

Southern Area Planning Committee Report – 14.07.2020

APPLICATION NO.	18/01680/OUTS
APPLICATION TYPE	OUTLINE APPLICATION - SOUTH
REGISTERED	28.06.2018
APPLICANT	Mr Francis, Country Homes Guildford Ltd
SITE	Pure 8 Tyre Tech Limited, Ashfield Sawmill, Southampton Road, SO51 9NJ, ROMSEY EXTRA
PROPOSAL	Cessation of use of tyre recycling depot (waste transfer station) and outline planning permission with all matters reserved with the exception of access for the development of 29 no. residential units (Use Class C3)
AMENDMENTS	Viability Assessment- 05/07/2018 Additional Info- Flood Risk & Drainage- 20/07/2018 Additional Viability info- 30/04/2019 Amended Plans, Statements and Transport info- 13/05/2019 Amended Plans/Info- 17/09/2019 Additional Info- Nitrate information- 20/02/2020 Additional Info- Nitrate information- 26/04/2020 Additional Info- Nitrate information- 15/05/2020
CASE OFFICER	Mr Mark Staincliffe
	Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

- 1.1 The application is presented to Southern Area Planning Committee because it is contrary to the provisions of an approved or draft - Development Plan or other statement of approved planning policy, adverse third party representations have been received- and the recommendation is for - approval.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The application site is accessed directly from the A3057 on its western boundary, with open countryside to the north and east and a wooded area, known as Ashfield Copse, to its south.
- 2.2 The site is currently operating lawfully as a recycling, shredding, granulating and bailing of the waste material (tyres) and was first granted in April 2008, however, very little has taken place on site in recent years and the site just appears to be used for the storage of waste tyres.

3.0 PROPOSAL

- 3.1 The application seeks outline planning permission (with all matters reserved except access) for the development of up to 29 residential units. The

application also proposes to remove all tyres from the site and the full decontamination of it.

4.0 HISTORY

- 4.1 TVS.03913- Erection of log store. **Approved subject to conditions & notes, 29 March 1983.**
- 4.2 TVS.03913/1- Installation of 20.4 metre lattice tower supporting three antennae, two 600mm dishes and associated ground based cabins within two metre high fenced compound. Status: Permission subject to conditions & notes **Approved subject to conditions & notes, 13 December 2001.**
- 4.3 TVS.03913/2- Use of land for tyre transfer and storage. **Approved subject to conditions & notes, 11 February 2002.**
- 4.4 07/01543/CMAS- Tyre recycling facility for the storage, mechanical shredding, granulating and baling of tyres and storage of recycled tyre produce, comprising the construction of a new building, hardstanding, weighbridge, lighting, open storage bays, self bunded diesel storage tank, the use of mobile plant and retrospective permission for the retention of existing portable office accommodation, fencing, portable toilet and effluent tank and earth bund **Approved subject to conditions and notes, 4 April 2008.**
- 4.5 15/01521/CMAS- Variation of Conditions 2, 3, 5, 7, 10, 12, 14, 17, 19 and 20 of planning permission 07/01543/CMAS to revise the phasing drawings and provide Environmental Management scheme; Variation of Condition 21 (to change the footprint and layout of the new recycling building); Replacement of the existing old tyre baling building with a new building and a variation to location, footprint and construction of the workshop and office/welfare building to include consultation on the conditions **Approved subject to conditions & notes. 7 October 2015.**
- 4.6 16/00363/CMAS- Variation of Conditions 2, 3, 5, 7, 10, 12, 14, 17, 19 and 20 of planning permission 07/01543/CMAS to revise the phasing drawings and provide Environmental Management scheme; Variation of Condition 21 (to change the footprint and layout of the new recycling building); Replacement of the existing old tyre baling building with a new building and a variation to location, footprint and construction of the workshop and office/welfare building (Planning Permission 15/01521/CMAS) Conditions 6 (Landscaping) 7 (Fence colour) 8 Lighting **Approval of Details & October 2016 (no documents available on-line).**

5.0 CONSULTATIONS

5.1 **Planning Policy:** Objection.

The site lies outside the defined settlement boundaries and is therefore located within the countryside. On this basis, the proposal should satisfy either criterion a) or b) of COM2. In relation to criterion a), policy LE10 would be relevant. With regard to criterion b) the proposed housing is put forward in order to fund to remove stockpiled sites and cover other clean up costs; rather than it being essential for the proposed housing to be located in the countryside. On this basis, the proposal is not considered to satisfy criterion b) of COM2.

