



Appeal Decision

Hearing held on 3 March 2026

Site visits made on 2 March 2026 and 1 May 2026

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2026

Appeal A Ref: 6001075

Land East of Lower Pennington Lane, Lymington SO41 8AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Cicero Estates against the decision of New Forest District Council (NFDC).
 - The application Ref is 22/11424.
 - The development proposed is erection of up to 82 no. dwellings, including access, highways work, public open space (POS), alternative natural recreational greenspace (ANRG), landscaping and drainage attenuation (outline application with details of access and layout only).
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Appeal B Ref: 6001076

Land East of Lower Pennington Lane, Lymington SO41 8AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Cicero Estates against the decision of New Forest National Park Authority (NFNPA).
 - The application Ref is 22/01024OUT.
 - The development proposed is access; attenuation basin; associated works and landscaping relating to New Forest District Council Strategic Housing Allocation reference SS6.
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Decisions

1. Appeal A is allowed and planning permission is granted for erection of up to 82 no. dwellings, including access, highways works, public open space (POS), alternative natural recreational greenspace (ANRG), landscaping and drainage attenuation (outline application with details of Access and Layout only) at Land East of Lower Pennington Lane, Lymington, SO41 8AN, in accordance with the terms of the application, Ref 22/11424, subject to the conditions in the attached schedule.
2. Appeal B is allowed and planning permission is granted for access; attenuation basin; associated works and landscaping relating to New Forest District Council Strategic Housing Allocation reference SS6 at Land East of Lower Pennington Lane, Lymington, SO41 8AN, in accordance with the terms of the application, Ref 22/01024OUT, subject to the conditions in the attached schedule.

Applications for costs

3. Applications for costs were made by the appellant against both NFDC and NFNPA. These applications will be the subject of separate decisions.

Preliminary Matters

4. Both Appeals A and B were made in outline form with detailed access and layout with scale, appearance and landscaping reserved for future consideration. As such, I have treated plans depicting the reserved aspects as largely illustrative.
5. The appeal site for Appeal A within the NFDC administrative area extends to c.5.58 hectares. The site area for Appeal B within the NFNPA administrative area extends to a further c.1.68 hectares of land. The appeals have been considered as part of a conjoined hearing and I have issued a single combined decision notice.
6. A Case Management Conference (CMC) was held on the 3 December 2025 with representatives of the appellant, NFDC and NFNPA. Procedural matters and evidence submission deadlines were discussed during the CMC, but the merits of the proposals were not.
7. Statements of Common Ground (SoCGs) agreed between the appellant, NFDC and NFNPA, Hampshire County Council as Local Highways Authority (LHA) and Lead Local Flood Authority were submitted in connection with the appeals. The SoCGs indicate that neither NFDC or NFNPA would defend reasons for refusal relating to highways or drainage. Thus, by the time of the hearing, the main issue between the appellant and NFDC in respect of Appeal A was whether the scheme would constitute high quality design¹. Appeal B had been refused for a lack of justification for the development in the absence of approval by NFDC for Appeal A and for the absence of a S106.
8. I undertook familiarisation site visits prior to the opening of the hearing. The hearing was opened on the 3 March 2026 but was adjourned to allow further consideration of the planning obligation. On receipt of the revised substantive draft S106 and a related SoCG between the parties, the hearing was closed in writing and the appeal procedure was changed to allow an exchange of written representations on the new information. An accompanied site visit was also undertaken on the 1 May 2026.
9. The *Lymington and Pennington Neighbourhood Plan* (LPNP) was formally made by NFDC on the 26 February 2026 and by the NFNPA on the 26 March 2026. I have taken account of the change in status in reaching my decision.
10. The site for consideration under Appeal A is allocated under *Strategic Sites Policy S6 (Policy SS6) – Land east of Lower Pennington Lane within the New Forest District Local Plan (2016 – 2036) Part 1: Planning Strategy* (adopted 2020) (LPP1). The appeal site forms approximately 75% of the allocation site which was for at least 100 homes, with reference to a *Strategic Sites Masterplanning Supplementary Planning Document* (Strategic Sites SPD) (2018). Part of the allocation site to the north-west of the appeal site is under a separate application² for the construction of 30 dwellings (26 in detail and outline for 4 custom builds).
11. A final engrossed S106 agreement, dated 2 June 2026, was received on the same date.

¹ Reason for refusal 10 of decision Ref 22/11424 of NFDC

² Under reference 24/10401 with a positive recommendation for approval at the time of writing

Main Issues

12. The main issue in respect of Appeal A is whether the scheme constitutes high quality design.
13. The main issue in respect of Appeal B is whether adequate justification exists for the proposed development.

Reasons

Appeal A - Design

14. The appeal site adjoins existing residential development at Forest Gardens and Longford. To the north and north-west are established residential areas in Lymington and Pennington. To the east, the appeal site adjoins residential development fronting Ridgeway Lane and Woodside Recreation Ground is on the eastern side of the same. To the west, the appeal site adjoins Oakhaven Hospice and beyond that, is the balance of the allocation site and established residential dwellings fronting Lower Pennington Lane. To the south, the appeal site adjoins open agricultural land.
15. The topography of the area is relatively gently sloping from north down to the south. There are also two public rights of way (PROWS) that cross the appeal site which would be diverted along new alignments within the development, subject to separate consents.
16. The area within which the appeal site lies has a high proportion of detached housing set within spacious grounds built along Lower Pennington and Ridgeway Lanes. There are a number of cul-de-sac developments accessed from the Lanes which have a bearing on the overall density of built form, but the mixed character appears to be more greatly influenced by larger homes and a low building density.
17. The appeal site forms a part of the allocated site which was to receive *at least* 100 dwellings under LPP1 Policy SS6. Whilst the wording of the Policy is specific to '*at least 100 homes*' rather than 'approximately' or 'around', the preamble to the policy notes that the capacity of the site was to be subject of detailed testing at application stage to deliver a well-designed extension that respects the low density and rural edge character of the locality. It also sought the provision of public open space, including a central greenspace to act as a focal point. Consideration of the relationship of the proposal with Oakhaven Hospice was also required, in order to protect the Hospice's tranquillity, privacy and security, whilst also securing appropriate access and additional visitor car parking.
18. The appeal proposal would provide a centralised extensive area of greenspace that would meet the requirement to provide a focal point and softer transition to the open countryside of the adjoining New Forest National Park. This would be a greatly successful component of the scheme. The terraces and linear arrangements of dwellings immediately surrounding the greenspace would address the central open space positively. The development would also comprise other areas of interlinked POS and a simple, legible street hierarchy of primary and secondary routes.
19. The issue of the point of connection of Footpath 10 between the appeal scheme and the planned development to the north-west is capable of being resolved through reserved matters application/s for landscaping. Full surveillance of this

PROW would not be granted with the path connected as shown on the plans, but it can be optimised to ensure that the path fully connects seamlessly between the two developments and where informal surveillance opportunities are maximised.

20. The proposal would include a number of detached houses adjoining the eastern boundary of the Hospice. This land is largely currently occupied by an operational commercial nursery that generates some vehicle movements and activities by staff and visiting members of the public. By siting larger, detached dwellings here, the potential for disruption has been minimised by design. A vegetated buffer strip would also be sited adjacent to the Hospice boundary which would not be owned by the respective homeowners so as to ensure its protection in perpetuity. In addition, the proposal would formalise and maintain the car parking along the access road to the Hospice, and provide a further car park with management secured in perpetuity through the S106 agreement. The provision of an overall net increase in parking would be a modest overall benefit of the scheme.
21. The balance of the allocation site has received permission for 30 dwellings including terraces, semi-detached houses and a block of flats within a cul-de-sac layout. The SoCG notes that the overall density of this other part of SS6 would be 14.9 dwellings per hectare (dph), though around 26dph excluding the open space. The 82 proposed dwellings, added to the 30 planned for the balance of the SS6 site would exceed the expectation to provide 'at least' 100 dwellings by 12 dwellings. In respect of how this translates to density, the SoCG notes that the gross density of the appeal development would be 14.7dph based on the NFDC site area (5.58ha) with the areas of POS and ANRG of 2.54ha included. If the POS and ANRG areas are deducted, the density would increase to around 27dph.
22. However, these broad density figures do not reflect that some pockets of the scheme would absorb the densities at the higher end of the range when compared to other lower density areas such as those near Oakhaven Hospice and immediately surrounding the ANRG and POS.
23. Whilst there are already some sharp contrasts between densities of built development in the wider area noted in the *Lymington Local Distinctiveness Supplementary Planning Document* (2011) (LLD SPD), such as at the north of the junction of Lower Pennington Lane and Fox Pond Lane, the inclusion of higher concentrations of smaller houses would result in more abrupt transitions between low and high density pockets of development. These effects would not be entirely diminished by the combination of smaller house types into single building blocks to give the appearance of larger house types. The boundary divisions, associated vehicles and residential paraphernalia would still give the overall impression of a higher than typical density for the area. Nonetheless, the proposal would achieve adequate separation distances to existing dwellings so as to avoid harms to the living conditions of neighbouring occupiers.
24. Taking the above factors together, in achieving the 'at least 100 dwellings', some variance from the locally distinctive built densities was inevitable. The exceedance of the anticipated 100 dwellings by a further 12 dwellings would intensify the issue of the abrupt density changes in some areas. However, the appeal scheme would not directly front onto or be particularly visible from either of these Lanes or detract from their specific distinctive characters. The scheme on the other part of the SS6 site would take a similar approach with the most publicly facing aspects set in a meandering, lower density arrangement and with a flatted block set in the less

publicly visible parts of the site. There are also far fewer local precedents for flatted blocks so the achievement of such a modest density on this part of SS6 is down to the inclusion of an abrupt density change of a slightly different character.

