JRT/JSG/BRS.5528

13 October 2016

Neale Oliver
The Planning Inspectorate
Room 3P
Temple Quay House
2 The Square
Bristol
BS1 6PN



Dear Mr Oliver

Town and Country Planning Act 1990
Appeal by Cranbury Estates Limited
Land north of Boyatt Lane, Eastleigh, SO50 4LJ
PINS Ref : APP/W1715/W/16/3150918

I refer to the above and write in response to your letter of 7 October 2016 to Miss Fowler at Pegasus Planning Group Limited.

Further to receipt of the Council's Statement and Third Party Representations, there are two matters that I respond to in relation to these submissions.

1. Refusal Reason 5 on Decision Notice dated 25 November 2015

   This refers to the proposal failing to make contributions towards the provision of essential off-site open space works, community infrastructure or sustainable transport.

   The Council, in their written evidence (para. 8.44) rightly refer to the Court of Appeal Judgement issued on 11 May 2016 (Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council) in which it was made clear that the sites of 10 units or less (and which have a maximum combined gross floor space of less than 1,000m^2) affordable housing and tariff style contributions should not be sought.

   Accordingly, and as confirmed in para. 8.45 of the Council's evidence, the Council no longer seek the financial contributions which form the basis of refusal reason no. 5.

   Accordingly, the submitted Unilateral Undertaking dated 16 June 2016 in which the appellant (and land owner) covenanted to financial contributions totaling £15,002.06 is no longer required, and as a result the Appeal can be determined in isolation from the submitted Unilateral Undertaking.

   The Unilateral Undertaking remains before the Inspector in case a contrary view is taken that despite the judgement of the Court of Appeal, the Inspector takes the view that the financial contributions required by refusal reason no. 5 still remain.

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2. <u>Appeal Decision by Cranbury Estates Limited in respect of land adjoining 1 Boyatt Crescent and 30 Boyatt Lane (3 August 1994)</u>

This appeal decision has been referred to and is enclosed with third party representations, and therefore deserves a specific comment.

The appeal was in relation to larger housing schemes on the appeal site itself (but also including land to the north, i.e. the entire paddock to the south west of 1 Boyatt Close), as well as a larger field to the south (to the south west of 30 Boyatt Lane).

The appeal was heard at a time when there was no overriding requirement for new housing to come forward within Eastleigh Borough at the time, but of relevance did consider larger housing schemes and in the knowledge that both sites lay within the local gap between Boyatt Wood, Otterbourne Hill and Allbrook.

The Inspector took the view (in para. 6 of his Decision Notice) that the development of the appeal sites "*would not add materially to the likelihood of coalescence of settlements, but the objective of retaining the separate identity of settlements is a relevant consideration*".

In relation to land that included the appeal site (as well as land to the north), the Inspector concluded that "*any development of this site in depth would intrude very notably into this setting and would not relate well to the established pattern of development*".

The nature of the development put forward as part of this appeal is somewhat different insofar as it is restricted solely to frontage development on the southern part of this paddock land, and would not result in development extending in any depth, therefore maintaining the outlook and rear setting to 1 Boyatt Close.

Instead, the proposed scheme is confined to frontage development alone, as a pair of detached houses fronting and opposite the existing semi-detached houses of 29-30 Boyatt Lane (immediately to the south east) and in recognition that there is an overriding need for new housing to come forward within the Borough, as very recently advocated by the Inspector (Jonathan Bore) on 7 October 2016 in relation to a housing scheme for 100 dwellings in Eastleigh Borough on land within a defined Strategic Gap (Decision Notice attached).

I trust that the above usefully serves to respond to and clarify comments in relation to the Council's Statement and Third Party Representations.

Yours sincerely

[redacted]

Jim Tarzey
Executive Director
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The Planning Inspectorate

Appeal Decision

Inquiry held on 19 July 2016 and 6 to 9 September 2016

by Jonathan Bore MRTPI

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

Decision date: 07 October 2016

Appeal Ref: APP/W1715/W/15/3139371
Land off Botley Road, West End, Hampshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd against the decision of Eastleigh Borough Council.
- The application Ref O/15/76418, dated 30 April 2015, was refused by notice dated 16 September 2015.
- The development proposed is up to 100 dwellings (including up to 35% affordable housing), structural planting and landscaping, informal public open space, surface water attenuation and vehicular access from Botley Road, and associated ancillary works.

Decision

1. The appeal is allowed and outline planning permission is granted for up to 100 dwellings (including up to 35% affordable housing), structural planting and landscaping, informal public open space, surface water attenuation, vehicular access from Botley Road, and associated ancillary works, on land off Botley Road, West End, Hampshire in accordance with the terms of the application, Ref O/15/76418, dated 30 April 2015, and the plans submitted with it, subject to the conditions set out in Appendix 1.

Application for costs

2. At the Inquiry an application for costs was made by Gladman Developments Ltd against Eastleigh Borough Council. This application is the subject of a separate Decision.

Points of clarification

3. The application was originally submitted in outline with all matters reserved except for access. The proposed position of the access would have resulted in the loss of protected trees and was the subject of Reason for Refusal 2. However, it was proposed by the appellants, and not resisted by the Council, that means of access could be made a reserved matter in order to avoid the loss of these trees. I do not consider that any interest would be prejudiced by this change, and have therefore considered this appeal as an outline scheme with all matters reserved. On this basis the Council is not pursuing Reason for Refusal 2.