5.2 **HCC (Strategic Planning):** No objection.

The proposed development outlined in this application does involve the cessation of an active MWCA safeguarded site, set out by Policy 15 of the Hampshire Minerals and Waste Plan. However, due to the nature of this application and the fact that the operator is wanting to cease the current operation of recycling and storing tyres on this site, Hampshire County Council as the Minerals and Waste Planning Authority do not object.

5.3 **HCC (Children Services):** No comments received.

5.4 **HCC(Ecology):** No objection.

The development will result in a net increase in residential dwellings within 13.6km of the New Forest SPA and within 5.6km of the Solent and Southampton Water SPA (SRMP).

Contributions for each additional increase in the number of units on site will require contributions for the New Forest mitigation and for the SRMP mitigation. This should be secured within the s106 agreement.

5.5 **Highways:** No objection.

Vehicular visibility is considered in line with the guidance as prescribed within DMRB and Manual for Streets and the 85thile recorded speeds have not be altered for "wet weather". This provides a robust assessment and is considered acceptable in principle.

The submitted Transport Assessment provides a full assessment of existing versus proposed traffic generation and whilst the proposed development would see a net increase in physical vehicular trips, the development would see an almost total ceasing of HGV trips other than that of sporadic refuse and delivery vehicle trips normally associated with a residential use.

Notwithstanding the above, at any reserved matters stage application coming forward, the applicant should provide a full Stage 1 Road Safety Audit with the application for review by this office.

5.6 **Lead Flood Authority:** No objection.

The general principles for the surface water drainage proposals are acceptable. Any reserved matters application would need to be accompanied by further information on the detailed design.

5.7 **Environment Agency:** No objection.

We recommend that developers should follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.

5.8 **Housing:** Objection.

Romsey Extra is classed as an undesignated area and therefore, under Policy COM7: Affordable Housing, applies and therefore 40% of dwellings should be affordable. The development provides no affordable housing.

5.9 **Trees:** No objection subject to conditions:

Revised layout addresses concerns expressed at that time with regard to juxtapositioning of proposed new housing with trees to be retained.

Any reserved matters application will need to include to include full tree protection details to demonstrate how it all works (demolition, decontamination, construction, installation of services, drainage, final landscape finishes and such like) is to be achieved without any adverse impact to retained trees.

Similarly sufficient detail will be required to demonstrate that all proposed new tree planting has the above and below ground space to not only survive but to thrive.

5.10 **Landscape:** No objection.

The indicative site layout is substantially better than the original proposal which appeared very suburban in nature. The new proposals look to bring the development away from the perimeter of the site, ensuring that the green buffer is unaffected. As this is only outline as definitive boundary should be drawn and agreed to ensure that this buffer zone is retained and not built upon or designed out within the reserved matters.

5.11 **Natural England:** No objection subject to securing mitigation.

5.12 **Design Review Panel:** Comment (summarised):

The view from the entrance into the centre of the site is critical. Side elevations of buildings, along with parking bays as the first things to welcome you to the site must be avoided. The approach is critical to get the 'right' feel for the development. The Panel agreed that a more traditional approach needs to be adopted, possibly creating the appearance of smaller clusters of buildings, or courtyard layouts, as would be found within many of the local Hampshire farms and hamlets. There is a strong need for an overall concept for the site and any proposals must show this.

The isolated location of the site will mean the community aspect of the development is essential to its success. Further development of the building designs is essential, focusing on a more inward-looking, traditional rural farmyard design, with a central focal point or courtyard. This could involve a courtyard style development, with associated buildings representing a farmhouse, stables and outbuildings.

The Panel agreed that the language of the designs will be essential to the coherence of the development and, despite this being an application for outline permission, material and aesthetic qualities should be considered at these early stages if the proposal is to be successful in the long term.

6.0 **REPRESENTATIONS** Expired 18.06.2019

6.1 **Romsey Extra Parish Council:** No objection.

6.2 **Romsey Ramblers:** Support.

When this application was first made last year Romsey Ramblers welcomed the disposal of the tyre dump, an unsightly, dangerous place highly viewable from the road. In the event of a, very possible fire, carcinogenic smoke would be emitted into the surrounding area.