25. I have given due regard to the submitted *Landscape and Visual Impact Assessment* (LVIA) which NFDC allege has underplayed the impacts of the development. My view is that the multiple instances of significance towards the major end of the spectrum of harm would be expected from a scheme of at least 100 dwellings on the appeal site within the context of a sensitive landscape with PROWs and would not result directly from pockets of higher density development.
26. I have also noted the concerns about the effects of the offsite highway features, such as localised resurfacing, build outs and widened areas, and how they would undermine the distinctive rural character of the Lanes. Whilst such features are to be considered in greater detail under separate applications made under the Highways Act 1980, the anticipated scale and nature of the changes involved would be relatively modest and would enable the development to proceed in highway terms without materially harming the character of the Lanes.
27. As such, when taken as a whole, the development would have its own positive character. It would contain a range of housing types and sizes with areas of publicly accessible greenspace that would benefit the local area more than a further injection of large dwellings set in generous privately-owned gardens. The relationship of the development with Oakhaven Hospice, neighbouring dwellings and its effects on the network of Lanes would also be satisfactory.
28. Overall, it would meet the terms of LPP1 policy SS6 in terms of being adequately respectful of the low density and rural edge character of the locality and surrounding properties. Therefore, subject to further consideration of scale, appearance and landscaping at future reserved matters stages, the scheme would comprise high quality design that complies with, in particular, policy SS6 and ENV3 of LPP1, and policy LP6 of the LPNP, including the LLD SPD. These policies collectively seek to ensure that new development should achieve high quality design that contributes positively to local distinctiveness.

Appeal B – Justification

29. The highways and drainage considerations relating to Appeal B have been resolved through liaison with the relevant consultees and as per the agreement within the SoCG between the appellant and NFNPA. There are no other unresolved technical objections to the provision of other associated areas of ANRG, POS or other components of the Appeal B scheme.
30. The proposal would be necessary to facilitate the holistic provision of the development under Appeal A within the NFDC area and envisaged under an allocation policy under NFDC LPP1 Policy SS6. Therefore, the development of an area of around 1.7ha of land within the New Forest National Park flows from its relationship with the scheme under Appeal A. Nevertheless, the scheme under Appeal B would not comprise elements that would conflict with the requirement to further the purposes of the New Forest National Park. No other harms have been identified that would raise direct conflict with policies of the *New Forest National Park Authority Local Plan 2016-2036* (NFNPA Local Plan) either.

31. In view of the above, subject to planning conditions and a S106, adequate justification exists for the proposed development when considered in the context of the NFNPA Local Plan and other material considerations, including its relationship with the wider scheme under Appeal A.

Other Considerations

32. It is accepted by NFDC that it cannot demonstrate a minimum five year supply of housing land with necessary buffer as required by the *National Planning Policy Framework* (the Framework). It is common ground between the appellant and NFDC that the supply stands at around 1.53 years relating to the period 2025/26 to 2029/30³. This translates to a substantial shortfall of over 5,000 dwellings. The parties therefore agree that the provisions of Framework paragraph 11d) are engaged and that there are no strong reasons for refusal as defined in paragraph 11d) i) and footnote 7.
33. NFDC's evidence details that whilst the proposal would not affect the significance of any designated heritage assets, the proposal would result in minor harm to the setting and thus significance of Oakhaven Hospice as a non-designated heritage asset (NDHA). I find no reason to reach different conclusions in these regards. Framework paragraph 216 sets out that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The harms to Oakhaven Hospice as an NDHA would be at the lower end of the scale of such harm and would be clearly outweighed by the delivery of 82 dwellings of mixed tenures and associated areas of open space and ANRG. I return to this in the overall planning balance below.
34. Wood End House is a grade II listed building that lies over 80m to the south-east on Ridgeway Lane. It is acknowledged that the widening and alterations around the site access would result in loss of vegetation and a change to the character of the setting which would result in harm to the building's setting. Under the terms of paragraph 215 of the Framework, this harm to its setting and thus its significance would be of a lower level of less than substantial harm and would clearly be outweighed by the public benefits of securing 82 dwellings of mixed tenures with associated ANRG, POS and ecological enhancements.
35. Whilst the appeal site was largely removed from the *Southwest Hampshire Green Belt* (SWHGB) through the adoption of the allocation policy S66 under LPP1, part of the site intended to accommodate the revised access route from Lower Pennington Lane remains within the SWHGB. In terms of the elements of the proposal specifically within the SWHGB, it would comprise only engineered access features and landscaping rather than any buildings or volumetric additions. As such, it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.

Matters Raised by Third Parties

36. I have taken into account the high number of representations submitted in connection with the appeal scheme beyond the issues considered above. Given that many of the comments reiterate certain points, I have grouped them by theme below.

³ as of August 2025

Highways

37. Many correspondents, including the Town Council and locally elected representatives, outline concerns that the highway environment is impractical to accommodate the nature and number of movements that would be generated by the proposal, i.e. cars, vehicle deliveries, cyclists and pedestrians associated with 82 dwellings. I have also noted that the area can often get congested around weekend sporting events held locally when insufficient parking is available for all attendees.
38. I have considered the nature of Lower Pennington and Ridgeway Lanes, their constrained widths in places, the drainage ditches, limited streetlighting and absence of centre markings in narrowed sections and the lack of pedestrian and cyclist segregation on some sections where alternative routes would not be provided. Where alterations would be made to widen the Lanes, particularly at the points of access, including through some tree removals, there would be a degree of compromise to their rural character, including around the junction of Poles Lane. These works, are however, capable of being made within land owned by the appellant or on highway-owned land.
39. However, the consideration of the policy allocation SS6 as part of LPP1 will have taken account of the specific location of the site relative to local facilities and the nature of the roads and connections for drivers, pedestrians and cyclists, including via Fox Pond Lane. The informal shared surface nature of the Lanes due to the high recreational use and lack of separation between vehicles and other road users is an obvious feature of the lanes.
40. The adopted Policy basis for development of the site at around the scale proposed has been established since 2020, prior to the adoption of the LPNP. There is no cogent evidence before me to indicate that the relative safety of the local highway environment has materially deteriorated since the allocation policy SS6 was adopted. The potential for a degree of adverse impact on the way in which the Lanes are used for recreational purposes would have been expected with the increase in vehicular movements associated with a policy allocation for at least 100 houses. The adaptations to the Lanes would aim to strike the balance between making it safe for existing and future occupiers to make purposeful and recreational journeys along the Lanes, with the addition of vehicular traffic associated with SS6, whilst maintaining as much of the Lanes' rural character as possible. It does this through providing two vehicular access route options providing access/egress to the site which would spread the movements of pedestrians, cyclists and vehicles.
41. I do note that the LPNP includes policies LP9 and LP10 which seek to secure a safer network of Lanes and promote active and healthy travel options respectively. However, these policies cannot strictly preclude the development of SS6 which forms part of a policy document, LPP1, with which the LPNP is required to be in broad conformity so as to be capable of forming part of the development plan. The absence of objections from the LHA attracts substantial weight and though I note that there would be a degree of change to the Lanes, both in terms of number of movements and some degree of alteration, these would not raise conflict with more recently adopted LPNP policies LP9 or LP10.

42. In terms of the deliverability of the footpath connections through Woodside Park and Forest Gate Gardens, a contribution is to be made to facilitate the provision of these links and to provide their future maintenance. A Statement of Common Ground (2020 SoCG)⁴ exists to support the acceptance of these links in principle and NFDC is to receive the contribution to direct them towards these aspects, passing such contributions to the Town Council through existing processes outside of the S106. The appellant, NFDC and NFNPA have provided for them within the S106 and there is a clear intent for them to be delivered through the contributions.
43. The Town Council is not a signatory to the S106 and has more recently indicated its ability to renege on the 2020 SoCG to resist the footpath links being made. Questions were also raised about the suitability of the management contributions (calculated at 5% of the total costs of each respective package of works).
44. To resist the implementation of these links could undermine the desire expressed in the LPNP to promote active travel and reduce traffic on the Lanes (in the context of allocations policies to which the LPNP must have had due regard) and more residents may be inclined to travel by vehicle with modest additional increase in vehicular movements instead. Whilst a poorer planning outcome would result if the pedestrian links were not realised in full, in my view, the scheme is not wholly reliant on these footpath links to achieve a satisfactorily safe highway environment. Future residents would still be able to access the Lanes, Woodside Gardens (without a fully connected path) and other footpath links to walk should they wish to do so. Similarly, I accept that the links, if fully implemented, would need to be maintained, but do not consider that cogent evidence has been provided to indicate that the 5% of the total costs of works would be insufficient.
45. The LHA had indicated its lack of objection, subject to conditions, to the proposed accesses to the site and the internal access roads insofar as swept path analyses had indicated that they would operate capably. I see no need to resist this matter as one of detail at this stage. Similarly, notwithstanding my view on the pedestrian links through Forest Gate Gardens and Woodside Park, the principle and overview details of offsite highway works had been considered suitable and a Section 278 application was recommended as the means by which to consider the details of these aspects. The *Walking, Cycling and Horse-Riding Assessment* proposed a package of cycle and pedestrian access works which have been taken forward for inclusion within the S106 to enhance the ability of residents to walk or cycle to facilities in Pennington or Lymington in the context of the highway network.
46. Overall, the network of Lanes is an accepted constraint to the development of the area but the scale of the scheme, even exceeding the allocation target of 100 dwellings by a further 12 dwellings, would not be excessive in relation to their ability to support additional vehicle movements. The number of movements by vehicle and holistic package of measures to improve the local highway network for vehicles, cyclists and pedestrians would ensure that the safety of the highway environment would not be prejudiced by the proposal. The LHA does not offer a contrary view and I attribute this significant weight. Other mitigation measures to be secured by condition include a Construction Traffic Management Plan (CTMP) and travel plan, the latter of which could support the shift from car to non-car modes of travel.

