 2816/500/SK05 rev C. In addition, all work within the Nutburn Meadow SINC shall be carried out under the supervision of a competent ecologist. The supervising ecologist shall provide on-site advice and supervision, including identification and protection where necessary of notable plant species during initial set-up, access creation, cutting and storage of turf and reinstatement of that turf. No materials or spoil other than the turf to be reinstated shall be stored within the SINC; if stored on the SINC, the turf shall be stored on a suitable surface such as geotextile membrane or plywood board.
Reason: To protect BAP Habitat adjacent to the development site, which is identified under The UK Biodiversity Action Plan 1994 (UK BAP) and includes species and habitats of ‘principal’ importance for the conservation of biological diversity nationally in accordance with PPS9 - Biodiversity and Geological Conservation and to avoid adverse impacts to the Nutburn Meadow Site of Importance for Nature Conservation in accordance with policy ENV04 of the Test Valley Borough Local Plan (June 2006).**