6.3 **Objection:** Malthouse Cottage, Ashfield (Summarised):

- Increased intensity of the use of the site will be detrimental to highway safety.
- Visibility splay is outside of the control of the site owner. These cannot be maintained.
- Development is contrary to policy T1.
- Unsustainable location with no public transport or public footpath, shops, services or amenities in close proximity.
- Council has a 5 year housing land supply no requirement for the housing and contrary to COM2.
- Loss of an employment generating site and therefore contrary to policy LE10 & LE17.
- An alternative employment use should be explored.
- Proposal currently has a neutral impact on the character and appearance of the area. The proposal would have an adverse impact on the character and appearance of the area.
- Result in an urbanising impact on the area, thus contrary to policy E3.
- Will have an adverse impact on local ecology in conflict with policy E5.
- No affordable housing provided contrary to Policy COM7.
- Site should be investigated for POCA. A deliberate attempt to deceive the planning authority and the Council's Planning enforcement team should investigate.

7.0 **POLICY**

7.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning (Listed Buildings and Conservation Areas) Act 1990

The Conservation of Habitats and Species Regulations 2017

7.2 Test Valley Borough Revised Local Plan (2016)(TVBRLP)

COM2 (Settlement Hierarchy)

COM7 (Affordable Housing)

LE10 (Retention of employment Land and Strategic Employment Sites),

LE17 (Employment sites in the countryside)

T1 (Managing Movement)

T2 (Parking Standards)

E1 (High quality development in the Borough)

E2 (Protect, conserve and enhance the landscape character of the Borough),

E5 (Biodiversity)

E7 (Water Management)

E8 (Pollution)

E9 (Heritage)

LHW1 (Public Open Space)

LHW4 (Amenity)

T1 (Managing Movement)

T2 (Parking Standards)

7.3 Hampshire Minerals and Waste Plan 2013

Policy 15 (Safeguarding: mineral resources)

Policy 26 (Safeguarding - waste infrastructure)

7.4 Supplementary Planning Documents (SPD)

New Forest SPA Mitigation- Interim Framework

Solent Recreation Mitigation Strategy

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are:

- Principle of development
- Affordable Housing
- Loss of employment
- Amenity
- Landscape impact
- Highways
- Design and layout
- Heritage
- Ecology
- Contamination
- Trees
- Flooding & Drainage
- Nitrate Neutrality and Ecology
- Viability

8.2 Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

8.3 COM2 presents the way the settlements, classified in the settlement hierarchy, will develop in the future. COM2 seeks to promote a sustainable pattern of development and to restrict development to areas within settlement boundaries, unless the proposal is considered to be appropriate within the countryside as set out in COM8-COM14, LE10 and LE16-LE18, or whether the proposal is considered to be essential to be located in the countryside which are not applicable in this case.

8.4 The applicant has advanced the case that the existing tyre recycling company has ceased operating on the site and left a large stockpile of waste tyres. This has been the case for a number of years. The volume of waste material remaining exceeds the amount permitted (by Hampshire County Council as the Waste Authority) to be held on the site and there is no clear time frame for when or if they will be removed. The applicant has not provided objective information about the risks that the site may pose to public safety, or whether the site allows for an adverse risk of contamination into the ground or

controlled waters (ground and surface water sources), to the LPA as part of this submission. Neither have we received consultation replies to the effect that this site causes a safety issue. That said, the LPA is aware that there is a security guard on site that, anecdotally, is present to minimise the chances of a fire being started, and to prevent the importation of further waste material to the site.