⁴ Hearing Document 2

Oakhaven Hospice

47. In terms of the requests from Oakhaven to have the additional car park and areas between it and the development transferred to its ownership, this is not something that can be demanded through the planning process. The specific requirements of Policy SS6 would be secured through the development by way of conditions and S106 and not strictly through the receipt of land transferred into its ownership.
48. In terms of the manner in which car parking is managed by the S106, the Policy requirement indicates that the parking is to provide for visitors to the Hospice. It is clear that there would be a need to ensure that the available spaces were used strictly in connection with the Hospice, rather than by residents of the appeal proposal or their visitors. However, the term 'visitor' would not preclude any volunteers or staff members from using the car parking facilities in association with the Hospice provided a means of identifying their vehicles as such were provided.

Other Points Raised

49. A number of points have been raised concerning the lack of capacity at local doctors, dentists and schools to support any new residents. Local infrastructure providers of at least GP and education provision have provided comments to the effect that they could accommodate the new residents from the development without the need to seek contributions to commensurately increase capacity.
50. I have considered the representations that highlight that the allocation policy is not equivalent to a planning permission and that the increase of the site size beyond the land within SS6 and into the National Park raises issues of compatibility with policy. Material factors have not come to light since the adoption of LPP1 that necessitate a revisitation of the allocation policy, despite the increase in the site size beyond the NFDC boundary. In addition, the consideration of the proposals under Appeals A and B at both application and appeal stages have allowed detailed consideration of the issues by numerous participants and consultees to the process and does not wholly rely on the acceptability of the scheme being confirmed at the examination stage and through adoption of the policy.
51. A number of representations raise the concern that the houses would not be affordable for local people. In this regard, there would be a high number of smaller homes, and as required by policy, 50% of the total number of dwellings would be affordable tenures. There is a recognised strategic need for smaller (1 and 2 bedroom) accommodation as reflected in evidence from the District Council's Housing Needs Register. The provision of affordable housing at 50% offers genuine means to enhance accessibility to house ownership.
52. On the separate point about there being too many second homes in Lymington, the development can form a modest part of the solution. At least 50% of the homes would be built as affordable homes which would have occupation restrictions that would prevent their use as second homes.
53. The issue has been raised that there is limited access to public transport to serve future residents. On the contrary, as outlined in the evidence, there are a number of public bus services available from the bus stops a suitable distance from the site that link to a range of destinations and are additional to the locally available facilities which will limit the need to travel further afield. As such, on the basis that the site was to receive at least 100 dwellings under Policy S66, the level of bus

service provision is not a factor that has materially changed since the adoption of LPP1 policy SS6 or could be considered insufficient to meet the needs of occupiers of a total of 112 dwellings instead of 100.

54. The related point about limited shopping facilities has been raised. Whilst there is only a small range of local shops in Pennington village centre, there is a local supermarket and Lymington town centre in reasonable proximity which offer a range of other shops and facilities to serve existing and future residents.
55. The issue of the loss of trees has been raised. The submitted Arboricultural Impact Assessment indicates that a majority of trees on site and on the boundaries would be retained, with only modest losses including from Group 23 and either individual C-Class specimens or parts of identified groups under the same 'low quality' category. There would be some modest tree losses or works related to highway works to facilitate the development, but these would have a limited overall effect on the verdant character of the area.
56. The issue of harm to ecology and species has been raised, though no objection has been raised by any consultees in these regards, subject to conditions, including enhancement measures and construction ecological management plan. There are related issues with effects on sites protected under the Habitats Regulations which have also been comprehensively addressed by way of conditions and S106.
57. I have considered the issue of flooding and future flood risks. The submitted Flood Risk Assessment and Drainage Strategy outline the flood risks to the site, both now and in the future. The strategy for dealing with surface water would be by way of sustainable urban drainage system, which incorporates the attenuation pond. These measures would ensure that the site would not be at risk of flooding and would not increase the risk of flooding elsewhere.
58. Though a number of local residents have raised the issue of overlooking from the proposed dwellings, the proposed dwellings would all be set at reasonable distances so as to avoid direct and harmful window-to-window overlooking. The context would inevitably change from a semi-rural context to a more urban context which would give rise to a degree of mutual overlooking but not to an extent that living conditions would be detrimentally affected such as to warrant refusal. The submission of details of landscaping as part of future reserved matters applications would provide an opportunity to secure boundary details for areas where boundaries are currently poorly demarcated or formed from scrubby vegetation.
59. The issue of privacy has also been raised in relation to the new footpath that would pass between West Haven (formerly The Buccaneer) and Brocklands Cottage. Whilst I accept that there would be some potential for harm to tranquillity from passers-by, this would be in the context of the more urbanised surroundings in any event. I do not consider that the provision of the footpath would be materially harmful to the living conditions of these neighbouring occupiers. From the evidence and from what I saw on the site visit, these properties have sufficient side boundaries that would prevent direct overlooking from passers-by, and such boundaries could be enhanced through landscaping details at reserved matters stage. As such, I do not consider that overlooking or the risks of opportunistic crime are matters which direct me towards refusal.

60. The issue of disruption and noise and dust pollution during construction works damaging to the health of neighbouring residents has been raised. Whilst some disruption is inevitable, there would be conditions to limit construction working hours and to control pollutions such as noise and dust. These conditions, in addition to the construction traffic management plan, would help to limit the effects on existing occupiers of the surrounding area.
61. The issue of the boundary of the appeal site with Longford House and 4 Longford Place has been raised. An earlier revision to the plans sought to clarify that the vegetated boundary up to the centre point was within the appeal site, not the parts on the other side of the centre point within the neighbouring gardens. There is no reliance on the whole of the vegetated boundary as part of the scheme for ecological mitigation or other reasons. A tree protection condition has been formulated to be clearer and indicate that the matter of tree protection is notwithstanding the details shown in the other plans (i.e. layout, landscape framework). Furthermore, the landscaping is also the subject of a future reserved matters condition. Therefore, this issue related to land ownership and the minor discrepancies between the plans are not decisive of the appeal before me.

Protected Sites

62. The site lies within close proximity of the Solent and Southampton Water Special Protection Area (SSW SPA) and Ramsar site and the Solent Maritime SAC (SM SAC). It also lies within reasonable distance of the New Forest Special Protection Area (NF SPA) and Ramsar site and Special Area of Conservation (NF SAC), the Solent and Isle of Wight Lagoons Special Area of Conservation (SIoW SAC) and the Solent and Dorset Coast Special Protection Area (SDC SPA).
63. The SSW SPA is designated for its populations of breeding and non-breeding waterbirds, including Mediterranean Gull (*Larus melanocephalus*), Dark-bellied Brent Goose (*Branta bernicla bernicla*) and various species of Tern.
64. The SSW Ramsar Site is a sheltered channel with a double tidal flow with many wetland habitats that supports an important assemblage of rare plants, invertebrates and waterfowl.
65. The SM SAC is an estuarine environment that is the only site that supports *Spartina* swards, as well as a notable location for Atlantic salt meadows.
66. The SSW SPA, Ramsar site and SM SAC are susceptible to harm from disturbance through public access; water pollution and hydrological changes and air pollution.
67. The NF SPA Supports over 300 pairs of Nightjar (*Caprimulgus europaeus*), and important breeding populations of species such as Woodlark (*Lullula arborea*) and Dartford Warbler (*Sylvia undata*).
68. The NF Ramsar site comprises wet mires and heaths of outstanding scientific interest with seven species of nationally rare plants and 65 British Red Data Book species of invertebrates.
69. The NF SPA and Ramsar sites are susceptible to harm from long-term reduction in grazing pressure through loss of communing; recreational pressures from additional residents; historic drainage of wetlands and loss of traditional management practices.

