

17th September 2025

REF: SSLT1001

Development Management
Eastleigh Borough Council
Eastleigh House
Upper Market St
Eastleigh
SO50 9YN

BY EMAIL

Dear Gary,

Response to Statutory and Non-Statutory Consultee Comments Submitted to the LPA in Respect of Planning Application O/25/99534 - Land at Denhams Corner, Snakemoor Lane, Eastleigh, SO32 2BW

We write on behalf of our client (the Applicant) to provide a comprehensive and singular response to the statutory and non-statutory comments submitted to the Council in connection with the above planning application. Our responses to each are detailed below accordingly in no particular order:

- Active Travel England;
- County Archaeologist;
- Southern Water;
- Environmental Protection;
- NHS ICB;
- HCC Countryside Services;
- Eastleigh Borough Council Landscape Officer;
- Eastleigh Borough Council Urban Design Officer;
- District Newt Officer;
- Eastleigh Borough Council Planning Policy Team;
- Environment Agency;
- Eastleigh Borough Council Ecologist;
- Hampshire County Council Highways Authority; and
- Lead Local Flood Authority (Hampshire County Council).

At the time of writing, it is understood that the following consultee comments are yet to be received by the LPA:

- Southampton Airport Safeguarding Team;
- Eastleigh Borough Council Housing Specialists (Affordable Housing);
- Eastleigh Borough Council Tree Officer;
- Southern Gas Network; and
- Hampshire County Council Children's Services (Education Dept).

Active Travel England

We note the comments from Active Travel England directing the LPA towards Active Travel England's standing advice. We agree that this should be considered accordingly.

County Archaeologist

We note that the County Archaeologist endorses the assessments submitted with regard to archaeology and we welcome this. The recommendations with respect to planning conditions are acknowledged and we would be pleased to agree these conditions with Officers, subject to reviewing the final condition wording.

Southern Water

Southern Water's comments indicate there may not be adequate capacity within the foul sewerage network to accommodate the proposed development. Provisions within the Water Industry Act 1991 and subsequent case law place upon sewerage undertakers a statutory duty to provide and maintain an effective system of public sewers to ensure that new domestic development can be connected. Accordingly, it is not open to a water company to refuse connection on the grounds of capacity and it therefore does not comprise a valid reason to resist or delay planning permission.

Where regulatory control regimes overlap, an LPA is entitled to place reliance upon the effective operation of the other regulatory regime(s) in determining an application for planning permission: *Gateshead MBC v Secretary of State* [1995] Env LR 37, pp43-44. This does not mean that it can simply ignore the issues in question; rather, it must "assess them sufficiently so as to be able to satisfy itself that the other regulatory regime is capable of regulating the relevant issued. If it is not satisfied, then consent must be refused. The existence of the other regulatory regime is a material planning consideration, to be weighed in the balance": *Vanbrugh Court Residents' Association v London Borough of Lambeth* [2022] EWHC 1207 (Admin) at [23].

This principle is reflected in the NPPF at [201]:

"The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."

The regulation of water companies as sewerage undertakers is a complex area of law. An overarching framework is contained in the judgment of Holgate J (as he then was) in *R (WildFish Conservation) v Secretary of State for Environment, Food and Rural Affairs* [2024] Env LR 15 at [30]-[89].

In short, Southern Water is a sewerage undertaker under the Water Industry Act 1991 ("WIA 1991"). Complementing the WIA 1991 framework is also the environmental permitting framework under the Environmental Permitting (England and Wales) Regulations 2016, with Schedule 21 applying to water discharge activities, which are regulated by the Environment Agency. Part IV of the WIA 1991 contains a comprehensive suite of provisions regulating sewerage undertakers, which are subject to enforcement powers of both Ofwat and the Secretary of State contained in Chapter II of Part II. Crucially, s. 94 contains a general duty to provide a sewerage system, as amplified by the Urban Waste Water Treatment (England and Wales) Regulations 1994.

