REF. NO. F/12/70854

PLANNING APPLICATION REPORT

DESCRIPTION/ ADDRESS	-	Construction of fish ponds Fielders Farm Winchester Road Fishers Pond Eastleigh SO50 7HE

SITE VISIT DATE 01/06/12

ARE PLANS ACCURATE? Y

HAVE ALL NECESSARY NEIGHBOURS BEEN CONSULTED? Y

THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	This application is to construct a series of 9 ponds on grassland, part of which is recognised as a SINC (site of interest for nature conservation). It is essentially an extension to the existing Fishers Pond Fishery business, providing Course Fish to trade and angling clubs. Due to the administrative divide, another application has been submitted to Winchester City Council for the area of land in the north of the site.
SITE AREA	Approximately 5.4 ha.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	n/a.
TOPOGRAPHY	"*The site lies wholly below the 30m contour, rising from 24mAOD beside the stream (Bow Lake) at the western end of the site to 29.88 at the south eastern corner. The contour plans show pronounced embankments on the west, south and east sides…"* (p8, Landscape Character and Visual Assessment, Ref: WIN/Comm/772).
TREES	"*Linear groups of broadleaved trees, predominantly Oak, are scattered around the site particularly along the north, east and west boundaries."* (p5, Arboricultural Impact Appraisal and Method Statement, Ref: 10010-AIA3-CA-14/11/11). In addition, there are hedgerows to the north, south and west which are recognised as being of high ecological value, and "*would qualify as 'important hedgerows' under the Hedgerow Regulations (1997)*", (Updating Phase 1 Ecological Survey, p13)
BOUNDARY TREATMENT	The northern boundary of the site backs onto a mix of residential and commercial properties along Portsmouth Road and is demarcated by fencing and planting. The eastern boundary is marked by a tree belt and the southern and western boundaries by hedging.
SITE CHARACTERISTICS	The site is located along the east side of Winchester Road, close to the junction with Portsmouth Road. It comprises pasture fields and in the northwest corner, a small group of buildings incorporating workshop, stores and office for the

THE SITE AND ITS SURROUNDINGS

	fishery and a residential property. A stream which serves as a tributary of the river Itchen, known as Bow Lake, runs westwards roughly through the centre of the site. It is then culverted under Winchester Road. Bow Lake forms the administrative boundary between the northern part of the site which lies within Winchester City district and the southern part which lies within the borough of Eastleigh. It is the southern part of the application site which is currently designated as a grassland SINC.
CHARACTER OF LOCALITY	Area of primarily agricultural land with some residential and commercial development located mainly as ribbon development along the two primary roads through the area, the B2177 Portsmouth Road and the B3345 Winchester Road.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
Z/38990/000/00	CONSTRUCTION OF TWO EARTH PONDS ON SITE OF OLD FISH POND	22/08/2002 Refused
Z/38990/001/00	CONSTRUCTION OF TWO EARTH PONDS ON SITE OF OLD FISH POND	02/09/2005 Refused
12/00970/FUL	Construction of fish ponds – (Winchester City Council)	17/07/2012 Refused

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
Fair Oak & Horton Heath Parish Council	Members of the Planning committee met last night with the agent for the above application and raised no objections to the proposals, provided it meets all the technical requirements
OTHER	

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Trees	I do not object to the above application. Please condition the following… 1. The development shall accord with the BS 5837 Arboricultural Impact Appraisal Method Statement dated November 2011 and produced by Barrell Tree Consultancy. Protective fencing must be erected as per the Tree Protection Plan enclosed within the report. Reason - To retain and protect the existing trees which form an important part of the amenity of the locality. 2. No development shall commence until a site meeting has taken place