- 8.5 The applicant accepts that the proposed development on the face of it is contrary to the Council's development plan, but is of the view that the only realistic solution and certainty that the site will be free from tyres and contamination is for an exception to the Council's established planning policy and that the benefits of the scheme clearly outweigh the harm and conflict with the development plan policies.
- 8.6 With any development that is contrary to the development plan, it should be refused unless it is otherwise justified by other material considerations, including national policy in the NPPF. The evidence put forward on this basis is considered limited in demonstrating that the development is required to address a public, safety, benefit although a wider planning balance is undertaken in detail below.
- 8.7 Affordable Housing
The application site is located within Romsey Extra which is classed as an undesignated area and therefore, under Policy COM7 of the TVBRLP 40% of all dwellings constructed on a site should be affordable. Based upon a site of 29 residential dwellings, 11.6 units of affordable housing should be provided.
- 8.8 Policy COM7 seeks a tenure mix of around 70% Affordable Rent and 30% Intermediate (shared ownership), although this is subject to the scale, type and form of provision and is informed by market conditions.
- 8.9 To ensure consistency with the NPPF Policy COM7 does allow a reduction in the level of affordable housing provided on site, but only where the developer can justify that to provide the full requirement would make the scheme unviable.
- 8.10 As set out earlier in the report, the proposal includes no provision for affordable housing due to viability issues. This is assessed in detail later in the report. If it can be demonstrated that the scheme is unviable and no affordable housing can be provided the application would be compliant with Policy COM7 of the TVBRLP and NPPF.
- 8.11 Loss of Mineral Resource & Waste Site
Both Policy 15 & Policy 26 of the Hampshire Minerals and Waste Plan 2013 (HMWP) are relevant in the consideration of the application as the site is listed as both a safe guarded minerals and waste site and a safeguarded mineral resource.

Policy 15 seeks to safeguard mineral resources and development will only be permitted within these areas if specific exclusions apply. In this case the

land is already developed and taking into consideration the level of contamination on site and the relatively limited size of the site it is considered that it would be inappropriate to extract mineral resources from it. Furthermore, the redevelopment of the site would not prejudice the extraction of minerals from the wider allocation. The proposal is therefore considered to be compliant with policy 15.

Policy 26 requires waste management infrastructure to be safe guarded against redevelopment and inappropriate encroachment unless specific criteria are met. In this case the site is listed within Appendix 2 of the plan so the policy is relevant. It is accepted that the proposed development outlined in this application does involve the cessation of an active safeguarded site, set out by the above mentioned Policy. However, due to the nature of this application and the fact that the operator is wanting to cease the current operation of recycling and storing tyres on this site it is considered that the infrastructure is no longer needed and the merits of the development proposed clearly outweigh the need for safeguarding. For the reasons set out above it is considered that the proposal does accord with both Policy 15 and 26 of the HMWP.

8.12 Loss of Employment

Policy LE10 of the TVBRLP seeks to retain all existing employment sites subject to specific criteria set out within the policy. In this case the site is not currently operating but does have a significant detrimental impact on the character and appearance of the area. Furthermore, the site is not currently operating and were it to this is likely to result in an increase in noise level to the detriment of the area.

8.13 These factors, taken with the comments from the County Council that the site is no longer required to meet the strategic needs of the County indicate full compliance with Policy LE10 of the TVBRLP.

8.14 Amenity

Policy LHW4 of the RLP sets a number of criteria against which development proposals will be assessed in order to safeguard the amenity of existing and future residents, particularly in terms of overlooking, loss of privacy and any adverse impact in terms of loss of daylight/sunlight.

8.15 The nearest residential property is over 100m from the application site. Taking into consideration this significant separation distance it is considered that residential development on the site and as shown on the indicative layout will not result in harm to the residential amenities of the nearest residential properties and thus policy compliant in this respect.

8.16 With regards to amenity of future residents, it is considered that the indicative layout adequately demonstrates that the quantum of development proposed can be accommodated on the site without harm to the residential amenities of future residents in terms of levels of sunlight, daylight, privacy and overbearing impact. Furthermore, the private amenity space afforded to the units is considered to be adequate and therefore compliant with Policy LHW4 of the TVBRLP.

8.17 Highways

The design and details of the access to the site have been submitted in full to the Council for consideration. This information has been determined to be acceptable by the County Council Highway Team subject to planning conditions. Furthermore the indicative layout demonstrates that the proposal is capable of meeting the parking stands as defined in the Local Plan. AS such the proposed development is considered to comply with Policy T1, T2 and Annex G of the TVBRLP.

8.18 Design & Layout & Landscape

The original submission has been revised to reflect comments and concerns raised by officers of the Council and representations received during the public consultation period. These representations identified a number of important landscape features and issues with the original indicative layout and the scheme has been revised through an updated indicative layout and Design and Access Statement to reflect these comments.

8.19 Though the application is submitted in outline form, the documentation accompanying it now proposes the retention of important perimeter trees and wooded areas which will be important to follow through if development is accepted in principle. These existing landscape features will need to be appropriately incorporated within the final development proposal to ensure that their value is retained in terms of supporting public visual amenity and wider landscape character but also to ensure their long term health and viability is sustained for future generations. This can be secured through appropriately worded planning conditions.