Section 94A imposes an obligation on sewerage undertakers to prepare and maintain drainage and sewerage management plans, which “*is a plan for how the sewerage undertaker will manage and develop its drainage system and sewerage system so as to be able, and continue to be able, to meet its obligations under this Part*”: s. 94A(2). It must address, inter alia, “*an assessment of the ... future demands on the undertaker’s drainage and sewerage system*” and the “*measures*” it “*intends to take or continue*” for the purpose in s. 94A(2), including the timing of those measures. The Secretary of State has oversight of these plans: see generally ss. 94A-94E.

The remainder of Southern Water’s comments are in relation to the proposed SuDS features and tree planting and are of an advisory nature. We welcome the advice set out by Southern Water, and it shall be considered as the proposals progress at Reserved Matters stages.

Regarding the pre-commencement condition requested in respect of advising the Local Authority of landscaping proposals (in order to protect public apparatus from tree planting), we will be pleased to accept a suitably worded condition of this nature, subject to agreeing the final wording.

Environmental Protection

The comments received from Eastleigh Borough Council’s Environmental Protection Officer, in relation to both air quality and noise have been reviewed in detail by Hawkins Environmental.

In response, an updated Air Quality Assessment and a written response with regard to noise, were submitted to the LPA on the 7th of July. These are attached at Appendices 1 & 2. At the time of writing, we are yet to receive an updated comment from Officers.

NHS Hampshire and Isle of Wight ICB

The comments made by the NHS Hampshire and Isle of Wight ICB request relevant financial contributions in order to mitigate potential relevant impacts of the proposed development. Whilst the applicant supports and agree with the principle of providing a financial contribution in support of primary care provision, we query some of the assumptions made in calculating the requested sum.

A separate and detailed formal response to these comments is provided at Appendix 3. In essence, we advise that persons who would move into the affordable housing proposed would be taken off of the Council’s housing register, and whom the Council will know already live in the Borough of Eastleigh, and typically living with family members or in cramped conditions; as such they are already using health facilities in the Borough.

HCC Countryside Services

We note that HCC Countryside Services raise no objection to the proposals, provided a suitable financial contribution is secured regarding surfacing improvements, repairs/replacement of structures and general maintenance on the relevant section of Fair Oak and Horton Heath Footpath 719 in Scorey’s Copse.

Following review of HCC Countryside Services comments and contribution request, the applicant will be pleased to agree this in principle, subject to specific wording agreed within any s106 agreement.

Furthermore, it is our view that such a contribution towards improving the route through Scorey’s Copse will reduce any perceived adverse ecological impacts and provide betterment beyond the current situation. As part of an unconnected programme of pedestrian improvements, the Council recently enhanced pedestrian access to Scorey’s Copse with installation of a new boardwalk at its western entrance on Botley Road, thereby encouraging footfall and recreational use of the wood. The applicant’s financial contribution would facilitate improvements and ongoing maintenance of the footpath throughout the copse, thereby encouraging users to remain on the designated public right of way and reducing the risk (that exists at

present) of disturbance to more ecologically sensitive areas. This is a point made by the Countryside Services Officer in his email to the Case Officer of 30th July.

Eastleigh Borough Council Landscape Officer

Upon review of the Landscape Officer's comments, we set out our response here.

Firstly, it is noted that no objection is raised on the grounds of landscape impact. It is acknowledged however, that the comments mention an 'in principle objection' due to the site's location outside of a defined settlement boundary; this however and in our view, is a matter for planning officers to consider and not the Council's Landscape specialist. The settlement boundary is not a landscape feature, it does not exist on the ground, it is a line on a plan that was created at a time when the local housing needs were substantially less.