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CONSULTEE	SUMMARY OF RESPONSE
	with the site manager, the appointed arboriculturalist, and a representative from the Local Planning Authority. Work cannot commence until the LPA officer has inspected and approved the fencing and signed the card which accompanies this decision notice. Once approved no access by vehicles or placement of goods, chemicals, fuels, soil or other materials shall take place within the fenced area. The fencing shall be retained in its approved form for the duration of the work. Reason - To retain and protect the existing trees which form an important part of the amenity of the locality.
Env Agency	Thank you for the consultation on the above application, we have reviewed the information as submitted and have the following comments to make superseeding previous comments on this application: Environment Agency Position The Environment Agency have no objection in principle to the proposal as submitted, but would however wish the following to be taken into consideration: Regarding the issue of the ponds and floodplain compensation, the proposed development will only meet the National Planning Policy Framework (NPPF) policy to not increase flood risk elsewhere if the following planning conditions are included. Planning Condition (s) The development hereby permitted shall not be commenced until such time as a scheme to provide compensatory floodplain storage has been submitted to, and approved in writing by, the local planning authority. The scheme shall include implementation provisions, including a construction programme. The scheme shall subsequently be implemented in accordance with the approved details, with the compensation being delivered prior to the commencement of use of the ponds. Reasons To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided. We also note that under section 8.18 of the Design and Access Statement it is proposed to alter the watercourse as part of the pond works. We recommend that the following condition is applied to any planning permission granted to ensure that the watercourse alterations do not increase flood risk or damage biodiversity interests. Prior to the commencement of the development a scheme to restore the Bow Lake watercourse shall be submitted to and approved by the LPA. The scheme shall include: • implementation provisions, including a construction programme; • a management and maintenance plan, including long-term ownership arrangements; • design calculations, together with indicative long-sections and

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	cross-sections to show that the restored channel will be stable and able to safely convey the 1 in 100 year return period flood; • details of in-channel features, including an appropriate bed material, and pools and riffles; • details of landscaping and planting along the river corridor. The scheme shall subsequently be implemented in accordance with the approved details, with the river restoration being delivered prior to the commencement of use of the ponds. We ask to be consulted on the details of this scheme when it is submitted for approval to your Authority. Reasons To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance. Informative Under the terms of Section 109 of the Water Resources Act 1991, and the Southern Region Land Drainage and Sea Defence Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the Bow Lake, designated a 'main river'. It should be noted that this consent is separate to the requirement for planning permission and is required for temporary works as well as permanent works. Consent will only be issued if the works do not pose a flood risk to people and property, and do not conflict with the Environment Agency's other duties.
Habitats Regulations	I can confirm the proposal will need to be screened for its potential to impact the River Itchen, under the Conservation of Habitats and Species Regulations 2010, Part 6. The Habs Regs screening will need to look at the impact on water quality, water flow and Otters. In order to make an appropriate assessment, additional information is required: - The ecological assessment states that "key ecological features at the site – mature trees, boundary hedgerows and the Bow Lake corridor – will not be directly impacted" (4.2.2.), however the DAS states "The proposal will also involve a full river restoration package, which will include creation of a meandering channel, re-profiling of the river, creation of a two stage channel and channel pool and riffle sequences". Given that these works will involve digging with heavy machinery, re-profiling, and will churn up the site spreading mud and water across it, it is apparent the key feature of Bow Lake corridor will be impacted directly. Details of these works will need to be provided in order for a proper assessment to be made. Information regarding the presence of invasive, non-native species (INNS) and its treatment will also need to be provided. (The fact this site is now a SINC has not been referred to in the Ecological assessment and should have formed part of the assessment of the site.) - Information needs to be provided as to what measures will be taken to ensure there will be no harm to Otters during the construction and how the habitat will be restored and improved post-construction with

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	regard to Otters. - The plans will also need to show the location of proposed post and rail fencing intended to prevent Otters accessing the ponds. - The DAS states "where necessary the resulting sludge will be dug out and spread on the surrounding land and oxidised away" (8.10). Information as to when, where and how (eg. time of year, access arrangements, machinery required, etc) needs to be provided, along with an assessment of how this could affect water quality and the mitigation measures required to ensure contaminants do not enter the watercourse. - WCC will also need to carry out a Habs regs screening for their application – so, is Simon aware? Has he sought more information? Has an assessment already been made? - This next point falls outside of Habs Regs, but is worth flagging up here: - The renovation of hedgerows – The Landscape proposals plan, no. Win//Com//772.2, refers to renovating the hedgerow at the west of the site. Given the Ecological assessment recognises the northern, southern and western hedgerows as being of high ecological value, and that they "would qualify as 'important hedgerows' under the Hedgerow Regulations (1997)", (Updating Phase 1 Ecological Survey, p13), more information needs to be provided regarding what 'renovation' is to be carried out. - If you are going to ask applicant/agent to provide this information, it would be worth giving them a copy of the Biodiversity email to work through, as there is additional information required, as well as what I have set out above. - When the information has been received, we will need to undertake the screening and then consult Natural England to make sure they agree the scope of the HRA and the conclusions we reach. - If you are looking to refuse the application, then you could include a reason for refusal along the lines of "Insufficient information has been provided to the LPA as the competent authority to enable them to determine whether the integrity of the River Itchen SAC is adversely affected, as set out in the Conservation of Habitats and Species regulations 2010, part 6."
Natural England	This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. The lack of further comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. Other bodies and individuals may be able to make comments that will help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process. However, we would expect the LPA to assess and consider the possible impacts resulting from this proposal on the following when determining this application:

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	Protected species Where there is a reasonable likelihood of a protected species being present and affected by the proposed development, the LPA should request survey information from the applicant before determining the application (Paragraph 99 Circular 06/05). The following link to some guidance Natural England Standing Advice on our website has been produced to help the authority better understand the impact of this particular development on protected or BAP species should they be identified as an issue at this site and whether following receipt of survey information, the authority should undertake further consultation with Natural England. Local wildlife sites Natural England has noted the presence of a Local Site in the vicinity of the application (Fielders Farm Meadows 2 and 3). The Government guidance reaffirms the importance of the contribution such sites can make to overall biodiversity objectives. Geological Sites, Local Nature Reserves and Local Sites, have a fundamental role to play in meeting overall national biodiversity targets; contributing to the quality of life and the well-being of the community; and in supporting research and education. Criteria-based policies should established in local development documents against which proposals for any development on, or affecting, such sites will be judged. The authority should take account of the presence of local sites when determining this application and ensure the decision it makes is in accordance with local policies on such sites. Biodiversity Enhancements This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.
Biodiversity Officer	Please find below this Unit's detailed advice on nature conservation in relation to this application. This response has been formulated jointly

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	with Winchester City Council's ecological advisor Sarah Warriss-Simmons, and sent to WCC's case officer Simon Avery. I object to the application pending the receipt of further ecological information which will overcome the lack of information and concerns below. The current proposals will create fish ponds in place of a grassland SINC. To comply with Local Plan Policy, sufficient mitigation and compensation habitat will need to be provided if the impacts cannot be avoided. I would like to contact the applicant to arrange for an independent ecological survey of the habitats to take place on site over the next few weeks (NB. Survey undertaken and report received 17/07/12). *The application is supported by the following information.* • *Phase 1 Ecology Survey (John Rowe 2002)* • *Phase 1 Ecology Survey (John Rowe 2009)* • *Phase 1 Ecological Survey (ECOSA October 2009)* • *Updating Ecology Ecological Survey (ECOSA March 2012)* *<u>Further information required</u>* *Our current advice is that further information needs to be sought from the applicant prior to further consideration of the application. The details are set out below including information required in relation to the SINC and habitat, species and statutory designated sites.* *We assume that each respective district will determine the parts of the application within that district. However works to the Bow Lake watercourse (main river) will be along the administrative boundary of the two districts lead responsibility between Councils will need to be established.* *We understand that the ponds will be filled using water from a bore hole, under what we understand to be a current abstraction licence. The ponds are proposed to be drained anually in order to remove the fish - and the water will presumably be discharged to the watercourse via the proposed settlement and sludge ponds. We are not clear whether there is a current discharge consent to cover this.* *<u>Statutory designated sites - River Itchen SAC, SSSI</u>* *Although some distance downstream, the reprofiling works to the watercourse, and operational discharges to it, may have the potential to impact designated sites. We recommend that, have they not already been, Natural England are consulted on the proposals specifically with regards to the River Itchen SAC and SSSI. Both planning applications will need to be assessed against the Habitats Regulations.* *<u>SINC and habitats</u>* *The fields south of Bow Lake within EBC's area of the application site are a Site of Importance for Nature Conservation (SINC) due to the wetland plant indicator species found there. The presence of the SINC has not been identified in the ecological report, and the ecology report concludes that the main pasture on the whole site is of low value. This is*