70. The NF SAC is designated for a range of habitats including standing waters with vegetation of the *Littorelletea uniflora*. Northern Atlantic wet heaths with *Erica tetralix*; European dry heaths; *Aspurulo-Fagetum* beech forests and bog woodland which support the Southern Damselfly (*Coenagrion mercurial*) and Stag Beetle (*Lucanus cervus*). The NF SAC is susceptible to change from drainage and water pollution; inappropriate scrub control; air pollution (atmospheric nitrogen deposition); public access / recreational disturbance; change in land, forestry and woodland management.
71. The SloW SAC is designated for its important coastal lagoon habitats and is susceptible to change from human induced hydraulic conditions; inappropriate weed control; invasive species; and air pollution.
72. The SDC SPA is designated for its breeding populations of Tern species (Sandwich, Common and Little). This site is susceptible to harm from recreational disturbance; pollution and predation of its qualifying species.
73. The effects from the proposal for 82 dwellings and associated infrastructure on the aforementioned Habitats Sites, from either construction or operational phases, cannot be ruled out when taken alone or in combination with other plans or projects. As such, an Appropriate Assessment under the Habitats Regulations is necessary.
74. The effects from the proposal on the SSW SPA and Ramsar would be from air pollution, construction disturbance, recreational pressure, changes to soil chemistry and water pollution. The effects on the SM SAC and SDC SPA would result from recreational pressure and water pollution. The NF SAC would be harmed by increased recreational pressures whereas the NF SPA and Ramsar site would be harmed by disturbance during construction, recreational pressure, air pollution and soil chemistry. The SloW SAC would be harmed by water pollution. These harms would also be combined with effects from similar plans and projects in the surrounding area.
75. The mitigation measures that have been identified to offset the impacts on the aforementioned Habitats sites are detailed below. Due to the overlapping nature of these designated sites and the likely significant impacts identified, these have been discussed collectively below.
 - Construction Environmental Management Plans (CEMP) and separate Construction Ecological Management Plans – required by way of planning conditions for both schemes and in consultation with NE to minimise harms from construction related activities;
 - Contributions via S106 per dwelling towards the *Solent Recreation Mitigation Strategy* (2017) to offset recreational pressures;
 - Contributions via S106 per dwelling towards the *New Forest District Council Mitigation for Recreational Impacts Supplementary Planning Document* (2021) to minimise recreational impacts;
 - Contributions via S106 per dwelling towards air quality mitigation measures;
 - Other specific conditions to prevent construction works during specific times relating to Solent waders, curlews and brent goose sites and construction phase noise limits to minimise disruption;

- ANRG provision onsite (2.5ha) under the terms of the detailed ANRG Management and Delivery Plan will be conditioned to provide alternative recreational opportunities to minimise pressures on more sensitive sites. The condition will also secure other long-term operational requirements and monitoring of the effectiveness of the mitigation; and
 - Nutrient neutrality will be achieved under the terms of a mitigation strategy based on an agreed nutrient budget and by way of a pre-commencement condition with associated water efficiency requirements.
76. Taking the combination of aforementioned measures into account and subject to conditions/S106 obligations in relation to the same, and having regard to the consultation response of Natural England, as competent authority for the purposes of the Habitats Regulations, I conclude that the proposed development will not adversely affect the integrity of the aforementioned Habitats Sites.

Planning obligations

77. The completed and combined S106 legal agreement, dated 2 June 2026, secures the following measures and contributions:
- Affordable housing provision (50%) with a tenure split of 35% Social Rented, 35% Affordable Rented, 30% Shared Ownership;
 - Air quality monitoring contribution;
 - Delivery of ANRG, maintenance thereafter and monitoring of its effectiveness;
 - Informal Public Open Space (POS), Private Open Space (Landscape Buffer Strip), on site children's play space, reptile mitigation space and visitor car parking for Oakhaven Hospice including management and maintenance framework (including provision to provide for the scenario whereby management is not undertaken properly or the management company ceases to operate);
 - Biodiversity Net Gain management and monitoring. Whilst due to its submission date, the development is, strictly exempt from the requirement to deliver 10% biodiversity net gain, the development is still required to deliver a net gain in accordance with NFDC LPP1 policy STR1;
 - Formal public open space contribution (POS) - a financial contribution is proposed in lieu of the on-site provision of POS as it is deemed that improvements to existing local infrastructure off site would be of greater benefit;
 - Non-Infrastructure Habitat Mitigation Contribution - towards the management and monitoring of access to the designated sites and ensuring that the mitigation projects which are brought forwards best maintain the significance of the New Forest European Sites in an appropriate manner.
 - Habitats Mitigation: Birds Aware (Solent) Contribution;
 - Management of the Residential Parking Courtyards - appropriate management measures to required for the communal parking courtyards for maintenance and to preserve the quality of the development;
 - Off-site Arboricultural Works - in association with the off-site pedestrian and highway works;

- Public Rights of Way contribution - A contribution towards the maintenance of the public rights of way which traverse the site, associated with the upgrades to their surfacing and specification and diversion of the routes which are proposed as part of the development;
 - Provision of a Full Travel Plan and associated set-up and monitoring fees;
 - Provision of a financial contribution of £58,080 towards improvement including walking and cycling facilities on Milford Road and at the roundabout of the A337 Milford Road/North Street/Ridgeway Lane;
 - The proposal also seeks to carry out a series of off-site highway works, which include works in the establishment of new pedestrian connections and the improvement of existing routes, as well as localised highway widening, or resurfacing works, including:
 - Provision of off-site footway works as set out on drawings 2020-6181-116B, 2020-6181-131;
 - Provision of off-site footpaths, crossing points and passing places on Ridgeway Lane, Lower Pennington Lane and in Woodside Park as set out on drawings 2020-6181-115C, 2020-6181-116B, 2020-6181-118C, 2020-6181-125B, 2020-6181-301C, or contributions for the provision of the same, and future maintenance (subject to implementation);
 - Provision of localised road surfacing/ widening as set out on drawings 2020 6181-132A;
 - Details of management companies that will exist to accept the transfer of various communal areas and management them thereafter;
 - For both NFNPA and NFDC, a range of monitoring fees are also necessary to ensure effectiveness of all measures, including the BNG monitoring fees.
78. Regulation 122 of the Community Infrastructure Levy Regulations (2010) (CIL Regulations), as amended, and the Framework set out that planning obligations must only be sought where they meet the relevant tests, including where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the same. NFDC and NFNPA have submitted CIL Compliance Statements outlining the necessity for the various components of the S106 and the methods of calculation for the various financial contributions and the related links to policies of the development plan.
79. I am satisfied based on the agreement between the main parties and the wording of the S106 that all of the obligations are necessary, directly related, and fairly and reasonably related in scale and kind to the development and can be taken into consideration.

Planning Balances

Appeal A

80. The scheme complies with the development plan when taken as a whole. Whilst there would be harm to Oakhaven Hospice as an NDHA, outweighed by the public benefits, this residual harm still weighs against the scheme, albeit attracting only a minor degree of weight. However, this does not indicate that the decision should

be made other than in accordance with the development plan and there are no other considerations, individually or collectively, that do so either.

81. Had a conflict with the development plan been identified as a consequence of the design shortcomings discussed above, this would have been outweighed by the substantial range of public benefits from the scheme from the delivery of the anticipated housing in a sustainable location in any event. I reach this conclusion in view of the acknowledged substantial housing shortfall which should attract significant weight, the main objectives of LPP1 Policy S66, paragraph 11 d) of the Framework and absence of strong reasons for refusal in the context of footnote 7 of the Framework.

Appeal B

82. The scheme under Appeal B also complies with the respective development plan when taken as a whole. There would be a residual harm from the effect on the significance of the Grade II listed building Wood End House which attracts minor weight against the scheme. However, this does not form a consideration that outweighs the compliance with the development plan and there are no other considerations that do so either.

Planning Conditions

83. I have considered the suggested agreed planning conditions in the context of the policies of the Framework and guidance in the Planning Practice Guidance. Where necessary I have made minor changes to ensure the enforceability of the conditions. A number of conditions are common to both Appeal A and Appeal B. I list the reasons for those below. Where there are conditions specific to either scheme, I have listed those separately below.
84. As both schemes are made in outline form, conditions are needed to specify the nature of the reserved matters, timing for submission of applications for reserved matters approval and the time limits for commencement of development. In the interests of certainty, conditions are needed to specify the approved plans and separately the plans with which the scheme should be built in substantial accordance.
85. In the interests of highway safety, a condition is needed to secure construction traffic management plans. For similar reasons, conditions are also needed to ensure that vehicle cleaning is undertaken to avoid mud and debris being left on the highway.
86. Conditions are needed to ensure that no works are undertaken or items stored that would result in any obstructions of the PROWS.
87. In the interests of the character and appearance of the area, numerous conditions are required to ensure the protection of trees and hedges during construction works, including through the submission of arboricultural method statements and means of tree protection.
88. To avoid the sterilisation of mineral resources, a condition is required to ensure that access for extraction purposes is maintained through the site.
89. In the interests of avoiding increased risk of flooding and for environmental reasons, it is necessary to secure details of the surface water drainage scheme.

- 90. In the interests of protecting the integrity of Habitats Sites and the living conditions of neighbouring occupiers, conditions are needed to limit construction working times and noise limits related to such activities. For similar reasons, conditions are needed to secure Construction Environmental Management Plans and Construction Ecological Management Plans.
- 91. In the interests of preserving archaeological interests, conditions are needed to ensure appropriate schemes of investigation are submitted, approved and undertaken.
- 92. In the interests of protecting biodiversity and species, conditions relating to lighting schemes, badger surveys, BNG measures and biodiversity enhancement plans are needed.