4. Reasons for Refusal 3 to 8 relating to sustainable urban drainage and the impact on Moorgreen Meadows SSSI, noise and air quality, affordable housing,

contributions to off-site mitigation measures, the impact on the Solent and Southampton Water Special Protection Area, and the impact of increased nitrogen oxide levels on wet woodland habitats in the SSSI were withdrawn by the Council following the submission of information by the appellants prior to the inquiry.

Development Plan

5. The development plan for the area, as far as it is relevant to the appeal, comprises the saved policies of the Eastleigh Borough Local Plan Review (2001-2011). The most relevant saved policies in respect of the remaining disagreement between the parties are Policy 1.CO, which protects the countryside, 2.CO, which safeguards strategic gaps, and 18.CO, which protects the landscape. A subsequent draft plan, the Eastleigh Borough Local Plan 2011-2029, was found unsound by the Examining Inspector in February 2015 for reasons including an inadequate supply of housing land in the first 5 years and inadequate provision for affordable housing. That plan has not actually been withdrawn, but it is unadopted and carries very little weight. The emerging local plan, the Eastleigh Borough Local Plan 2011-2036, is only at Issues and Options stage and also carries very little weight.

Main Issue

6. The main issue in this case, agreed between the parties, is, having regard to the absence of a 5 year supply of housing land, whether the adverse effects on the countryside and strategic gap between Hedge End and West End significantly and demonstrably outweigh the benefits of the scheme.

Reasons

Housing land supply

7. The National Planning Policy Framework (the Framework) states that local planning authorities should identify a supply of five years' worth of deliverable housing against their requirements; to be regarded as deliverable, sites should be viable, available now in suitable locations, and have a realistic prospect of delivery in 5 years. The parties agree that there is less than 5 years' supply of deliverable sites, but disagree on the extent of the shortfall.

8. The base date for the 5 year period is taken at 1 April 2016, and the base date for the objectively assessed housing need (OAN) and completions is agreed as 1 April 2011, which is the start date of the proposed local plan currently at issues and options stage. There is no up-to-date housing requirement figure in an adopted development plan, but the current objectively assessed need for housing is agreed by the parties at 630 dwellings per annum (dpa). This is derived from an analysis in the Inspector's decision for the Bubb Lane appeal, a decision made on 24 May 2016 for a site not far away on the other side of the M27 (Ref No APP/W1715/W/15/3063753). That analysis used as a starting point the DCLG projections of 523dpa adjusted upwards for household formation rates, market signals and to reflect affordable housing needs. The parties to the present appeal were also the parties to the Bubb Lane appeal and the figure of 630dpa has been tested by the Council in a number of ways and appears robust. There is no evidence to indicate that a different approach should be taken this time.

9. Over the period 1 April 2011 and 1 April 2016 there has been a shortfall of 1,519 dwellings against the requirement of 630dpa, and the parties agree that the Sedgefield methodology should be used, which seeks to make the shortfall up within 5 years. However, there is disagreement about whether the buffer prescribed by the Framework, agreed in this case at 20% to reflect long term underprovision, should also be applied to the shortfall. It is well known that past appeal decisions, including Secretary of State decisions, have taken different approaches to this, and it is not necessary to go through them here. Paragraph 47 of the Framework refers to the buffer in the context of the housing requirement; its purpose is to ensure choice and competition in the market for land and to provide a realistic prospect of achieving the planned supply. If the shortfall is considered an element of the housing requirement from 1 April 2011, in the sense that it ought to have been delivered, then the buffer should be applied to it and there is nothing in the Framework to suggest otherwise. The Inspector in the Bubb Lane appeal decision took that position as he said it would accord with the objectives of the Framework to boost the supply of housing land. Circumstances have not changed since then and there is no reason to depart from that view. In the present case, if the buffer is applied to the shortfall, the resultant requirement is 1,120dpa rather than the Council's calculation of 1,060dpa. This is calculated as follows:

• Starting point 5 yrs	3,150 (630 dpa, base date 1.7.16)
• Accumulated shortfall	1,519 (1.4.11 to 30.6.16)
• Sub total	4,669
• Buffer 20%	934 (applied to requirement and shortfall)
• 5 year requirement	5,602

10. The Council argued that the figure of 5,602 dwellings or 1,120dpa might be undeliverable: completions averaged only 428dpa from 1996/97 to 2015/16. That is not accepted. Eastleigh was a persistent under-deliverer, and the government's intention is to boost the supply of housing, so the historic completion rate should not carry much weight. The difference between 1,120dpa and the Council's figure of 1,060dpa is only 60dpa, and it is difficult to see how that would make much of a difference to the market's ability to deliver. The Council also suggested that a requirement of 1,120dpa might give rise to planning permissions on unsustainable sites, but there is no real evidence to suggest that there is a genuine absence of potential sustainable sites and in any case the Council would be under an obligation to resist unsustainable development in line with the Framework.

11. As regards the supply of dwellings over the 5 year period, several of the figures are agreed, including 216 net outstanding planning permissions for small sites, 3,508 net outstanding permissions for large sites and 821 units on sites with a resolution to grant. The two areas of disagreement are over windfalls and sites under negotiation.

12. The appellants argue that windfalls should be discounted at 25% in years 4 and 5. The Inspector's report into the unadopted Eastleigh Borough Local Plan 2011-2029 considered that future uncertainties should be allowed for by building a 25% discount into year 6 and beyond. It is the later years that give rise to uncertainty, so a higher discount should continue to be applied from

year 6 as suggested by the Council, not year 4 as proposed by the appellants. This does not make much difference to the calculation anyway: it amounts to only 20 dwellings within the 5 year period.