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	based on a survey only to phase 1 level. A phase 2 habitat survey identifying NVC communities and providing full botanical species lists (including hedgerows) is needed in order to assess the impact of the proposal on the SINC and the wider site and propose adequate mitigation. It should be made clear whether areas of botanical interest will be retained in the development. Section 8.10 of the Design and Access Statement states that resulting sludge will be dug out and spread on the surrounding land and this will need to be clarified. *There is a further woodland SINC to the east of the southern section of the site (not acknowledged within the report), and impacts to this should be addressed in the context of the NE Standing advice for ancient woodland, particularly for the section of the site covered by EBC.* *<u>Species</u>* *The site has potential to support various protected species (such as dormice, reptiles, water voles, otter, nesting birds - and likely badgers beyond the southeast corner of the EBC section of the site. Mainly the areas of suitable habitat are the site boundaries (woodland, hedgerows, and buffers) and the watercourse corridor. Overall the ecological assessment relies on the fact that the boundary habitats and the watercourse corridor will not be impacted by the works, and therefore that impacts to species will be avoided. The ecological report (section 4.4.2) states that the key ecological features of the site - mature trees, boundary hedgerows, and the Bow Lake corridor - will not be directly impacted.* *However, this is not reflected in the plans and the Design and Access Statement (DAS), and further information is required to demonstrate and clarify this.* *The Landscape Proposals plan does not make clear what is existing and what is proposed habitat (it would be useful if this was shown in the ecology report). It does not make clear what the footprint of the total construction works (i.e. including working areas beyond the footprint of the lakes and the bunds themselves) will be and how these areas relate to the boundary habitats. The retained buffer distances between the works and the existing habitats are not clear, and neither are the design/plans/levels/footprint for the newly profiled watercourse. The DAS (section 8.18) states that the proposal will also involve a full river restoration package which will include creation of a meandering channel, re-profiling of the river, creation of a two stage channel and channel pool and riffle sequences. This is not acknowledged or assessed in the ecology information.* *The plans and the ecological assessment need to demonstrate the areas of boundary habitat to be retained, unimpacted, and to clarify the buffer areas to be retained on these features. The extent of works to those areas should be confirmed, along with any impacts to species including reptiles. For example the Landscape Proposals plan refers to proposed planting of existing banks, renovation of hedgerows, and wildflower planting within the woodland and hedgerows. We note that the ecology report identifies that hedgerows on site are likely to be*

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	considered Important under the Hedgerow Regulations. Full surveys should be undertaken. *In addition the report states that the site is considered to offer negligible potential for Great Crested Newt (GCN) given the absence of any suitable aquatic habitat on or around the site. The report does not appear to be based on a recent data search from HBIC. However there are records in the wider area (both to the north and to the south) including a record 800 m to the north of the site. There is also a pond 200 m to the north of the site. This needs to be addressed in the ecological report as GCN may be present in this area.* *<u>Works to watercourse</u>* *We are unsure what the latest response from the EA is, and are not clear whether previous responses are based on known proposals for reconfiguring the watercourse (which is classified as a main river). We suggest that EA are reconsulted specifically with regards to the proposals for the works to the watercourse, which will presumably require EA consent.* *Subject to comments from EA, proposed works to the watercourse need to be confirmed, and the impacts of those works assessed. This should include (not exclusively) impacts to protected species (including reptiles), impacts on the watercourse habitat downstream (plus designated sites further downstream), the design of the watercourse to provide enhanced habitat, and presence and treatment of non-native, invasive species. The ecological report clearly states (section 4.6.2) that any alteration of the Bow Lake stream has the potential to impact directly on watervoles and otter. The long term proposals for protection of the watercourse (the ecological report recommends permanent post and rail fencing to avoid disturbance from informal human activity) also need to be clarified and shown on the plans.* *<u>Additional points</u>* *It is not clear what access around the ponds will be required, whether this will be hard surfaced or vegetation, and if the latter what the management of the vegetation will be. An indication of the proposed management of the landscape planting/seeding areas should be given.* *Clarification is required as to whether the existing site has potential to support foraging waders only, or whether these species may also use the site for breeding (this is not clear) - in which case what further mitigation measures are required in order to avoid impacts.* *I would suggest that clarification is required regarding the status of the off-site badger sett and whether works in the EBC part of the site will cause an offence.* *Clarification is required regarding recommended transplanting of turves and how this fits with proposed seeding etc.*
Env Health	I have reviewed the information submitted with the application and this Service has no objection in principle to the proposed development, neither do we wish to recommend any conditions.