The comments accept '*that the LVIA is a fair assessment of the likely landscape and visual impacts*', and that the LVIA is '*reasonably comprehensive*' and appears '*to cover most probable viewpoints*'. Notwithstanding this, the comments raise the more typical differences in professional judgement related to the level of landscape and visual impacts. It is also mentioned that viewpoints from Durley Road and Stapleford Lane could be included within the assessment, though the comments do not go very far in explaining why such viewpoints are needed; the submitted LVIA already confirms that the site is not visible from Durley Road or Stapleford Lane. This is also disappointing as the viewpoints presented within the submitted LVIA were agreed as part of an earlier consultation process with Officers. We also note that the Landscape Officer's comments admit that they have not undertaken a site visit.

A number of comments are also made regarding the illustrative masterplan itself, in relation to tree planting. In response to this, yes, more trees '*could*' be proposed within the site, though this would likely impact other areas of the masterplan, which at this stage is illustrative. In our view, such detailed matters can be dealt with via a future Reserved Matters application. Notwithstanding this, in our view, the illustrative masterplan as submitted demonstrates an acceptable level of tree planting, such that is achievable within the proposed parameters. It is also important to highlight that based upon the current proposals, on site there is a biodiversity net gain of 41.12% in habitats (or 10.35 habitat units) and a net gain of 31.75% in linear habitats (or 1.39 hedgerow units) as well as the trading rules are satisfied; this is as confirmed in the submitted Biodiversity Assessment, Management & Monitoring Plan originally submitted with the application.

Lastly, some concern is raised regarding the proposed new footpath through existing woodland. We note the concern, but footpaths through woodland is considered to be a common arrangement, and for example, Eastleigh Borough Council's own scheme at One Horton Heath includes an almost identical arrangement. On this specific point, pre-application site visits were held between the applicant's arboricultural consultant and the Council's Tree Officer, Chris Stringer, (on 13/03/25) and the applicant's ecology consultant and the Council's ecologist, Paul Howe, (on 14/04/25). In both instances agreement was reached that it would be possible to establish a walkway link to the B3354 via the subject area.

Based upon the above, and due to a lack of fundamental objection on landscape grounds within the comments received, the applicant sees no need to formally update the submitted LVIA and indeed the illustrative masterplan.

Eastleigh Borough Council Urban Design Officer

In a similar vein to the Landscape comments discussed above, it is welcomed that no specific objection is raised on Urban Design grounds. Again, it is noted that an 'in principle objection' is raised, due to the site's location outside of a defined settlement boundary; this however and in our view, is a matter for planning officers to consider.

In respect of the various observations and professional suggestions, the applicant has considered alongside the project architect and has increased the buffer to Snakemoor Lane to 8m. An accompanying 'Views Study', updated parameter plans, and the requested cross-sections are provided at Appendix 4. Combined these demonstrate how the proposal can be integrated successfully into the wider setting.

District Newt Officer

We note the comments received from the District Newt Officer at Nature Space and that no objection is raised. Clarification regarding the location of a water body is requested and this is addressed within the Ecology Addendum report prepared by EcoSupport at Appendix 5.

Eastleigh Borough Council Planning Policy Team

In response to the comments received from the Policy Team, we would largely refer Officers back to our submitted stage 1 five year supply assessment. However, we would reiterate and highlight the following.

The comments are generally fairly limited in scope and appear to seek to skirt over any consequences of a lack of supply; it simply acknowledges that the tilted balance is engaged but states that (in the view of the Policy team) the policy conflict harms of development outside of the settlement boundary outweigh the benefits of the proposals. Arguably this strays into the remit of the case officer in terms of overall planning balance and policy conflict.

Based on the Council's published position (which we dispute) there is currently a shortfall in housing delivery of circa 684 homes for the period 2024/25 to 2028/29. As set out in the assessment of supply provided with the application in a report dated May 2025, we are of the opinion that the actual supply position is significantly less than the 4.1 years claimed.