13. The more significant disagreement concerns the deliverable supply of dwellings on sites under negotiation. The area of dispute concerns three sites which the Council considers will contribute 275 dwellings to the 5 year housing land supply.

14. Two of these are County Council controlled sites: land north and east of Winchester Street, Botley (300 dwellings of which 105 are assumed by the Council to contribute towards the 5 year supply), and land to the west of Woodhouse Lane, Hedge End (800 dwellings of which the Council say 120 will fall within the 5 years). The County Council has indicated in writing that it intends to bring these sites forward in tandem with the forthcoming local plan process with planning applications to be submitted in 2017 and with potential to deliver housing completions during the second half of the 5 year period.

15. However, looking at the evidence, this timetable seems improbable. The sites were identified in the unadopted Eastleigh Borough Local Plan 2011-2029, but are contrary to current planning policies. They were consulted upon 4 times, but attracted objections during the consultation for that local plan. Consultant teams have only just been appointed, more than 2 years after the sites were published in the plan, which does not point towards rapid progress. There are a number of significant development issues to be dealt with. The Winchester Street site includes part of a bypass for Botley village, 1.5 acres of employment development, a cemetery, allotments and open space. Issues to be resolved include flooding, utilities, a listed building, a public right of way and the need for land for the bypass. In the case of land to the west of Woodhouse Lane, there are also a number of development constraints as well as off-site highway improvements and education provision. A development brief and masterplan are likely to be required given the size of that site. Whilst no doubt many of the issues on both sites can be resolved by negotiation and careful design, and whilst in the case of the bypass there has been consultation and a funding bid, there is a lot of preparatory work for the consultant teams to do and at present there is no detailed viability information. Once the infrastructure requirements have been resolved, planning permission will be required, which in the light of previous objections cannot be regarded as a foregone conclusion, and any necessary planning obligation completed. The sites will need to be marketed. Reserved matters (or approval of details) applications must then follow; then there is site preparation and infrastructure provision before homes can be delivered. All the indications are that these sites are unlikely to make a meaningful contribution towards the 5 year housing land supply.

16. The third site, land to the south of Foord Road, is owned by Eastleigh Borough Council. The site was also identified in the unadopted Eastleigh Borough Local Plan 2011-2029. It was subject to objections, but the site is much smaller than the preceding two with fewer hurdles to overcome, and could be regarded as an extension of an under-construction housing scheme. Moreover, a planning application for 100 dwellings is expected to be submitted later this year. The evidence indicates that this site, though unallocated and without planning permission, can be considered deliverable. The Council has suggested that this site will contribute 50 dwellings to the 5 year housing land supply and this is a reasonable assumption.

17. Whilst recognising that this is not an exact science, the evidence as described above suggests that total supply is:

• Small sites permissions	216
• Large sites permissions	3,508
• Resolution to grant	821
• Sites under negotiation	50 (from land S of Foord Road)
• Windfalls	174 (ie no 25% discount)
• Total	4,769 dwellings.

18. In conclusion, the final calculation taking a requirement figure of 1,120dpa, or 5,602 dwellings over the 5 year period, there is 4.25 years' supply of housing land. Even on the Council's most favourable calculations, taking the Council's approach to the buffer and with its suggested contributions from all the disputed sites, the supply would still only be 4.71 years, but the evidence indicates that this is unlikely to be achievable.

19. There is therefore a significant shortfall in the amount of deliverable housing land, amounting to some 833 dwellings. The Leader of the Council gave evidence of the impressive efforts the Council had made to underpin housebuilding confidence following the recession, but this does not seem to have been translated into the provision of enough housing land. Net completions for the two years 2014/15 and 2015/16 amounted to less than one year's requirement. Referring to recent outline approvals, the Council said that it was making progress towards improving housing supply; recent permissions might enable it to exceed the OAN to a degree this year. Even if that happens, it is still well short of the requirement for the year. There is a significant shortfall to be made up, and the evidence that the gap might be closing quickly enough is far from convincing. The Council is not, as it claims, on the cusp of achieving a 5 year supply of deliverable housing land.

20. Moreover, the delivery of affordable housing has been poor. The Council's Review of Housing Needs in Eastleigh Borough sets out a need for 373 affordable dwellings per annum from 2011, but only 268 homes (net) had been delivered to 2014/15, including only 78 units in the last 3 years.

21. There is a need to provide additional housing, including affordable housing, in the borough. The scheme would deliver up to 100 dwellings including up to 35% affordable dwellings. The site is relatively small, and although the application is in outline, a range of preparatory studies has already been carried out for the planning application. The site is deliverable within the next 5 years. This carries considerable weight.

Effect on the countryside and the strategic gap

22. The development would be outside the settlement boundary of West End in the countryside and would be contrary to saved Policy 1.CO of the Eastleigh Borough Local Plan Review (2001-2011), which resists development outside the urban edge unless it is for various purposes which do not apply here. The scheme would also be situated in the strategic gap between Hedge End and West End and would be contrary to saved Policy 2.CO of the same plan which indicates that planning permission will not be granted for development which

would physically or visually diminish a strategic gap. The Council also refers to Policy 18.CO which resists development which would fail to respect or have an adverse impact on the intrinsic character of the landscape.

23. Policy 1.CO is agreed by both parties to be a relevant policy for the supply of housing. Having regard to paragraph 49 of the Framework, and in the context of less than 5 years' housing land supply, it is out of date.

24. However, the Council argues that Policy 2.CO is not a relevant policy for the supply of housing, firstly, by pointing to the Secretary of State's skeleton argument in Sheet Anchor Properties Ltd (Claim CO/323/2016), and secondly, by suggesting that there is sufficient land available for housing outside the strategic gaps such that it is not necessary to develop in the gaps to have a 5 year supply of housing land.