8.20 The revisions to the indicative layout reflect comments and concerns raised by officers and the Design Review Panel. These changes to the indicative layout, which included the reduction in the total number of dwellings, have positively addressed many of the issues highlighted. The revised illustrative layout suggests that the level of development proposed could be satisfactorily accommodated in terms of landscape, character and visual impact, residential amenity and place making. There is also space to accommodate adequate maintenance for retained and proposed trees, hedgerows and other landscape features. Though it is not proposed to condition the development to be undertaken in accordance with the indicative layout, conditions will be used to control important parameters such as maximum building heights, distances from the site boundary. This will ensure that any finalised scheme is high quality, appropriate in its context and respects the character and appearance of the area. These conditions are listed at the end of the report.

8.21 Appropriate separation distances between new urban features and buildings will need to be strictly adhered to if the long term protection of trees and landscape features is to be achieved. The suggested conditions and parameters are necessary to ensure that any finalised scheme will be appropriate in terms of design, layout of streets, orientation of dwellings, provision of active frontage and its visual perception, and ultimately the appropriate number of new dwellings that could be comfortably accommodated

at this proposed site. It is considered that there has been a significant improvement within the revised layout and proposed open spaces will be largely overlooked by active development frontage which improves levels of surveillance and positively contributes to place making.

- 8.22 The existing land use and associated site security measures, though well screened in many places are unsightly landscape features, there is a clear need to improve the visual appearance of the site. It is considered that further structured landscaping in the form of new woodland buffers and tree planting to supplement the existing landscape features would be necessary in order to better integrate proposed development into the wider landscape context and to protect the wider panoramas viewed from countryside vantage points. However, this can be controlled at the reserved matters stage.
- 8.23 It is acknowledged that some of the proposed residential units may be more prominent than the existing trees on site, however, this minor harm would be greatly outweighed by the significant overall visual improvement of the site. To this extent the proposed development would accord with Policy E2 which seeks to protect and conserve landscape character.
- 8.24 Heritage
Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty upon decision makers to have special regard to the desirability of preserving the setting of listed buildings.
- 8.25 The NPPF advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by development within its setting.
- 8.26 The proposed development is located over 100m from the nearest listed building (Thatched Cottages). Having viewed the site from the entrance of this listed building and attempted to view the listed structure from within the site itself it is considered that the proposal is unlikely to be visible, if the site was visible, an outlook on to high quality development would be preferable over the commercial activity currently located on the site.
- 8.27 For the reasons set out above, at worst the proposed development would have a neutral impact on the setting of the closest listed building to the site. In all likelihood the proposal will result in an improvement to the overall setting of the listed building by virtue of the removal of the existing lawful use on site and the construction of a high quality residential development. The development therefore accords with policy E9 of the TVBRLP and the NPPF.
- 8.28 Ecology
The development will result in a net increase in residential accommodation within 13.6km of the New Forest Special Protection Area (SPA) and within

5.6km of the Solent and Southampton Water SPA. To address this issue, Test Valley Borough Council has adopted a strategy whereby a scale of developer contributions has been agreed that would fund the delivery of measures to address these issues. The payment of these fees will be secured through a s106 agreement and the recommendation includes the requirement to complete a suitable legal agreement. In this respect the proposal complies with the TVBRLP.

8.29 Contamination

Taking into consideration the current and previous uses that have taken place on site it is no surprise that there are parts of the site that are contaminated. Subject to a suitably worded planning condition to ensure that contamination is identified and remediation is undertaken on site there is no objection to the proposal and the development would accord with Policy E8 of the TVBRLP.

8.30 Trees

The revised layout addresses original concerns expressed by the tree officer. However, any reserved matters application will need to include full tree protection details to demonstrate how all works, which include demolition, decontamination, construction, installation of services, drainage, final landscape finishes and such like if development is to be achieved without any adverse impact to retained trees.

8.31 Subject to appropriately worded conditions to secure the above the development is considered to be compliant with Policy E2 of the TVBRLP.

8.32 Flooding & Drainage

The general principles for the surface water drainage proposals are acceptable; further detailed information on the proposals will need to be submitted as part of the reserved matters application and can be controlled by condition and thus compliant with the NPPF and TVBRLP.