Conditions specific to Appeal A

- 93. In the interests of ensuring the quality of development, a condition is needed to secure details of the ANGR and areas of POS. For similar reasons, a condition is needed to secure details of the equipment and the siting of such within the proposed area of play and separately to fix the mix of open housing units so as to ensure the delivery of a mixed and balanced community.
- 94. In the interests of protecting the integrity of the Habitats Sites, details of the water efficiency measures and nutrient neutrality measures should be required by planning condition. For similar reasons, details are required to ensure an appropriate means of foul water treatment is secured prior to occupation of the dwellings.
- 95. In order to secure an adequate quality of development and in the interests of highway safety, a condition is needed to ensure the retention of car spaces (garages and ports) for parking purposes only.
- 96. In the interests of the character and appearance of the area, details of specified foundation designs and method of installation should be secured by condition.
- 97. In the interests of protecting the health of future occupiers, conditions are needed in respect of contamination remediation and radon gas measures.
- 98. In order to protect the tranquillity of Oakhaven Hospice, conditions are needed to remove specified permitted development rights from the plots which would adjoin its boundary. For reasons relating to the protection of the living conditions of a nearby neighbour, a condition removing permitted development rights for side extensions to the dwelling of Plot no. 42 is also required.
- 99. In the interests of designing out crime and ensuring a good quality of development, it is also necessary to condition that the side access to plots no 1, 2, 3, 4, 5, 52, 53, 54 and 62 is gated, locked and access managed by the respective homeowner.

Conditions specific to Appeal B

- 100. In the interests of the character and appearance of the area, details of the surface material of the access work are required.
- 101. In the interests of certainty, a condition is needed to secure details about the phased delivery of the development.

102. Finally, in the interests of highway safety, a condition is needed to secure details of the specification of the access works to be undertaken.

Conclusions

103. For the reasons given above, both Appeals A and B comply with the respective development plans and there are no considerations that indicate that decisions should be made on either scheme other than in accordance therewith. The appeals should therefore succeed.

H Nicholls

INSPECTOR

APPEARANCES

APPEARANCES

FOR THE APPELLANT:

Zak Symons	Counsel for the appellant
Adam Bennett	Ken Parkes Associates
Colin Pullen	Urban Design - Pegasus Group

FOR NEW FOREST DISTRICT COUNCIL:

David Lintott	Counsel for the Council
Steve Jupp	Planning Solutions
Ian Dudley	Rowellian Environmental Consulting Ltd
Robert Thane	New Forest District Council

FOR NEW FOREST NATIONAL PARK AUTHORITY:

David Illsley	Head of Planning
Natalie Walter	Principal Planner
Gareth Hale	Solicitor and Monitoring Officer

INTERESTED PARTIES:

Bob Hull	Local Councillor
Simon Potts	Pennington and Lymington Society (PALLS)
Mr Kenyon	Highway Consultant for PALLS
Jack Davis	Local Councillor
Donald McKenzie	The Lymington Society
Andrew Ryde	on behalf of Oakhaven Hospice
Robert Sear	Local resident
Nicola Tindell	Local resident
Jaqueline England	Local Councillor
Susan Hood	Local resident

HEARING DOCUMENTS

Document 1	Final draft S106 and appendices
Document 2	SoCG – Pedestrian access (dated January 2020)
Document 3	Suggested additional conditions re Plot 42 and water efficiency
Document 4	Joint representation from owners of Longford and 4 Longford Place (email dated 10 March 2026)
Document 5	Email from appellant in relation to S106 and representation of 10 March 2026
Document 6	Email from Natural England 16 March 2026

Document 7	Correspondence from Pennington and Lymington Society
Document 8	Correspondence from appellant with S106 update
Document 9	Correspondence from appellant dated 1 April 2026 with title plan
Document 10	Correspondence from appellant dated 2 April 2026 with draft S106 and related SoCG
Document 11	Correspondence from Oakhaven Hospice dated 7 April 2026
Document 12	Correspondence from appellant dated 20 April 2026 with S106 contributions update
Document 13	Correspondence from appellant dated 20 April 2026 with final costs applications against NFDC & NFNPA
Document 14	Correspondence from appellant dated 21 April 2026 re shadow Habitats Regulations Assessment
Document 15	Correspondence from Pennington and Lymington Society dated 23 April 2026
Document 16	Correspondence from Pennington and Lymington Society dated 27 April 2026
Document 17	Costs application response from NFNPA dated 28 April 2026
Document 18	Copy of correspondence to third parties re visit arrangements, dated 22 April 2026
Document 19	Costs application response from NFDC dated 30 April 2026
DOCUMENTS RECEIVED FOLLOWING CLOSE OF HEARING	
Document 20	Correspondence from the Lymington Society dated 4 May 2026
Document 21	Correspondence from Lymington and Pennington Town Council dated 5 May 2026
Document 22	Correspondence from J Skinner, neighbouring resident, dated 5 May 2026
Documents 23 & 24	Correspondence from Pennington and Lymington Society dated 6 May 2026, and Peter Evans Partnership dated 5 May 2026
Document 25	Correspondence from owners of Longford and 4 Longford Place, dated 6 May 2026
Document 26	Correspondence from Pennington and Lymington Society dated 7 May 2026
Document 27	Appellant final comments dated 18 May 2026
Document 28	Natural England email 21 May 2026
Document 29	Engrossed S106 Agreement, 2 June 2026
Document 30	Natural England email 8 June 2026
Document 31	Letter from PALLS 11 June 2026

APPEAL A - SCHEDULE OF CONDITIONS

- 1) The first application for the approval of Reserved Matters shall be made within a period of three years from the date of this permission. All subsequent Reserved Matters applications shall be submitted no later than 3 years from the date of the approval of the first reserved matters application.
- 2) Except for off-site highway and access works secured to support this proposal, no development shall take place until approval of the details of the Appearance, Landscaping and Scale ("the reserved matters") has been obtained from the Local Planning Authority. The development shall only be carried out in accordance with the details which have been approved.
- 3) The development shall be begun no later than two years from the final approval of the last of the reserved matters to be approved.
- 4) The Outline and Reserved Matters details to be submitted shall be substantially in accordance with the following Parameter Plans comprising:
 - Access and Streets Framework, Bright Space Architects, Ref: 15060-P030-Rev. A, 21/3/2025
 - Built Framework, Bright Space Architects, Ref: 15060-P031-Rev. A, 21/3/2025
 - Scale Framework, Bright Space Architects, Ref: 15060-P032-Rev. A, 21/3/2025
 - Landscape Framework Plan, Pegasus, Ref: P22-1239-0006 Rev. E, 22/10/2024
- 5) The development permitted shall be carried out in accordance with the following approved plans:
 - Site Layout Plan (NFDC) (Bright Space, 24/6/2022, Ref:15060-P013 Rev. J)
 - Site Layout Tenure Plan, Bright Space Architects, Ref: PO27 Rev. F, 21/7/2023
 - 15060_P020_Existing site location NFDC rev. A
 - Landscape Principles Document - P22_1239_EN_08D
 - Landscape Framework Plan - P22_1239_EN_06E
 - Post-Development Layout (Main Site and POS) – November 2023
 - Tree Protection Plan (TPP) - 18257-8
 - Car Parking Overview Plan, Bright Plan, July 2024, Ref: 2020-6181-100 Rev. A
- 6) Prior to the commencement of development on site, a plan and strategy for the phased delivery of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. It shall demonstrate how the scheme will be delivered and proportionate delivery of Alternative Natural Recreational Greenspace (ANRG), Public Open Space (POS) and Foul Water Sewerage network upgrades will be provided to match the needs of occupation. The approved strategy shall then be implemented in accordance with the approved details.

- 7) No development hereby permitted shall commence until a Construction Traffic Management Plan (CTMP), to include details of provision to be made on site for contractor's parking, construction traffic access, the turning of delivery vehicles within the confines of the site, lorry routeing and a programme of works has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the duration of construction.

The CTMP shall include suitable measures to protect the public's safe and convenient access to Lymington and Pennington Footpaths 82 and 83 (before and/or after any potential s257 diversion order is confirmed) during all site works. This shall include, but not be limited to, the following:

- The setting up of a programme of works around the routes of the PROW, with the objective to retain public access as much as possible, including setting out any plans for any reasonable, temporary closures and/or diversions of the PROW to allow for works.
- A risk assessment for PROW users resulting in a safe and suitable traffic management plan including:
- Details of proposed signage to be positioned at appropriate points throughout the site to alert vehicle users to the presence of a public footpath and its users, and vice versa.
- Confirmation that vehicle users shall give way at all times to PROW users when encountered on the PROW.
- Any security fencing, suitably set back from the PROW surfaces.
- Confirmation that all necessary orders for the temporary diversion and/or closure of Lymington and Pennington Footpath 82 and 83 shall be applied for by the applicant, at their own expense, from HCC, as Highway Authority for PROW, with any such orders to be confirmed by the Highway Authority prior to commencement of any works that would otherwise impact the public's safe and continuous access to the PROW.