25. On the first of these points, both parties in the Sheet Anchor appeal had agreed that Policy 2.CO was not a policy relevant for the supply of housing, so the Inspector did not assess whether policy 2.CO was such a policy. After the Court of Appeal judgment in Suffolk Coastal DC v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East BC [2016 EWCA Civ 168] (the "Suffolk Coastal judgment") the Claimant brought a new ground of challenge that Policy 2.CO was indeed a policy relevant for the supply of housing. There are two points here. Firstly, in the circumstances where a particular approach had been accepted by the Inspector because the parties had been in agreement, the Secretary of State clearly could not take a different position later. Secondly, the Secretary of State and the Council opposed the new ground of challenge on the basis that it was not open to the Claimant. These are simply points of law, and cannot be interpreted as setting out the Secretary of State's general view on Policy 2.CO. Whether a policy is relevant for the supply of housing is not a legal matter but a matter for the decision maker in each case, so the Secretary of State's legal position in the Sheet Anchor case makes no difference to my assessment in the current appeal.

26. On the second point, the gaps do not cover all the open land in the borough, but they do cover a substantial proportion. The Inspector in the Sovereign Drive appeal (APP/1715/W/14/3001499), writing prior to the Suffolk Coastal Court of Appeal judgment, pointed to land outside the gaps which "may or may not" be suitable for housing and that the gaps did not "inevitably" frustrate housing supply beyond the urban edge. But the facts need to be considered. The gaps, by their nature, are drawn tightly against many of the urban boundaries. In general, sites closer to existing settlements are more likely to benefit from existing facilities and are more likely to be in sustainable locations (like the appeal site). The adopted development plan with its current gap boundaries caters for housing need only up to 2011; there is an OAN of 630dpa and a requirement of 1,120dpa, with no clear indication from the Council of how the substantial current shortfall is to be met, and there is certainly no convincing evidence from the Council that it can all be met on sites outside the gaps.

27. Moreover planning permission has been granted for a number of sites which have included dwellings in the strategic gaps. Some 1,451 dwellings including the 1,100 unit site at land south of Chestnut Avenue have been permitted on gap sites and 1,687 further units are the subject of resolutions to grant. The Council see Chestnut Avenue as skewing the picture, but even though it

enabled infrastructure to be provided it is difficult to see why it should be seen as an exception. Even if it were taken out of the equation there would still be 351 homes permitted on sites within or partially within the gaps. These permissions were presented as the Council's "choice" – that it had allowed development in the gaps but did not need to. But the Council's argument that present needs can be met substantially within the land outside the gaps is wholly unconvincing; even with the permissions on gap land, there is still no 5 year housing land supply and without them, even on the Council's unduly optimistic housing land supply calculations, there would be only 3.4 years' supply of housing land. On the contrary, the evidence is that that the gaps are a factor in limiting the choice of sites available for the provision of housing, and that breaches of the strategic gap policy have proved necessary and will prove necessary to cater to meet current housing needs. Having regard to the Suffolk Coastal Court of Appeal judgment, it is clear that Policy 2.CO is a relevant policy for the supply of housing.

28. The Inspector in the Bubb Lane appeal considered Policy 2.CO to be a relevant policy for the supply of housing; I also consider it to be such for the reasons given, and matters have not changed materially since the Bubb Lane decision to come to a different view.

29. Policy 1.CO and 2.CO are thus out of date. They do of course still carry weight as planning tools to protect the countryside and ensure the separation of settlements; they are not 'disapplied'. But the question is whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

30. The site itself consists of two long grass fields between Botley Road and the M27. It is well enclosed with a very strong planting to the north along the M27, a thick wood to the east, a line of large oaks dividing the fields, and some fine protected trees and various other trees and bushes along Botley Road. To the west are an open field known as the Donkey Field, together with the grounds of Moorgreen Hospital. The effect of the trees and bushes, the wood, and the severance caused by the M27, is that the site is almost completely separate visually and perceptually from the wider open countryside beyond the M27. Thus although the scheme would conflict with Policy 1.CO, it would not cause any harm to the wider countryside or landscape; its impact would be almost entirely confined to the site itself. It is of course recognised that Policy 2.CO is not a landscape policy, but the fact that the scheme would have a minimal impact on wider views is nonetheless relevant to the visual aspect of that policy.

31. The location and surroundings of the site are much more closely related in character to the urban fringe of West End than to the wider landscape. To the west is the Moorgreen Hospital site, which is being redeveloped for housing and other uses, and which will come closer to the site with development on the Donkey Field. On the other side of Botley Road from the site are a bungalow and a dental surgery, a light controlled junction and the Ageas Bowl, whose stands, floodlights and adjacent hotel development are an urbanising presence, notwithstanding the adjacent golf course and planting. All these features give the sense of entering the settlement of West End. The development would not appear at all out of place in this context. From the road frontage it would be well screened by trees and shrubs; even in winter, views of the development

would be filtered through branches and undergrowth, except at the entrance to the site. Indicative drawings show housing well set back from the Botley Road frontage, reducing its impact. The development would have almost no impact on views from the east because it would be hidden by a thick wood which would obscure views from the direction of Hedge End. The impact on views from the west would be slight and in any case this land is due to be built upon as part of the Moorgreen Hospital site. To the rear, the scheme would be hidden by the planting along the M27. Taking all the above into account, the scheme would have very little visual effect on the gap.