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ENG	No objection in principle. As stated in the Design & Access Statement, the additional ponds are required to both grow and preserve the business in future years, providing increased volumes of fish for the market. In regard to the sites highway access, it is understood that this will be via the existing farm entrance, however it is not made clear in the application exactly where this is, or indeed if it is suitable for its purpose in regards to widths and visibility splays. Additional drawings will be required to demonstrate its accordance to standards (presuming access is in the EBC area not WCC). As a result of an increase in production, there will of course be an increase in associated multi-modal trip rates, and so in line with the HCC Transport Contributions Policy there will be a requirement for developer contributions to be paid to mitigate against the effects of development. Presuming access is taken from a highway within the EBC area (not WCC at which point it would be for them to request DC's), it is noted from the D&S Statement that 1 additional employee will be needed (Section 5.1) and that overall an additional 8 highway movements would be anticipated per day (section 8.21). In line with the HCC TCP, this would be calculated as follows: Additional Multimodal Trips: 8 per day HCC TCP Cost Per Trip: £230 Total Transport DC requested: £1,840 (+ indexation) It is not clear on access but I assume it is from Winchester Road so WCC would comment on highway aspects. The fish ponds do not appear to affect the public footpath in the vicinity within EBC area. HCC could be consulted as lead flood authority .
Archaeology	Thank you for consulting me regarding the above planning application. The site of proposed development is of considerable archaeological importance. The archaeological report submitted with the application sets out the significance of the site which should be considered to be of national importance. The pond on the proposal site was part of an extensive network of fishponds belonging to the Bishop of Winchester and attached to his manor at Marwell. These were famed at the time for their extent and use of advanced technology for water management. The site appears to have undergone little alteration since medieval times, although the medieval ponds have since dried up extensive earthworks remain and it is likely that there are also remains of structures associated with the management of water on the site in medieval times along with deposits that would preserve valuable information about the environment and nature of the ponds when they

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	were in use. It is the scale of the pond, its history and current excellent state of preservation that make this site of national significance. From the details submitted it appears that the proposed development will cause substantial loss of this heritage asset and therefore have a significant impact upon it. As such, in this instance, archaeology does present an overriding concern. The NPPF states that the planning system should seek to 'conserve heritage assets in a manor appropriate to their significance..'. Given that this heritage asset is arguably of national significance, in accordance with NPPF policy 139 although not currently nationally designated, the heritage asset should be considered subject to policies for designated heritage assets. NPPF policy 132 states that substantial harm or loss to such assets should be 'wholly exceptional'. Therefore in accordance with NPPF policy 133 I would advise that this application be refused on grounds of the impact to the heritage asset on the site. Although the landscape assessment submitted with the application acknowledges the presence of the medieval fishpond it does not seek to relate the proposed design of the modern fishponds to the medieval remains and does not set out how the ancient remains have been accomodated within and influenced the proposed design as encouraged by the NPPF. It may be that some use of the site as fishpond is possible but this would have to be carefully considered and led by consideration for historic fishpond on the site, its physical remains and its setting, the current application does not do this. Finally, given the proximity of the proposed development to the Scheduled Ancient Monument of the park pale and pond dam at the east of the site consideration should be given to the setting of this designated heritage asset and the view of English Heritage should be sought, if it has not been already.
Parish	Members raise no objection to the proposals, provided it meets all the technical requirements.
Southern Water	Please find attached a plan of the sewer records showing the approximate position of a foul sewer crossing the site. The exact position of the foul sewers must be determined on site by the applicant before the layout of the proposed development is finalised. Please note: No development or new tree planting should be located within 3 metres either side of the centreline of the foul sewer and all existing infrastructure should be protected during the course of construction works. The application details for this development indicate that the proposed means of surface water drainage for the site is via a watercourse/pond/lake. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposals to discharge surface water to the local watercourse/ pond/lake. Southern Water's current sewerage records do not show any public sewers to be crossing the above site. However, due to changes in legislation that came in to force on 1st October 2011

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	regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Atkins Ltd, Anglo St James House, 39A Southgate Street, Winchester, SO23 9EH (Tel 01962 858688).
WCC	Raise objection to the proposed development for the following reasons: 1. the proposed works would result in unacceptable harm to the former Eleven Acre Pond which has an important heritage value and would also adversely impact the setting and historic character of the adjacent scheduled monument. 2. the proposed works fail to respect the landscape character of the area. 3. insufficient information has been submitted, in the form of full and wide-ranging ecological surveys, to assess the impacts of the development upon nationally and locally designated nature conservation sites, protected species and wildlife habitats. In the absence of this information the application is unacceptable. As you are aware we are dealing with a corresponding application for the same works and this application is being recommended for refusal on the basis of the 3 points above.