- 8) Full details of the vehicle cleaning measures proposed to prevent mud and spoil from vehicles leaving the site shall be submitted in writing to the Local Planning Authority for written approval prior to the commencement of the development. The approved measures shall be implemented before the development commences. Once the development has been commenced, these measures shall be used by all vehicles leaving the site and maintained in good working order for the duration of the development. No vehicle shall leave the site unless its wheels have been cleaned sufficiently to prevent mud and spoil being carried on to the public highway.

- 9) No vehicles, equipment, machinery, materials, spoil, scaffolding or anything else associated with the site preparation, construction or occupation of the development, shall be left on or near to Lymington and Pennington Footpath 82 and 83 to cause obstruction, hinderance or hazard to the footpaths' public users.

- 10) Notwithstanding the provisions of the Town and Country General Permitted Development Order 2015 as amended, (or any revocation, amendment or reenactment of that Order), the garages and car barns hereby approved whether integral or as outbuildings/extensions to the dwelling or outbuildings under Management company control shall not be converted into additional living accommodation but shall be kept available for the parking of private motor

vehicles. All car barns shall be retained in perpetuity as open structures and shall not be fitted with external doors other than those shown on the approved plans.

- 11) No residential dwelling hereby permitted shall be occupied until a strategy or plan setting out the locations and details of secure cycle storage for each residential dwelling has been submitted and approved in writing by the Local Planning Authority. The strategy and/or plan should reflect the guidance set out in the Parking Standards for Residential and Non-Residential Development Supplementary Planning Document Adopted 6 April 2022.

The development shall be carried out in accordance with the approved details and retained as such thereafter.

- 12) Notwithstanding the details shown in the approved masterplan, the trees/hedges on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Barrell Tree Consultancy Arboricultural Impact Appraisal and Method Statement Ref: 18257-AA7-LF dated 6th November 2024 and Tree Protection Plan 18257-8.

- 13) No development, demolition or site clearance shall take place until the following information has been submitted and agreed to in writing with the Local Planning Authority: An Arboricultural Method Statement and Engineering Drawings for the installation of new hard surfacing (roads, footpaths, driveways) within the root protection areas of retained trees. Development shall only take place in accordance with these approved details.

- 14) Prior to the commencement of works (including site clearance, demolition and construction works) 3 working days' notice shall be given to the Local Planning Authority Tree Officer to attend a pre-commencement site meeting as specified within the submitted Barrell Tree Consultancy Manual for Managing Trees on Development Sites V3.0 SGN 1: Monitoring tree protection.

- 15) Prior to commencement of the development hereby approved on site, the following details shall be submitted to and agreed in writing with the LPA, which may be included within a construction management plan or similar:

- A method for ensuring that minerals that can be viably recovered during the development operations are recovered and put to beneficial use; and,
- A method to record the quantity of recovered mineral (re-use on site or off site) and to report this data to the Minerals Planning Authority.
- The development shall be carried out in accordance with the details so agreed.

- 16) No development shall begin until a detailed surface water drainage scheme for the site, based on the principles within the Flood Risk Assessment & Drainage Strategy Issue 9 (24.10.2024), has been submitted and approved in writing by the Local Planning Authority. The submitted details should include:

- A technical summary highlighting any changes to the design from that within the Flood Risk Assessment & Drainage Strategy Issue 9 (24.10.2024)
- Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.

- Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
- Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria and ensuring flows are directed to appropriate locations.

The approved details shall then be implemented and no residential dwelling shall be occupied until such time as the surface water drainage is provided.

- 17) No development shall take place until a detailed scheme to deal with foul sewage, including connections to existing off-site foul drainage systems have been submitted to and agreed in writing with the Local Planning Authority. No occupation of any residential dwelling shall take place until the approved scheme is implemented.
- 18) Piling and other foundation designs using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 19) All works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any revocation, amendment or re-enactment of that Order) no extension (or alterations) otherwise approved by Classes AA, A, B or C of Part 1 of Schedule 2 to the Order, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order, or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected or carried out on Plots 1, 2, 3, 4 and 5 without express planning permission first having been granted.
- 21) No residential dwelling shall be occupied until the site investigation including archaeological trench evaluation and post investigation assessment has been completed in accordance with the programme set out in the Land East of Pennington Lane (Lymington) Written Scheme of Investigation for an Archaeological Evaluation (Cotswold Archaeology, November 2023), and the provision made for analysis, publication and dissemination of results and archive deposition has been secured to the written satisfaction of the Local Planning Authority.
- 22) The open market dwellings to be delivered by the scheme shall accord with the following housing mix:
- Two-bed: 6 dwellings
 - Three-bed: 28 dwellings
 - Four-bed: 7 dwellings
- 23) Development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination no 24 to 26 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 27 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

24) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- A survey of the extent, scale and nature of contamination;
- An assessment of the potential risks to: Human health,
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- Adjoining land,
- Groundwaters and surface waters,
- Ecological systems, and,
- Archaeological sites and ancient monuments;
- An appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with the Environment Agency's technical guidance, Land Contamination Risk Management (LCRM).

25) Where contamination has been identified, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include:

- all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

26) Where a remediation scheme has been approved in accordance with condition 25 the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

27) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 24 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 25 which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 26.

28) Prior to the commencement of development including any site clearance or site set up works a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following details:

- Development contacts, roles and responsibilities;
- A site layout plan with locations of the site office, welfare facilities, areas for material storage and waste storage and areas set a-side for the parking of vehicles;
- Public communication strategy, including a complaints procedure;
- Details of the type of equipment to be used and their hours of operation;
- Use of fences and barriers to protect adjacent land, properties, footpaths and highways;
- Statement outlining a method for ensuring that minerals that can be viably recovered during the development operations are recovered and put to beneficial use;
- Statement outlining a method to record the quantity of recovered mineral (re-use on site or off site) and to report this data to the MPA;
- Measures to control light spill and glare from any construction floodlighting and security lighting installed;
- A Dust Management Plan (DMP) including suppression, mitigation and avoidance measures to control. The DMP shall be produced in accordance with the Institute of Air Quality Management (IAQM) 'Guidance on the assessment of dust from demolition and construction' (2023 v2.1)', and the approved DMP shall be implemented, maintained and retained for the full duration of the construction of the development.
- A detailed mitigation scheme for protected species in full accordance with Condition 30.
- Noise reduction measures including:
 - Use of acoustic screens and enclosures;
 - The type of equipment to be used and their hours of operation;
 - Extra noise mitigation measures to be implemented within 150 metres of the boundary with Oakhaven Hospice including: Minimising noisy activities within 150 meters of the hospice;
 - No cutting of materials should occur within 150 meters of the hospice;

- Quietest available plant should be used where possible within the 150 meter noise restriction zone and where noisier plant is required, acoustic shields should be implemented where possible;
- Prior notification, where possible, to the hospice when noisy works are planned to allow hospice management to prepare for noise impacts.

The approved details shall be implemented before the development hereby permitted is commenced and retained throughout the duration of construction. The development shall only be carried out in accordance with the CEMP so approved.

29) No development shall take place until a risk assessment incorporating the details of associated monitoring at the site for the presence of radon gas has first been submitted to and approved in writing by the Local Planning Authority. If the presence of radon gas above 200 Bq/m³ is confirmed during the development all work shall cease in the affected area. Details of a comprehensive scheme of radon gas protection measures shall then be submitted and approved in writing by the Local Planning Authority. Development shall only re-commence in the affected area once the gas protection measures have been approved in writing and the development shall be carried out in accordance with the approved details.

30) In respect of the Solent and Southampton Water SPA and Ramsar sites and supporting habitat, construction noise within the application site should be kept below 69dBA max either alone or in combination with other developments (measured at the sensitive receptor which is the nearest point of the SPA/Ramsar or supporting habitat), or works timed so that they do not coincide with the bird overwintering period (i.e. October to March inclusive).

31) No development shall take place between 1st October and 31st March inclusive unless a detailed mitigation scheme to minimise the impact of construction activities on Solent waders and brent goose sites has been submitted to and approved in writing by the local planning authority. These details shall form part of the Construction Environmental Management Plan (CEMP).

Development shall be implemented in accordance with the approved mitigation scheme.

32) Prior to the commencement of any works above slab level, details of the external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority. The details, which shall comply with the recommendations of the Institution of Lighting Professionals (ILP) 'Guidance Notes for the Reduction of Obtrusive Light' (GN01:2021), shall take account of bats and other ecological receptors and shall include a "sensitive lighting design strategy for biodiversity" in line with BCT / ILP Guidance Note 08/23 'Bats and artificial lighting at night' (or subsequent updated guidance) for all areas to be lit. A revised and updated Lighting Strategy Plan for the application site detailing the lighting scheme and predicted light levels shall be submitted to and been approved in writing by the Local Planning Authority. The strategy shall:

- Identify those areas/features on site that are particularly sensitive for bats (or other ecological receptors) and that are likely to cause disturbance in or around their breeding sites and resting places or along important commuting

routes used to access key areas of their territory, for example, for foraging; and

- Show how and where external lighting will be installed (through the provision of appropriate lighting contour (lux) plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places and that dark corridors will be maintained. All external lighting shall be installed in full accordance with the specifications and locations set out in the approved strategy/details, and these shall be maintained thereafter in accordance with the strategy.