32. Moreover, the scheme would have no effect on the separate identities of West End and Hedge End. West End, with its rather low-key village character, would stay the same and the development would not be out of character with that under way on the adjacent Moorgreen Hospital site. The part of Hedge End on the other side of the M27, with its estate developments, superstore, retail parks, roundabouts and local distributor road system, has a completely different character from West End. The separate identities of the settlements, which are quite obvious, would be completely unaffected. The firm features that physically prevent coalescence and act as a strong visual barrier between the two settlements would not be materially affected by the scheme; these include the thick wood east of the site, the M27 with its roadside planting, and the further planting along both sides of Botley Road near the motorway. The limited views of the development would mean that the perception of separation between West End and Hedge End would be affected over only a very small area: essentially, the part of Botley Road in the immediate vicinity of the site. Despite the narrowness of the gap, the development would not cause the visual or physical coalescence of Hedge End and West End.

33. Protecting land from development to maintain gaps between separate settlements is a commonplace planning policy, and in the case of Eastleigh the strategic gaps are of long standing, having been incorporated into successive plans. A series of publications by the Partnership for Urban South Hampshire (PUSH) has continued to support the concept of gaps, and they have been included in numerous recent development plans in Hampshire. However, in recognition of the need to accommodate development, the more recent PUSH publications have made it clear that gaps should be drawn no more widely than to prevent coalescence and help maintain the separate identities of settlements. The gaps cannot therefore be seen as immutable, and indeed the Council's own Issues and Options publication for the Eastleigh Borough Local Plan 2011-2036 puts forward options which include subsuming the gaps within countryside policy or reviewing the gaps to retain only the minimum land required to maintain the separate identity of settlements. Its plan period includes present as well as future housing needs.

34. The gap covering the appeal site was considered by the Inspector who dealt with objections to the Eastleigh Borough Local Plan Review (2001-2011). He considered that this land was an important part of the gap. Following my detailed assessment of the site and surroundings, I demur from that conclusion. The land has a very limited practical role in separating the two settlements, for the reasons I have given, and the M27, far from merging the settlements, acts as a substantial visual and perceived barrier that reinforces rather than reduces separation. The gap may look narrow on plan, but the perceived gap following the completion of the development would to all practical purposes remain the same both visually and in terms of its

contribution towards maintaining the separate identity of the settlements and preventing coalescence.

35. The circumstances of this scheme are very different from those of the Bubb Lane appeal (APP/W1715/W/15/3063753) which involved the same parties as the present appeal. In that case the Inspector concluded that a change from open rural land to suburban development in a sensitive location between settlements would be a dramatic and adverse alteration to the landscape and would thwart the aims of planning policy to retain the separate identity of settlements. That site was more clearly in open countryside, and was much larger. It was nothing like as well enclosed, being on a slight rise with wider visibility. Development there would have had a much more noticeable impact on the countryside, the landscape and the strategic gap; it would have been seen as an intrusion into the gap.

36. In conclusion, the scheme would conflict with Policy 1.CO but the land in question does not have the character of wider countryside; it is much more closely related to the fringe of West End, so the practical impact of the development on the open countryside would be very limited. The scheme would conflict with Policy 2.CO but would not harm the purposes of the policy to protect the separate identities of settlements and to prevent coalescence. The visual diminution of the gap would be minimal. The principal conflict with the policy would be in terms of physical separation, but this would be mostly apparent on plan rather than on the ground. I conclude that the harm to the countryside, the strategic gap and the landscape arising from the development would be small. In addition, the scheme would not adversely affect the landscape and would not conflict with Policy 18.CO.

Other matters

37. As mentioned in paragraphs 3 and 4, the Council withdrew a number of reasons for refusal such that the only main issue was that relating to the effect on the countryside and strategic gap. However, despite having agreed matters including noise attenuation and the protection of wildlife in statements of common ground, it still expressed residual concern about noise and wildlife at the inquiry. In addition, the Ageas Bowl and local objectors raised concerns about traffic management during events, traffic on the road network generally, and the impact on schools and the local surgery.

Noise

38. Despite the extensive boundary planting there is a lot of traffic noise from the M27 and from Botley Road. The appellants are proposing noise barriers and possibly a bund along the M27 boundary; this would be dealt with through the submission of landscaping as a reserved matter. Given the location of the site near the M27 it is obviously important to pay very careful attention to the design of such measures, but nearby examples of residential development near the M27, seen during my site visit, demonstrate that noise can be reasonably well attenuated by barriers of this sort. The configuration of the development can also serve to protect private spaces, such as rear gardens, from noise. As regards Botley Road, the development is shown on the indicative plans as being set back some distance from the road and in any case its relationship with the road would be no worse than many other residential properties in West End. Subject to appropriate and effective sound attenuation measures and layout, the living conditions of prospective residents would be protected.

Trees and ecology

39. The main parties agree that the proposal, subject to conditions, would be acceptable in respect of trees and wildlife. It is possible to provide an access to the site and develop the land without harming the protected trees, and significant areas are proposed to be left on the site for slow worms and other wildlife. Bats and breeding birds would be protected by suitable conditions attached to the planning permission. Deer are sometimes seen on the site but there is no evidence that the development would in any way diminish their numbers through the loss of habitat. There is no evidence that the development would lead to a harmful change in the incidence of Lyme Disease in the area as a result of alterations in the pattern of deer movement.

40. The parties and Natural England are in agreement that the scheme can be served by an appropriate sustainable urban drainage system and that the water flows from the appeal site and the adjacent Moorgreen Hospital site into the Moorgreen Meadows SSSI could contribute towards the protection and enhancement of the protected wetland habitats.