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Adjacent Site of Scheduled Ancient Monument (Park Pale at Marwell, south of Fisher's Pond) Within Site of Archaeological Interest (site of former mediaeval fish pond and water management system known as Eleven Acre Pond) Within SINC (Fielders Farm – Meadows 2 and 3) Adjacent SINC (The Mount, Fair Oak and Horton Heath) Within EA Main River Buffer Within Flood Zone 2 and 3 Within Designated Countryside

DEVELOPMENT PLAN POLICIES

Eastleigh Borough Local Plan Review (2001-2011): 1.CO, 18.CO, 23.NC, 25.NC, 32.ES, 43.ES, 59.BE, 101.T, 166.LB, 167.LB, 191.IN.
Eastleigh Borough Local Plan 2011-2029 Draft October 2011: S1, S13, S15, S17, S21, DM1, DM2, DM6, DM7, DM10, DM25, DM26, DM27, DM32, DM33, DM46.
South East Plan: CC6, C4, NRM2, NRM4, NRM5, KTG6.

NATIONAL PLANNING POLICY GUIDANCE

National Planning Policy Framework -

Core Planning Principles (p5-6):
(para. 17) "*Contribute to conserving and enhancing the natural environment…*
Conserve heritage assets in a manner appropriate to their significance…"

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NATIONAL PLANNING POLICY GUIDANCE

Building a strong competitive economy (p6-7):
(para. 19) "*Planning should operate to encourage and not act as an impediment to sustainable growth.*"

Supporting a prosperous rural economy (p9):
(para.28) "*Promote the development and diversification of agricultural and other land-based rural businesses."*

Meeting the challenge of climate change, flooding and coastal change (p21-25:
(para. 103) "*when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere…*"

Conserving and enhancing the natural environment (p25-29):
(para.109) "*The planning system should contribute to and enhance the natural and local environment by:*
Protecting and enhancing valued landscapes, geological conservation interests and soils…
minimising impacts on biodiversity and providing net gains in biodiversity where possible… preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution."

(para. 118) "*proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest…should not normally be permitted."*

(para. 119) "*the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

Conserving and enhancing the historic environment (p30-32):
(para. 126) "(LPAs) *should recognise heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.*"

(para. 129) "*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal…taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.*"

(para. 132) "*significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting…Substantial harm to or loss of designated heritage asset of the highest significance, notably schedule monuments…should be wholly exceptional.*"

(para. 135) "*the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.*"

(para. 139) "*non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to schedule monuments, should be considered subject to the policies for designated heritage assets.*"

POLICY COMMENTARY

The above policies combine to form the criteria against which this application will be assessed with particular regard to ecology and biodiversity, designated and non-designated heritage assets,

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POLICY COMMENTARY

transportation, water quality, flooding, landscape character and amenity.

COMMENT ON CONSULTATION RESPONSES

See below.

COMMENT ON REPRESENTATIONS RECEIVED

n/a

PLANNING OBLIGATION/CONSIDERATIONS

As set out in the Transportation and Engineering consultation response, as a result of an increase in production, there will be an increase in associated multi-modal trip rates, and so in line with the HCC Transport Contributions Policy there will be a requirement for developer contributions to be paid to mitigate against the effects of development. Should access be solely via the part of the site in WCC district, DC's should have been sought by WCC. However, contributions have not been sought by WCC and no reason for refusal regarding the need for contributions has been given. Having been on site, it is apparent there is another existing access to this site which falls within Eastleigh borough which could potentially be used. It is therefore considered acceptable for EBC to seek the necessary contributions. However, due to the other issues which warrant refusal, agreement to pay contributions has not actively been sought from the applicant and will form an additional reason for refusal.

ASSESSMENT OF PROPOSAL

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

> *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

Principle of development:

Policy 1.CO of the adopted Local Plan Review 2001-2011 states that permission will not be granted for development outside the urban edge unless it is necessary for agricultural purposes, provided it meets the criteria of other policies in the plan. The relevant policy criteria relate to impacts on ecology and biodiversity; water quality; flooding; landscape character; heritage assets; transport and amenity. Policy S13 of the Eastleigh Borough Local Plan 2011-2029 October 2011 Draft, seeks to encourage uses that sustain or enable agriculture, and the positive management of the landscape and biodiversity. Policy DM10 prevents development in the countryside unless it relates to agriculture (amongst other uses).

Whilst the proposal relates to agricultural uses, which would in principle comply with policy, there are issues regarding other policy criteria that have not been met.

Ecology and Biodiversity:

The relevant Eastleigh Borough Local Plan 2001-2011 saved policies require development to take full and proper account of the context of the site including natural features and trees worthy of retention (59.BE) and not have a direct or indirect adverse affect on SINC (23.NC) or adversely affect a habitat or feature of importance for wild fauna or flora (25.NC).