33) Prior to the first occupation of any residential dwellings, the details of a biodiversity net gain package of on-site (supplemented if necessary off-site of BNG) in a Biodiversity Net Gain Monitoring and Management Plan covering a period of 30 years from commencement of each development phase - shall be submitted to, and approved in writing by, the LPA. This package, whether on or off site or a combination of the two, should secure the identified 1% BNG arising from the development and include:

- An updated calculation of the number of biodiversity units required to provide a 1% BNG in accordance with DEFRA Biodiversity Metric Calculation July 2021 (or a metric based on the latest guidance);
- If offsetting is needed the details of the BNG project including its location;
- A timetable for the provision of the BNG project;
- Details of the management of the BNG project;
- Details of the future monitoring of the BNG project in perpetuity. The BNG package as approved shall be provided prior to the occupation of the penultimate dwelling on the site and thereafter retained as such; and
- Written confirmation that the required number of offsetting BNG units had been secured.
- The BNG monitoring report should be produced by a suitably qualified and experienced Ecologist and shall include the following for the target habitats:
- Credentials of the ecologist undertaking the monitoring;
- Assessment of habitats against the objectives and target condition defined in the management plan / assessment;
- Habitat type, extent and condition;
- Any presence recorded of target species;
- Date stamped photos accompanied by detailed site notes on extent of growth and condition using indicators in the management plan with any other notes of interest;
- If the target species /habitat is not present, provide detailed site notes on factors that are / could hinder growth or establishment;
- Detailed specific recommendations (where appropriate) on management actions to promote growth / establishment of target species / habitats including timescales for undertaking actions and marked site plans to show the actions; and,

- Photographs from the fixed monitoring points detailed in the management plan using high quality images.

34) Prior to the commencement of any construction work on site, an updated badger survey shall be undertaken by a suitably qualified and experienced ecologist, and a Method Statement for Badgers during Construction shall be submitted to the Local Planning Authority for written approval. The development shall be carried out in full accordance with the approved Method Statement.

35) Prior to the commencement of development including any site clearance or site set up works a Construction Ecological Management Plan (CEcMP) shall be submitted to and approved in writing by the Local Planning Authority.

The CEcMP shall include the following details:

- Updated ecological surveys, where necessary, to identify shifts in the ecological baseline condition as required (such as to support EPS derogation licence applications) in order that revised impact avoidance and mitigation measures can be adopted as required; and
- Mitigation measures to protect and mitigate against harmful construction impacts on protected wildlife species as set out in the Ecological Impact Assessment, EcoSupport (February 2025).
- This includes (but not limited to):
- Avoidance of works during bird nesting (March to August inclusive) or only in accordance with an agreed mitigation plan to reduce any impact;
- Sensitive Lighting Strategy for Bats (Condition 32);
- The identification of a suitable reptile receptor area on site, the subsequent management of this area to maintain and increase its suitability for reptiles and then capture and relocate any reptiles within the wider site into this area;
- Full Dormice mitigation strategy as outlined in the Ecological Impact Assessment.

The development shall be carried out in accordance with the approved CEcMP.

36) Prior to commencement of development, a detailed Biodiversity Mitigation and Enhancement Plan including site plans showing the exact location within the application site of each feature for the placement of the wildlife enhancements set out in the Ecological Impact Assessment, EcoSupport, February 2025.

This includes the installation of a number of ecological enhancements are proposed including bat boxes, bird boxes, hibernacula, hedgehog highways, dormouse bridges etc.

The development shall be carried out in accordance with the approved CEMP.

37) All the residential dwellings in Plots as set out in the Site Layout (Brightspace Rev. J) except Plots 1, 2, 3, 4, 5, 52, 53, 54 and 62, hereby permitted shall not be occupied until the rear or side access gate has been fitted with a suitable key operated lock that operate from both sides of the gate.

38) Prior to the first occupation of the proposed residential dwellings, details of the proposed children's play area comprising a Local Equipped Area for Play (LEAP)

that is to be located at least 20m from the nearest residential dwelling and of a minimum size of at least 553 square metres.

The LEAP should be in accordance with the design strategy set out in the Landscape Principles Document, Pegasus Rev. 08D, October 2024 and sited in accordance with the Landscape Framework Plan, Pegasus, Drawing No. P22-1239-0006 Rev. D (24/04/2024) and shall be submitted to and approved in writing by the Local Planning Authority.

The play equipment should compliment the character of the wider public open space and be comprised of timber materials, mounds, boulders and logs. Play equipment shall be aimed at 7+ years (e.g. basket swings, wide slides, rotating equipment). The proposed play area boundary treatments defining play spaces should include earth mounds, ornamental planting and hedgerows. The LEAP shall be fully enclosed and have at least two self-closing gates which open outwards and a maintenance gate and provision of seating, safety surfacing, disabled access, gates, litter bins, cycle stands and signage.

The LEAP shall be completed, subject to suitable safety certification by suitably qualified third-party inspector and made available for use prior to the first residential dwelling being occupied.

All play equipment and street furniture, and other facilities in connection with the use of the LEAP play area shall be kept available for the public use in perpetuity and managed in accordance with the details agreed in the allied s106 planning obligation.

- 39) The development hereby permitted shall not be occupied until: A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation shall be submitted to, and approved in writing by the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter.

A mitigation package addressing the additional nutrient input arising from the development has been submitted to and approved in writing by, the Local Planning Authority. Such mitigation package shall address all off the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have adverse effects on the integrity of the protected European Sites, having regard to the conservation objectives for those sites. The mitigation package shall include a timetable for implementation and measures for retention and maintenance of that mitigation package, which shall thereafter be implemented.

- 40) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any revocation, amendment or re-enactment of that Order) no side extension otherwise approved by Class A of Part 1 of Schedule 2 to the Order, shall be erected or carried out on Plot 42 without express planning permission first having been granted.

APPEAL B - SCHEDULE OF CONDITIONS

- 1) The first application for the approval of Reserved Matters shall be made within a period of three years from the date of this permission. All subsequent Reserved Matters applications shall be submitted no later than 3 years from the date of the approval of the first reserved matters application.
- 2) Except for off-site highway and access works secured to support this proposal, no development shall take place until approval of the details of the Appearance, Landscaping and Scale ("the reserved matters") has been obtained from the Local Planning Authority. The development shall only be carried out in accordance with the details which have been approved. The plans and particulars shall include the following detailed proposals:

Hard and soft landscaping details including:

 - Existing and proposed finishes and contours
 - Hard surfacing materials

Soft landscape details, which shall include the following:

 - Planting plans
 - Written specification (including cultivation and other operations associated with plant and grass establishment)
 - Schedules of plants, noting species, plant sizes and proposed numbers/densities
 - Retained area of grassland, hedgerow and trees
 - Implementation programme.
- 3) The development shall be begun no later than two years from the final approval of the last of the reserved matters to be approved.
- 4) The Reserved Matters details to be submitted shall be substantially in accordance with the following Parameter Plans comprising:
 - 15060_P030_Proposed_Access and Streets Framework
 - P22_1239_EN_09 Landscape Plan - Basin Proposals
 - P22_1239_EN_08D Landscape Principles Document
 - P22_1239_EN_0006 Rev E Landscape Framework Plan
 - VD18788 VEC 005 Rev P03 Proposed Attenuation Basin and Headwall Details
 - VD18788 VEC 002 Rev P07 Proposed Drainage Schematic
- 5) The development permitted shall be carried out in accordance with the following approved plans:
 - 15060_P022_Rev B Site Location Plan NPA
 - 15060_P023_Rev G Site Layout NPA
 - 8257-8 Tree Protection Plan
 - 2020-6181-102 Rev A Ridgeway Lane Access Overview and Visibility Splays

- 2020-6181-103 Rev B Lower Pennington Lane Access Overview and Visibility Splays
 - 2020-6181-101 Rev E Vehicular and Pedestrian Access Overview
 - 2020-6181-114 Rev E Pedestrian/Cycle Access Strategy
- 6) Prior to commencement of development, exact details of the surface materials of the access shall be submitted to and approved in writing by the New Forest National Park Authority.

Development shall only be carried out in accordance with the details approved.

- 7) Prior to the commencement of development on site, a plan and strategy for the phased delivery of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. It shall demonstrate how the scheme will be delivered in relation to NFDC planning application reference: 22/11424. The approved strategy shall then be implemented.
- 8) No development hereby permitted shall commence until a Construction Traffic Management Plan (CTMP), to include details of provision to be made on site for contractor's parking, construction traffic access, the turning of delivery vehicles within the confines of the site, lorry routeing and a programme of works has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development hereby permitted is commenced and retained throughout the duration of construction.