Traffic

41. The nearby Ageas Bowl, the Hampshire County Cricket Ground, is one of the world's foremost cricket stadiums with a capacity of 35,000 and, in addition to County and International matches, also hosts major concerts. The appeal site is currently used as a 'park and walk' location, capable of accommodating up to 1,200 vehicles on major match days, and was used on 7 occasions during 2016 with an average of 500 cars. The Operations Manager of the Ageas Bowl is concerned about the implications for the loss of this site for this purpose. However, the Ageas Bowl does not own the appeal site and cannot rely on the continuation of its licence. Even without the housing scheme it would be open to the owners to terminate the licence. A financial contribution is proposed to cover the cost of including the appeal scheme within the Ageas Bowl's parking management strategy.

42. A number of the local objectors are concerned about the effect of traffic from housing on this site in combination with events at the Ageas Bowl. Their evidence supported by photographs demonstrates that large numbers of vehicles and pedestrians use Botley Road during events such as the recent famous Rod Stewart concert. But the flow of up to 1,200 vehicles (or the average 2016 flow of 500) into and out of the appeal site's temporary car park during major events is far greater than the anticipated traffic flow from the proposed housing scheme. There might be some inconvenience to the prospective residents of the proposed housing development during major events, and it is agreed that traffic management measures will be necessary to prevent on-street parking within the scheme, but these matters are not sufficient to warrant dismissing the appeal. The issues and concerns raised by local objectors in this regard are much more to do with the operation of the Ageas Bowl than the impact of the proposed development.

43. On days when the Ageas Bowl is not hosting major events, which is the majority of the time, Botley Road is busy during morning and evening peak periods. However, from both the evidence and my own observations, it is not unusually congested in comparison with other similar roads during the peak period, and certainly not to the extent that the development of a sustainable residential site should be resisted. The traffic generated by the development,

estimated at 56 2-way movements during the morning peak hour and 62 during the evening peak hour, could be adequately accommodated at the site access. It would be a fraction of that arising from the numerous other activities in the wider area including the hotels at the Ageas Bowl, the distribution park, the retail parks and superstore, and Hedge End Station and would have no material effect on the Botley Road/Marshall Drive and Botley Road/Tollbar Way junctions. In combination with other developments, it would have an effect on the Moorgreen Road/Botley Road /High Street junction and on the High Street/Telegraph Road junction, but it is proposed to make a financial contribution towards a scheme of improvement at these junctions.

44. The site is in fact in a very sustainable location, within walking distance of the village centre and the larger stores across the M27, and adjacent to a bus route, and it is proposed to encourage walking, cycling and bus use through contributions towards the eastwards extension of the 30mph speed limit, foot and cycleway improvements on the east side of Moorgreen Road from Botley Road to Monarch Way, improved bus service infrastructure including shelters, lighting, seating, bins, raised kerbs and real time information, and various accessibility improvements between the site and West End Village Centre. Whilst these are intended to mitigate the impact of the development they would have wider benefits for pedestrians, cyclists and bus passengers.

45. Residents opposite the site are concerned about lights from the site entrance aiming towards their windows, but Botley Road is a well-used and lit highway so the impact would be limited, and indeed would be less than the impact from the continued use of the field for extensive parking from the Ageas Bowl.

Schools and surgery

46. Some local objectors are concerned about the impact of the scheme on local facilities, notably local schools and the West End Surgery. The planning obligation allows for contributions to be made towards extensions of these facilities and these would assist adequately in mitigating the impact of the scheme.

Conditions

47. For the scheme to proceed, the standard outline conditions are required, together with conditions relating to tree protection, tree and shrub replacement, a landscape management plan, construction management, the provision of a sustainable drainage scheme, highway works, footpath and cycle links, noise attenuation measures, biodiversity and wildlife protection, a simple condition relating to energy performance and a condition relating to accessible and adaptable dwellings to reflect the Council's SPD on affordable housing but updated to refer to Requirement M4(2) of the Building Regulations.

48. Of the other suggested conditions in the Council's list, 7, 18, 19 and 33 relate to reserved matters; 6 which seeks a phasing plan and 21 relating to a travel plan (including the 5 year appointment of a travel plan coordinator) are unnecessary and unduly onerous for a development of only 100 dwellings; 10, 11 and 12 relating to tree protection are too prescriptive and can be simplified without losing their effect; 14 relating to foul sewerage is unnecessary since the site can be connected to an adequate foul sewer and any diversion is covered under other legislation; 16 and 17 which concern road construction are not planning matters; 23 on construction noise can be subsumed into a

condition on construction management; 25 on biodiversity imposes excessive and over-prescriptive requirements and can be simplified; the timing of 26 which requires a survey, assessment and strategy for bats all within one month of commencement is unduly onerous; 27 prevents tree and shrub clearance works in the bird breeding season but is unnecessary as relatively few trees and shrubs are proposed to be cleared; 29-32 relating to environmental sustainability are too prescriptive and unduly onerous, requiring numerous reports to be submitted for approval prior to the construction of each type of building, and straying into matters that are difficult to enforce through planning and are more properly the province of the building regulations; 34 and 35 are environmental health matters; and 36 which seeks details of training and recruitment opportunities provided by the developers and their contractors in association with local further education providers goes well beyond what is necessary to make this scheme acceptable.