8.33 Nitrate Neutrality

The River Test and its major tributaries flow into the Solent. The Solent region is one of the most important for wildlife in the United Kingdom. There are currently high levels of nitrogen and phosphorus input into this water environment and there is evidence to suggest that this is having a detrimental impact on the biodiversity of this area. Housing and other certain types of development are currently contributing negatively towards this issue and there is evidence that further development, without mitigation, would exacerbate this impact.

The Solent region consists of the following Special Areas of Conservation (SAC) and Special Protection Areas (SPA):

- Chichester and Langstone Harbours SPA
- Portsmouth Harbour SPA
- Solent and Southampton Water SPA

- Isle of Wight Lagoons SPA
- Solent Maritime SAC
- Solent and Dorset Coast SPA (Proposed)

8.34 These sites are protected by National and European Law which requires the Council to undertake a formal assessment of the implications of any new plans or projects that may be capable of affecting the designated interest features of European Sites before deciding whether to grant planning permission for new residential development. This formal assessment is known as an Appropriate Assessment and considers the potential adverse effects of a plan or project (in combination with other plans or projects) on Special Areas of Conservation and Special Protection Areas. The European Court of Justice recently determined a case related to considering water quality in Appropriate Assessments. The impact of the case law is that any development which could result in a decrease in water quality would cause a likely significant effect on the Solent's European sites.

8.35 In the context of planning, the impact comes from population increase and the resultant increase in effluent. Proposed developments for new housing, hotels and care homes (as well as other forms of overnight accommodation) are being affected by the issue as a result. Given the nature of this application the applicant was invited to provide an assessment. A finalised nitrate budget calculation and proposed mitigation has been submitted and an Appropriate Assessment submitted to Natural England. Natural England raise no objection subject to securing mitigation in perpetuity by way of a s106 agreement. The mitigation off-setting land that the applicant has progressed to demonstrate that the effect of nitrates on the European site, is not adverse. This land is located off Mount Lane, Lockerley and a plan showing the location of this land is attached to the agenda report and will be included within the case officer presentation at SAPC. As such, the proposed development does not conflict with the Habitats Regulations and accords with Policy E5 of the TVBRLP.

8.36 Housing Land Supply

The Council can currently demonstrate a five year supply of housing land, which is not disputed by the applicant. However, the number of homes to be delivered in the plan period is not a maximum figure or a cap on development. Indeed, the NPPF at paragraph 59 identifies the Government's objective to significantly boost the supply of homes and in this context the delivery of 29 dwellings would boost the Council's housing land supply position. Moderate positive weight must therefore be attributed to the contribution the scheme would make to the delivery of new homes.

8.37 Viability

The planning application was accompanied by a viability assessment putting forward the case that due to the significant abnormal costs associated with the development it would not be possible to provide any affordable housing on or off site.

- 8.38 This viability assessment was independently reviewed by an external consultant on behalf of the Council. Though there was disagreement with regards to some figures provided by the applicant, taking either parties figures it was concluded that the scheme was indeed unviable and could not provide onsite or off site affordable housing.
- 8.39 Since the external consultants concluded their recommendation on the viability assessment an additional cost has been identified. This additional cost is the requirement to achieve Nitrate Neutrality. This is an extra cost to the developer and taking that into account reinforces the previous conclusion that the scheme is not viable and cannot deliver affordable housing.
- 8.40 That said, due to the nature of the housing market and the uncertainty surrounding the final cost of clearing the tyres from the site, it has been agreed with the applicant recommended that were planning permission to be granted by the Council a review mechanism should be included within the Section 106 Agreement to allow the LPA to consider new objective evidence of costs and income at the time the site is developed. Such a review mechanism would allow the LPA to secure affordable housing provision in the event that, for example, costs incurred in developing a clean site were substantially less than that modelled today. Subject to the above, and the understanding that the review mechanism may not reveal any more affordable housing, it is considered that the provision of no affordable housing is compliant with Policy COM7 of the TVBRLP.