The emerging Local Plan 2011-2029 (Draft October 2011) which carries some weight, has a number of policies which are relevant:

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S1 requires new development to maintain the local environmental quality, including avoiding damage to, and where possible enhancing the existing valued urban and rural environments in the borough, and its biodiversity.

S13 seeks to encourage uses in the countryside to contribute to the positive management of landscape and biodiversity.

S15 sets out the preferred approach of the Borough Council to protect, conserve and enhance areas subject to international, European, national and local nature conservation designations; and protect, conserve and enhance networks of natural habitats and features, including watercourses and trees and hedgerows important to biodiversity and local character.

DM1 requires development to not have an unacceptable impact on biodiversity; and not involve the loss of or damage to trees, woodland, hedgerows, ponds or other landscape features of value to the character of the area or for biodiversity unless they can be replaced with features of equivalent or enhanced value.

DM10 supports permitting new development related to agricultural in the countryside which secures long-term beneficial management practices that will enhance the landscape and biodiversity of the countryside.

DM25 states that development which is likely to adversely affect the integrity of an International or European nature conservation site will not be permitted.

DM26 states development which is likely to have a direct or indirect adverse effect on a SSSI, in this case, the River Itchen, will not be permitted unless the Council is satisfied the reasons for development clearly outweigh the harm to the nature conservation value of the site.

DM27 refers to local biodiversity interest, in this case, Fielders Farm SINC and The Mount, Fair Oak and Horton Heath SINC, and states development which is likely to have a direct or indirect adverse effect on a SINC will not be permitted unless the Council is satisfied the reasons for development clearly outweigh the need to safeguard the nature conservation value of the site.

The consultation response received from the Council's biodiversity officer is detailed and clearly sets out the deficiencies in the information provided. As such, there is insufficient information to adequately assess the impact on the adjacent SINC (The Mount, Fair Oak and Horton Heath SINC) and protected species, as set out in the consultation response. The submitted Ecological Assessment fails to recognise the southern part of the site as a SINC and concludes the main pasture on the site is of low value, and it is clear from the proposal drawings and information set out in the DAS that the existing SINC will be lost. No information has been submitted to justify the loss of this site of nature conservation interest. The proposals are therefore contrary to the above local plan policies.

With regard to trees, no objection has been raised by the Council's Arboricultural Officer subject to conditions being imposed. The Arboricultural Impact Appraisal Method Statement sets out protection measures that are considered sufficient to minimise any effect on retained trees.

<u>Water Quality:</u>

Policy 32.ES Local Plan Review 2001-2011 states proposals for uses which may generate water pollution will only be permitted if satisfied have been designed to control their impact to an acceptable level.

The emerging local plan policies S1 requires new development to have regard to local water resources, and the impacts of abstraction and discharges; and DM33 states that development will not be permitted which causes unacceptable environmental impacts through pollution of surface, underground or coastal waters.

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Whilst the Environment Agency have raised no objection subject to conditions and have granted licenses for abstraction from a borehole and discharge into Bow Lake, there is the potential for both these operations to impact on water quality and flow to the River Itchen SAC. The condition regarding details of the restoration of the Bow Lake watercourse may be acceptable with regards to the Environment Agency obligations, however the Council, as the competent authority for the Habitats Regulations assessment, would require this information prior to making a decision.

Habitats Regulations Assessment:

As set out in the consultation response regarding Habitats Regulations, a Habitats Regulations screening is required, due to the potential of the proposals to impact the integrity of the River Itchen SAC.

Under the Conservation of Habitats and Species Regulations 2010, Part 6, the Council as the competent authority must have an appropriate assessment of the implications for the European site in view of that site's conservation objections before giving any consent.

A person applying for any such consent must provide such information as the competent authority may reasonably require for the purposes of the assessment. The consulation response regarding this assessment refers to the additional information that needs to be submitted in order to carry out an adequate assessment of the proposals.

Whilst Natural England's consultation response states the proposal does not appear to affect any statutorily protected sites or landscapes, they go on to say that the lack of further comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment. It is the Council's responsibility as the competent authority to ensure the obligations set out in the Conservation of Habitats and Species Regulations 2010 to assess the impact of development on the protected site are carried out.

As such, following the precautionary approach, the application should be refused on the grounds of insufficient information.

Flooding:

The Eastleigh Borough Local Plan saved policy 43.ES states development will only be permitted within areas at risk of flooding where it does not harm the integrity or maintenance of a flood defence structure, or inhibit the maintenance of a watercourse for the purpose of minimising flood risk, or increase flood risks elsewhere.