49. It will be seen that I have not taken on board several of the conditions suggested by the Council. The Council says that these are standard conditions that it applies to many planning applications, some of which relate to SPDs. However, many require unnecessarily detailed technical submissions before development can begin or before dwellings can be built; many demand the unnecessary submission of strategies and plans; some are unduly onerous and others are not related fairly and reasonably related to the development. It is clear that they create far too many hurdles to delivery and are conducive to uncertainty and potential delay. This would be a concern at any time but particularly so in the present situation where there is a clear need to boost the supply of housing and, in Eastleigh's case, to bring forward housing land in the short term on sustainable sites.

Obligation

50. A unilateral planning obligation under s106 has been completed which contains a clause that allows items to be included or excluded depending on conclusions in this decision. The items that are necessary for the grant of planning permission include the provision of affordable housing, an off-site contribution towards playing fields/district park projects, Moorgreen Meadows SSSI recreational impact mitigation, a contribution to the Solent Recreation Partnership to mitigate impacts within the relevant Special Protection Area, a contribution to the costs of Traffic Regulation Orders to extend the 30mph speed limit and to extend the controlled parking zone for match days at the Ageas Bowl, a contribution to an extension to the West End Surgery, a contribution towards the expansion of St James's Primary School and for an expansion of secondary education facilities, contributions towards transport projects including footway improvements and a cycle link, the West End High Street improvement and junction works at the junctions of Moorgreen Road/Botley Road/High Street, and High Street/Telegraph Road. These are all needed: in the case of affordable housing to address the community's need for such housing, and in respect of the others, to mitigate the direct impacts of the development. Where infrastructure contributions are required, they are not part of a pool of more than 5 projects. The requirements are all compliant with the CIL regulations.

51. A number of the requirements in the obligation are not necessary for permission to be granted and these should not be put into effect. They include the provision of the on-site open space and contributions towards play

equipment and supervision, since these will be provided on site and will be covered by a management company; a contribution towards public art, which is not necessary for the development to go ahead; travel plan approval fees and monitoring contributions, since the travel plan itself is not necessary for a development of this size; a highway works agreement, since that is dealt with under other legislation; and contributions towards tree maintenance, since routine street tree maintenance should be covered by Council Tax. The Council also put forward a list of items including an upgrade to the roof and the provision of spectator seating at Wildern Leisure Centre, various upgrades to the car park and buildings of Hilldene Community Centre, Youthouse coffee lounge, and a superloo at West End Parish Centre; but none of these are directly related to the development or are required to mitigate its impact and it would not be appropriate to seek contributions for them.

Conclusion

52. There is a significant shortfall in the supply of deliverable housing land for the next 5 years and no convincing evidence that the gap is diminishing to the extent that it will be made up within a reasonable time by identified deliverable sites. There is also severe under-delivery of affordable housing. The scheme would deliver up to 100 dwellings including up to 35% affordable homes and, although it is in the countryside and in a defined strategic gap, would cause little practical harm. In a situation where there is a pressing need for housing and affordable housing, and where both saved Policies 1.CO and 2.CO are out of date, the adverse impacts of the scheme to the landscape, the countryside and the strategic gap, and the other impacts of the scheme discussed above, would be slight and would not significantly and demonstrably outweigh the benefits. Indeed, even if saved Policy 2.CO were not accepted as being a policy relevant to the supply of housing, and not out-of-date, the considerable benefits of the scheme, weighed against the limited harm, would indicate a decision other than in accordance with that policy.

53. The scheme would accord with saved Policy18.CO relating to landscape and, subject to the attached conditions, would also accord with saved Policies 30.ES regarding protection against noise, 22.NC and 25.NC relating to nature conservation and 47.ES concerning protected trees.

54. The scheme would have strong social benefits in the form of housing and affordable provision and would provide economic benefits from construction, additional household expenditure and from potential greater patronage of the local services. As regards environmental matters, it would be in a sustainable location within walking distance of village facilities and larger stores and would be on a bus route; it would have little practical impact on the purposes of the strategic gap for the reasons given; and its other environmental impacts would be acceptable. The development amounts to sustainable development.

55. I have taken into account the wide range of judgments and appeal decisions referred to during the inquiry and included in the core documents. I have considered all the other matters raised but none is of such weight as to alter the balance of my conclusions. For all the above reasons, the appeal is allowed.

Jonathan Bore

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Stinchcombe QC	Instructed by Mr R Ward, Eastleigh Borough Council
He called:	
Cllr K House	Leader of Eastleigh Borough Council
Ms R Harding	Principal Planning Consultant, Paris Smith LLP
Mr N Ireland	Planning Director, GL Hearn
Ms Julia Burt	Coordinator, Hedge End, West End, Botley

FOR THE APPELLANT:

Mr Guy Williams	Instructed by Mr R Gaskell, Gladman Developments Ltd
He called:	
Mr T Jackson	FPCR
Mr M Hourigan	Hourigan Connolly
Mr R Gaskell	Gladman Developments Ltd
Mr S Helme	Ashley Helme Associates Ltd

INTERESTED PERSONS:

Ms S Turl	Chairman, Moorgreen Road Residents Association
Cllr A Mortimer	Chair, West End Parish Council Planning and Highways Committee
Mr N Thompson	West End resident
Mr R Davis	West End Parish Councillor and Committee member of Moorgreen Road Residents Association
Ms R Watson	Vice Chair, Burnetts Lane Residents Association
Ms L Healy	Member, Moorgreen Residents Association
Mr J Pilcher	West End Resident
Mr H Hellier obo Mr B Tennent	Local resident obo Councillor for Hampshire, Eastleigh, West End Parish and Hedge End Town.
Mr W Hall	On behalf of Mims Davies MP