9.0 **CONCLUSION**

- 9.1 It can be seen from the analysis above that some Development Plan policies are not complied with by the proposal and that the proposal, not least because it results it is development within the open countryside and thus in conflict with COM2.
- 9.2 However, as also noted, failure of the proposed development to comply with the TVBRLP is not necessarily fatal to the acceptability of the proposed development. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.
- 9.3 The benefits of the scheme are clear. It would bring forward much needed housing, which should be afforded significant weight due to the regional and national housing crisis. Significant weight should also attach to the economic benefits immediately associated with the proposal in terms of job creation (both during and after construction) and maintenance and spend in the local economy. Significant weight should also be afforded to the significant visual and environmental benefits associated with the clearance & decontamination of the site.
- 9.4 Set against these benefits there is conflict with COM2 which looks to direct development to the most sustainable locations to ensure that truly sustainable communities are created. However, it has to be acknowledged that through

the granting of planning permission for a waste transfer site in 2007 and its subsequent implementation, that the nature of the land and its brownfield status has lessened the effectiveness of that policy with regards to this specific site. The proposed development, though in outline form has demonstrated that a high quality form of development can be achieved, and that on balance the loss of this site to housing, is acceptable.

9.5 To the extent that it is necessary to find that it breaches certain development plan policies, it might be contrary to the development plan as a whole; under s.38(6), however, the benefits and compliance with the NPPF provide the material considerations that indicate that permission should be granted in any event. On balance, the public interest is best met by resolving to grant permission for the development proposed.

10.0 **RECOMMENDATION**

Delegate to Head of Planning and Building for the following:

The completion of a legal agreement to secure:

- **The retention (in perpetuity) of the off setting land together with measure for it suitable management, to ensure the scheme is nitrate neutral,**
- **The provision of a financial contribution towards the New Forest Special Protection Area (SPA) and**
- **The provision of a financial contribution towards the Solent and Southampton Water SPA,**
- **The provision of a review mechanism for the payment of s106 contributions towards affordable housing**

then PERMISSION subject to conditions and 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) **five 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 layout, scale and appearance of the building(s), and the landscaping of the site (herein after called "the reserved matters") shall be obtained from the local planning authority in writing before the development is commenced.**
Reason: To comply with the Town and Country Planning (General Management Procedure) (England) Order 2015 (or any order revoking and re-enacting that Order).
3. **The development hereby permitted shall be limited to no more than 29 dwellings.**
Reason: For the avoidance of doubt and in the interest of proper planning.
4. **No dwelling shall be occupied or brought into use until the access,**

highway signs and visibility splays as identified on plan number 17009-001 REV B have been provided. Within these visibility splays notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no obstacles, including walls, fences and vegetation, shall exceed the height 0.75 metres above the level of the existing carriageway at any time.

Reason: In the interest of highway safety in accordance with Test Valley Borough Revised Local Plan (2016) Policy T1.

5. Any application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site). The development shall only be carried out in conformity with the approved details.

Reason: To ensure a satisfactory visual relationship of the new development with the surrounding area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 & E2.

6. 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 Revised Local Plan (2016) Policy E8.

- 7. The reserved matters application(s) shall include an Arboricultural Impact Assessment and Tree Constraints Plan in respect of the existing trees situated within influencing distance of the development site. The assessment shall be submitted for the written approval of the local planning authority and shall include details of all root protection measures which shall accord with BS5837 "Trees in Relation to Demolition, Design and Construction" and a timetable for the implementation and retention of such works linked to the proposed phasing and completion of construction work. The development shall be carried out in strict accordance with the approved assessment.**

Reason: To prevent the loss during development of important local landscape features and to ensure, so far as is practical, that development progresses in accordance with current Arboriculture best practice, in accordance with Test Valley Borough Revised Local Plan (2016) Policy E2.

- 8. The reserved matters application(s) shall include details of a Landscape/Habitat Management Plan to include long-term design objectives, timings of the works, habitat creation, enhancement, management responsibilities and maintenance schedules for all landscaped areas (other than privately-owned domestic gardens). Such details shall be submitted for the written approval of the local planning authority.**

Reason: To ensure the favourable conservation status of bats, bats birds, protected species and wildlife in accordance with Policy E5.