In the emerging draft Local Plan 2011-2029, policy S17 seeks to avoid development in areas at risk of flooding, or where development would cause or worsen flooding elsewhere.

DM1 reinforces policy DM29 (sustainable construction) with regard to flood risk management; and DM32 states the development will not be permitted which causes or worsens flood risk elsewhere.

The Environment Agency have raised no objection to the proposals with regard to flooding subject to a pre-commencement condition being imposed regarding a scheme to provide compensatory floodplain storage. The proposal is therefore considered to comply with policy provided the necessary information is submitted and signed off to discharge the aforementioned condition, should permission be granted.

Landscape Character:

The Eastleigh Landscape Character Assessment was published in 2011 to update and improve upon the earlier assessment carried out in 1997. Whilst the earlier applications were not refused on the impact on landscape character, the updated landscape character assessment has been published since the last refusal and forms part of the policy background which this application must

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be assessed upon. As such, it is appropriate for this policy criterion to be considered.

Policy 18.CO of the Local Plan Review 2001-2011 does not permit development that has an adverse impact on intrinsic character of the landscape.

Policy DM1 of the emerging draft Local Plan 2011-2029 requires development to not have an unacceptable impact on the character and appearance of the countryside; to take full and proper account of the context of the site; and to not involve the loss of landscape features of value to the character of the area.

The proposed layout of the ponds covers the majority of the site and whilst it may not be considered visually intrusive, it would significantly alter the character of the land, identified in the Borough's Landscape Character Assessment, (Area 7), which states, "*The overall impression is one of a wooded, rural landscape with views provided of substantial woodland blocks, particularly in the west of the area*" and recognises one of the key characteristics of the area as the "*rectilinear pattern of small fields with good hedgerow trees*."

Heritage:

166.LB of the Local Plan Review 2001-2011 states that development which would destroy or damage, directly or indirectly a scheduled ancient monument or other nationally important monument, or adversely affect their settings, will be refused. Policy 167.LB states development which would adversely affect other non-scheduled sites of archaeological significance or their settings will only be permitted where the Borough Council is satisfied that preservation of archaeological remains in situ is not feasible and the importance of the development is sufficient to outweigh the value of the remains.

In the emerging draft local plan, policy DM1 requires new development to not have an unacceptable impact on built heritage and archaeology; DM6 states that development will not be permitted which would detract from the character or historic or archaeological value of historic landscapes and DM7 states that development that would directly or indirectly destroy or damage a Scheduled Ancient Monument or its setting will not be permitted.

The consultation response received from the Senior Achaeologist at Hampshire County Council raises significant objections to the proposals and as such, the proposal is considered contrary to the local plan policies.

A consultation response was not received from English Heritage, however they have responded to the consultation request sent by Winchester City Council, summarised in the case officer's report, and have recommended the application be refused.

Transport:

The relevant transportation policy in the Saved Local Plan, 101.T, requires development that results in additional traffic on the local road network greater than permitted levels of growth to be subject to the provision of contributions towards the implementation of the Local Transport Plan and/or other transport proposals. Policy 191.IN also relates to the provision of contributions to offset the impact of the proposed development.

S21 of the emerging draft Local Plan seeks to address local issues of road congestion through seeking developer investment in improvements to transport systems and policy DM46 requires all new development to contribute to off-site improvements to the transport infrastructure in accordance with Hampshire County Council's transport contributions policy.

As detailed above in the Planning Obligations/Considerations section, due to the increase in associated multi-modal trip rates, in line with the HCC Transport Contributions Policy, there will be a requirement for developer contributions to be paid to mitigate against the effects of development.

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Contributions have not been secured and so will form a reason for refusal.

Amenity:

Policy 59.BE of the Saved Local Plan requires development to take full and proper account of context of the site including character and appearance of the locality; appropriate use for the locality and avoid unduly disturbing adjoining or nearby uses, especially in terms of noise, loss of outlook. DM1 in the emerging Draft Local Plan also requires full and proper account of the context of the site.

It is not considered that there will be any harm to the amenity of nearby residents or the public realm.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The proposed development is considered to comply with policy criteria regarding trees, flooding and amenity subject to condition. However, is does not comply with policy criteria regarding ecology and biodiversity, landscape character, heritage assets and transport contributions. Insufficient information has also been provided to enable to the LPA to carry out a Habitats Regulations screening.

The application is therefore recommended for refusal.