DOCUMENTS

Document 1	Attendance List
Document 2	Letter of notification and list of persons notified
Document 3	Proof and appendices of Cllr House
Document 4	Proof and appendices of Ms Harding
Document 5	Proof and appendices of Mr Ireland
Document 6	Proof and appendices of Mr Jackson
Document 7	Proof and appendices of Mr Hourigan
Document 8	Proof, rebuttal and appendices of Mr Gaskell
Document 9	Proof and appendices of Mr Helme
Document 10	Interested persons' statements to the inquiry
Document 11	Written representations from the Ageas Bowl, submitted to the inquiry
Document 12	Written representations from the West End Parish Council and from interested persons submitted to the inquiry
Document 13	Proofs and appendices of uncalled witnesses in respect of biodiversity, trees, drainage and flood risk, which remain before the inquiry
Document 14	General Statement of Common Ground
Document 15	Supplementary Statement of Common Ground
Document 16	Highways Statement of Common Ground
Document 17	Statement of Common Ground regarding Objectively Assessed Need for Housing
Document 18	Statement of Common Ground regarding 5 year housing land supply (final version)
Document 19	Set of suggested conditions with comments from both parties
Document 20	Signed and dated s106 unilateral planning obligation
Document 21	Statement of compliance of s106 obligations with comments from both main parties
Document 22	Plan showing location of s106 financial contributions projects
Document 23	Hedge End Community and Infrastructure Priorities 2015-20
Document 24	West End High Street Art and Heritage Trail
Document 25	Information regarding the West End Surgery extension
Document 26	Report to Cabinet 21 July 2016, submitted by the appellant

Document 27	Committee reports relating to Home Farm, St John's Road and Land off St John's Road, Foord Road, Hedge End, submitted by the appellant
Document 28	Policy WE10 of the pre-submission Eastleigh Borough Local Plan 2011-2029 regarding a proposed household waste recycling centre on Botley Road
Document 29	Core Documents 1.1 - 13.22
Document 30	Council's Statement of Case and Appendices 1-45

PLANS

Plan 1	Application Boundary Plan 3966_004_C
Plan 2	Plan 3966_002_G showing westerly access, now superseded
Plan 3	Plan 3966_005 showing preferred easterly access position
Plan 4	Illustrative Layout Plan G/BRS/SL/04
Plan 5	Moorgreen Hospital Site Planning Layout PL-01U

PHOTOGRAPHS

Sets of photographs from local residents showing traffic conditions in Botley Road.

APPENDIX 1

CONDITIONS

1. Details of the appearance, landscaping, layout, scale and access, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in general accordance with the details shown on drawing 3966_05 "Development Framework with Eastern Access".
5. The landscaping details submitted pursuant to condition 1 shall include details of all trees and hedgerows to be retained together with measures for their protection during construction. The protection measures shall be put in place prior to the commencement of development in accordance with the approved details and shall be retained for the duration of the construction period.
6. The landscaping shall be carried out no later than the first planting season following the completion of the development. If within a period of 5 years after the date of planting, any tree, shrub or hedgerow (or its replacement) is removed, destroyed, damaged or dies, it shall be replaced in the same location during the next planting season with another of the same species and size, unless the local planning authority gives written consent to any variation.
7. No development shall take place until a landscaping and open space management plan and maintenance schedule has been submitted to and approved in writing by the local planning authority. The landscaping and open space shall thereafter be managed in accordance with the approved details.
8. No more than 100 dwellings shall be constructed on the site pursuant to this planning permission.
9. Development shall not begin until a surface water drainage scheme, including sustainable urban drainage, has been submitted to and approved in writing by the local planning authority and the scheme shall be carried out in accordance with approved details.
10. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. It shall set out the programme of the work, the means of access for construction work, the

location of temporary storage buildings, compounds, construction materials and plant storage areas used during construction, the routing of construction vehicles to the site and associated signage, the parking of vehicles of site operatives and visitors, the loading and unloading of plant and materials, the erection and maintenance of security hoarding, temporary lighting, wheel washing facilities, measures to control the emission of dust and dirt during construction, details of how the Moorgreen Meadows SSSI will be protected from the impacts of construction, details of how surface water and waterways adjacent to the site are to be protected from pollutants during construction, details of construction noise mitigation for any noise sensitive property near the site and a scheme for recycling/disposing of waste resulting from demolition and construction works.

11. No construction of clearance work shall take place except between the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays, and not at all on Sundays or Bank Holidays.

12. During the clearance of the site and the construction of the development hereby permitted, there shall be no burning of waste material on site without the prior written consent of the local planning authority.

13. The access approved under condition 1 shall be provided and brought into use prior to the first occupation of the any dwelling.

14. Development shall not take place until details of public footpath and cycle links between the appeal site and the adjacent Moorgreen Dairy Farm site have been submitted to and approved in writing by the local planning authority and development shall be carried out in accordance with the approved details.

15. Before development is commenced, a noise mitigation scheme with measures to provide a satisfactory internal and external noise environment for the future residents shall be submitted to and approved in writing by the local planning authority and the scheme shall be implemented in accordance with the approved details before the occupation of any dwelling.

16. No development shall commence on site until a scheme for reptile translocation and the provision, management and monitoring of compensatory habitat has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved details.

17. Before any dwelling is occupied, a scheme for the location of bat and bird boxes shall be submitted to and approved by the local planning authority and the scheme shall be implemented in accordance with the approved details.

18. The dwellings shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes, and water efficiency standards equivalent to the national technical standard, have been met and the details of compliance provided to the local planning authority.

19. All affordable dwellings shall be "accessible and adaptable dwellings" in accordance with Requirement of M4(2) of the Building Regulations.