- 9. The reserved matters application(s) shall include details of the provisions to be made in the development for the creation/preservation of habitats for nesting birds and bats. Such details shall be submitted for the written approval of the local planning authority and shall include artificial bird nesting boxes and artificial bat roosting sites which shall be submitted on a dwelling/building dependent bird/bat species development site plan and include details of plot numbers and the numbers of artificial bird nesting boxes and artificial bat roosting site per individual building/dwelling and type. The details shall also identify the actual wall and roof elevations into which the above provisions shall be incorporated.**

The artificial bird/bat boxes shall be incorporated into those individual dwellings/buildings as identified in the approved details during their construction and shall be completed before and made available for use before the identified dwellings/buildings are first occupied or brought into use. The artificial bird/bat boxes shall be permanently retained thereafter.

Reason: To ensure the favourable conservation status of bats and birds in accordance with Policy E5.

- 10. The reserved matters application(s) shall include details of a scheme for any external building or ground mounted**

lighting/illumination. Such details shall be submitted for the written approval of the local planning authority and shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution. The submitted details shall also demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated. External lighting shall only be provided in accordance with the approved scheme(s) and shall thereafter be retained as approved. Reason: To ensure the favourable conservation status of bats and birds in accordance with Policy E5.

- 11. Any reserved matters application shall be accompanied by a scheme detailing the removal of tyres, machinery, buildings, waste and other miscellaneous items from the site to facilitate the development. No spoil, or waste shall be deposited on the site. Reason: to protect the amenity, character and appearance of the area and to protect the adjacent SINC in accordance with Test Valley Borough Revised Local Plan (2016) Policy LWH4 and E5.**
- 12. Any application for approval of reserved matters shall be accompanied by a detailed surface water drainage strategy containing the following elements:
 - Where infiltration is used for drainage, evidence that a suitable number of infiltration tests have been completed. These need to be across the whole site; within different geologies and to a similar depth to the proposed infiltration devices. Tests must be completed according to the BRE 365 method or another recognised method including British Standard BS 5930: 2015**
 - Maintenance regimes of entire surface water drainage system including individual SuDS features, including a plan illustrating the organisation responsible for each element. Evidence that those responsible/adopting bodies are in discussion with the developer. For larger/phased sites, we need to see evidence of measures taken to protect and ensure continued operation of drainage features during construction.**
 - Exceedance flows are considered in the event of the pipe being non-operational. Evidence that Exceedance flows and runoff in excess of design criteria have been considered - calculations and plans should be provided to show where above ground flooding might occur and where this would pool and flow.**
 - Evidence that Urban Creep has been considered in the application and that a 10% increase in impermeable area has been**Reason: To prevent the pollution of controlled waters in accordance with Test Valley Borough Revised Local Plan (2016) Policy E8.**
- 13. No development shall commence on site (including any works of demolition or site clearance), until a Construction and Demolition Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include the following:
 - i) the parking of vehicles of site operatives and visitors;**
 - ii) loading and unloading of plant and materials;**
 - iii) storage of plant and materials used in constructing the****

development;
iv) hours of construction, including deliveries;
v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
vi) wheel washing facilities;
vii) measures to control the emission of dust and dirt during demolition and construction;
viii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
ix) measures for the protection of the natural environment

The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

Reason: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase having regard to Test Valley Borough Revised Local Plan (2016) Policy E8.

14. No building on any part of the development hereby permitted shall exceed 9m in height from existing ground levels.

Reason: In the interest of the amenities of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, E2 & E9.

15. No building, road or path or structure (other than the access to the site) on any part of the development hereby permitted shall come within 10 meters of the Northern or Southern boundaries of the site or come within 16 meters of the Eastern boundary of the site.

Reason: In the interest of the amenities of the area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, E2 & E9.

16. The reserved matters application for the landscaping shall include details, including planting plans, sections and a management plan of the reed bed.

Reason: In the interest of the amenities of the area, enhance biodiversity and reduce nitrate levels entering the watercourse in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, E2 & E9.

17. Development shall proceed in accordance with the ecological enhancement measures set out in Sections 6.2 Ecology Corridor and 6.13 Ecological Enhancements of the Ecological Assessment report (Ecosupport, June 2018). Prior to the occupation of all units on site A compliance report, completed by the applicant's ecologist, shall be submitted to and approved in writing by the LPA.

Reason: to conserve and enhance biodiversity in accordance with Policy E5 of the Test Valley Revised Local Plan DPD.

- 18. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.**

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.

Notes to applicant:

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
- 2. The applicants attention is drawn to the provisions of the S106 Agreement that accompanies this planning permission dated [INSERT DATE]**