Several sites are included in the projected supply that do not have detailed consent and where there is a lack of clear evidence that completions will begin within five years. It is clear that there are elements of the supply which do not meet the requisite NPPF definition of being 'deliverable' (and, therefore are not suitable for inclusion in the claimed supply without the requisite clear evidence) or where unrealistic deliverability assumptions have been applied to sites included in the supply. Our assessment of the current supply position (as at May 2025) is that the actual position is closer to circa 2.81 years, a shortfall of 1,676 homes.

Clearly, on either the Council's position, or our own assessment, there is currently a lack of housing land supply. The shortfall is serious and significant and should be taken into consideration when determining planning applications. In line with paragraph 11 of the NPPF, the presumption in favour of sustainable development should apply to decision taking, and permission for the proposed development should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits. This is a high bar for any adverse impacts to have to reach, and in the current context of Eastleigh, the benefits relating to the delivery of much needed market and affordable housing should be attributed substantial weight in the planning balance.

It is acknowledged that the current development plan was adopted in April 2022 (and is therefore less than 5 years old) and as a consequence the housing requirement within it should ordinarily be used for calculating five year housing land supply. However, we consider it relevant to take into consideration the actual likely current level of housing need in the Borough, based on the latest available information.

The standard methodology for calculating local housing need (LHN) was updated in December 2024, the latest LHN for Eastleigh is 920 homes per annum. This is circa 26% increase from the adopted annual requirement of 729 homes. If the Council's claimed deliverable supply were tested against this up-to-date need figure, the supply would be just 3.26 years, a shortfall of 1,687 homes.

In addition, paragraph 78 (c) of the NPPF is clear that, from 1 July 2026 (for the purposes of decision making) a 20% buffer should be applied to the supply calculation where an up-to-date housing requirement (adopted in the last 5 years) is 80% or less than the most up to date LHN. This applies to Eastleigh, where the adopted requirement is just 79% of the current LHN. If a 20% buffer is applied to the Council's current claimed supply position this equates to a supply of 3.6 years, a shortfall of 1,231 homes.

Finally, we are aware of the plans for local government reorganisation and EBC's cited preference to merge with Southampton City Council. At present there is significant unmet housing need within the Southampton area which the authority is not likely to be able to meet within its boundaries because it is almost entirely developed. As a consequence, Eastleigh will need to consider how it can accommodate the housing needs of the combined Southampton and Eastleigh authority. This merger will put further upward pressure on the housing target for Eastleigh in the medium term.

Overall, whilst the Council admit there is currently a shortfall in housing delivery, our view is that the shortfall is greater than claimed. Court judgments have confirmed that the extent of a housing land supply shortfall is relevant to the determination of the weight one gives to relevant policies and to the benefits of housing delivery (of particular relevance is *Hallam Land v. SSCLG* [2018] EWCA Civ 1808 and *Gladman v SoS for Communities and Local Government* [2019] EWHC 128).

In addition, the context here is one where the actual current levels of housing need are significantly above the levels planned for in the adopted development plan, and as of July 2026 the supply position will worsen still even on the Council's own figures given the need to include a 20% buffer in the calculation.

There is clearly a serious and significant shortfall in the supply of homes within the Borough and the Council should take positive action to address this both for the current monitoring period and to ensure a deliverable supply going forward

Environment Agency

We note and welcome the Environment Agencies no objection to the proposals.

Eastleigh Borough Council Ecologist

EcoSupport have reviewed the comments provided by the Council's Ecologist and have prepared a formal addendum to the submitted Ecology report to provide clarity on the matters raised.

Please refer to Appendix 5.

Hampshire County Council Highways Authority

DTA have reviewed the comments received in this respect in detail. A formal response including the additional information requested is provided at Appendix 6.

Lead Local Flood Authority (Hampshire County Council)

We note and welcome confirmation that the LLFA's raises no objection.

We would welcome the opportunity to discuss the contents of this letter with you at your earliest convenience.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Daniel Wiseman', with a long horizontal stroke extending to the right.

Daniel Wiseman
Senior Director