The CTMP shall include suitable measures to protect the public's safe and convenient access to Lymington and Pennington Footpaths 82 and 83 (before and/or after any potential s257 diversion order is confirmed) during all site works. This shall include, but not be limited to, the following:

- i) The setting up of a programme of works around the routes of the PROW, with the objective to retain public access as much as possible, including setting out any plans for any reasonable, temporary closures and/or diversions of the PROW to allow for works.
 - ii) A risk assessment for PROW users resulting in a safe and suitable traffic management plan including:
 - A) Details of proposed signage to be positioned at appropriate points throughout the site to alert vehicle users to the presence of a public footpath and its users, and vice versa.
 - B) Confirmation that vehicle users shall give way at all times to PROW users when encountered on the PROW.
 - C) Any security fencing, suitably set back from the PROW surfaces.
 - iii) Confirmation that all necessary orders for the temporary diversion and/or closure of Lymington and Pennington Footpath 82 and 83 shall be applied for by the applicant, at their own expense, from HCC, as Highway Authority for PROW, with any such orders to be confirmed by the Highway Authority prior to commencement of any works that would otherwise impact the public's safe and continuous access to the PROW.
- 9) Full details of the vehicle cleaning measures proposed to prevent mud and spoil from vehicles leaving the site shall be submitted in writing to the Local Planning

Authority for written approval prior to the commencement of the development. The approved measures shall be implemented before the development commences. Once the development has been commenced, these measures shall be used by all vehicles leaving the site and maintained in good working order for the duration of the development. No vehicle shall leave the site unless its wheels have been cleaned sufficiently to prevent mud and spoil being carried on to the public highway.

10) No vehicles, equipment, machinery, materials, spoil, scaffolding or anything else associated with the site preparation, construction or occupation of the development, shall be left on or near to Lymington and Pennington Footpath 82 and 83 to cause obstruction, hinderance or hazard to the footpath's public users.

11) Notwithstanding the details shown in the approved masterplan, the trees/hedges on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Barrell Tree Consultancy Arboricultural Impact Appraisal and Method Statement Ref: 18257-AA7-LF dated 6th November 2024 and Tree Protection Plan 18257-8.

12) No development, demolition or site clearance shall take place until the following information has been submitted and agreed to in writing with the Local Planning Authority:

An Arboricultural Method Statement and Engineering Drawings for the installation of new hard surfacing (roads, footpaths, driveways) within the root protection areas of retained trees.

Development shall only take place in accordance with these approved details.

13) Prior to the commencement of works (including site clearance, demolition and construction works) 3 working days' notice shall be given to the Local Planning Authority Tree Officer to attend a pre-commencement site meeting as specified within the submitted Barrell Tree Consultancy Manual for Managing Trees on Development Sites V3.0 SGN 1: Monitoring tree protection.

14) Prior to commencement of the development hereby approved on site, the following details shall be submitted to and agreed in writing with the LPA, which may be included within a construction management plan or similar:

- i) A method for ensuring that minerals that can be viably recovered during the development operations are recovered and put to beneficial use; and,
- ii) A method to record the quantity of recovered mineral (re-use on site or off site) and to report this data to the Minerals Planning Authority.

The development shall be carried out in accordance with the details so agreed.

15) No development shall begin until a detailed surface water drainage scheme for the site, based on the principles within the Flood Risk Assessment & Drainage Strategy Issue 9 (24.10.2024), has been submitted and approved in writing by the Local Planning Authority. The submitted details should include:

- i. A technical summary highlighting any changes to the design from that within the Flood Risk Assessment & Drainage Strategy Issue 9 (24.10.2024)

- ii. Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
- iii. Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
- iv. Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria and ensuring flows are directed to appropriate locations.

The scheme shall also include details for the long-term maintenance arrangements for the surface water drainage system and shall include:

- a) Maintenance schedules for each drainage feature type and ownership
- b) Details of protection measures

The approved details shall then be implemented and thereafter maintained in accordance with the approved regime of maintenance.

16) All works and ancillary operations in connection with the construction of the development, including the use of any equipment or deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.

17) No residential dwelling shall be occupied until the site investigation including archaeological trench evaluation and post investigation assessment has been completed in accordance with the programme set out in the Land East of Pennington Lane (Lymington) Written Scheme of Investigation for an Archaeological Evaluation (Cotswold Archaeology, November 2023), and the provision made for analysis, publication and dissemination of results and archive deposition has been secured to the written satisfaction of the Local Planning Authority.

18) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination No 19 to 22 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 20 has been complied with in relation to that contamination.

19) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. A survey of the extent, scale and nature of contamination;
- ii. An assessment of the potential risks to: Human health,

- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Groundwaters and surface waters,
 - Ecological systems, and,
 - Archaeological sites and ancient monuments;
- iii. An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with the Environment Agency's technical guidance, Land Contamination Risk Management (LCRM).

- 20) Where contamination has been identified, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 21) Where a remediation scheme has been approved in accordance with Condition 20, the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.
- 22) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 19 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20 which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 21.
- 23) Prior to the commencement of development including any site clearance or site set up works a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall include the following details:

- i. Development contacts, roles and responsibilities;

- ii. A site layout plan with locations of the site office, welfare facilities, areas for material storage and waste storage and areas set a-side for the parking of vehicles;
- iii. Public communication strategy, including a complaints procedure;
- iv. Details of the type of equipment to be used and their hours of operation;
- v. Use of fences and barriers to protect adjacent land, properties, footpaths and highways;
- vi. Statement outlining a method for ensuring that minerals that can be viably recovered during the development operations are recovered and put to beneficial use;
- vii. Statement outlining a method to record the quantity of recovered mineral (re-use on site or off site) and to report this data to the MPA;
- viii. Measures to control light spill and glare from any construction floodlighting and security lighting installed;
- ix. A Dust Management Plan (DMP) including suppression, mitigation and avoidance measures to control. The DMP shall be produced in accordance with the Institute of Air Quality Management (IAQM) 'Guidance on the assessment of dust from demolition and construction' (2023 v2.1)', and the approved DMP shall be implemented, maintained and retained for the full duration of the construction of the development.
- x. A detailed mitigation scheme for protected species in full accordance with Condition 30.
- xi. Noise reduction measures including:
 - a) Use of acoustic screens and enclosures;
 - b) The type of equipment to be used and their hours of operation;
 - c) Extra noise mitigation measures to be implemented within 150 metres of the boundary with Oakhaven Hospice including:
 - 1. Minimising noisy activities within 150 meters of the hospice
 - 2. No cutting of materials should occur within 150 meters of the hospice.
 - 3. Quietest available plant should be used where possible withing the 150 meter noise restriction zone and where noisier plant is required, acoustic shields should be implemented where possible.
 - 4. Prior notification, where possible, to the hospice when noisy works are planned to allow hospice management to prepare for noise impacts.

The approved details shall be implemented before the development hereby permitted is commenced and retained throughout the duration of construction. The development shall only be carried out in accordance with the CEMP so approved.

- 24) No development shall take place until a risk assessment incorporating the details of associated monitoring at the site for the presence of radon gas has first been submitted to and approved in writing by the Local Planning Authority. If the presence of radon gas above 200 Bq/m³ is confirmed during the development all work shall cease in the affected area. Details of a comprehensive scheme of

radon gas protection measures shall then be submitted and approved in writing by the Local Planning Authority.

Development shall only re-commence in the affected area once the gas protection measures have been approved in writing and the development shall be carried out in accordance with the approved details.

- 25) In respect of the Solent and Southampton Water SPA and Ramsar sites and supporting habitat, construction noise within the application site should be kept below 69dBA max either alone or in combination with other developments (measured at the sensitive receptor which is the nearest point of the SPA/Ramsar or supporting habitat), or works timed so that they do not coincide with the bird overwintering period (i.e. October to March inclusive).

No development shall take place between 1st October and 31st March inclusive unless a detailed mitigation scheme to minimise the impact of construction activities on Solent waders and brent goose sites has been submitted to and approved in writing by the Local Planning Authority. These details shall form part of the Construction Environmental Management Plan (CEMP).

Development shall be implemented in accordance with the approved mitigation scheme.

- 26) Prior to the commencement of any works above slab level, details of the external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority. The details, which shall comply with the recommendations of the Institution of Lighting Professionals (ILP) 'Guidance Notes for the Reduction of Obtrusive Light' (GN01:2021), shall take account of bats and other ecological receptors and shall include a "sensitive lighting design strategy for biodiversity" in line with BCT / ILP Guidance Note 08/23 'Bats and artificial lighting at night' (or subsequent updated guidance) for all areas to be lit. A revised and updated Lighting Strategy Plan for the application site detailing the lighting scheme and predicted light levels shall be submitted to and been approved in writing by the Local Planning Authority.

The strategy shall:

- i. Identify those areas/features on site that are particularly sensitive for bats (or other ecological receptors) and that are likely to cause disturbance in or around their breeding sites and resting places or along important commuting routes used to access key areas of their territory, for example, for foraging; and
- ii. Show how and where external lighting will be installed (through the provision of appropriate lighting contour (lux) plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places and that dark corridors will be maintained.

All external lighting shall be installed in full accordance with the specifications and locations set out in the approved strategy/details, and these shall be maintained thereafter in accordance with the strategy.

- 27) Prior to the first occupation of any residential dwellings the details of a biodiversity net gain package of on-site (supplemented if necessary off-site of

BNG) in a Biodiversity Net Gain Monitoring and Management Plan covering a period of 30 years from commencement of each development phase - shall be submitted to, and approved in writing by, the LPA. This package, whether on or off site or a combination of the two, should secure the identified 1% BNG arising from the development and include:

- i. An updated calculation of the number of biodiversity units required to provide a 1% BNG in accordance with DEFRA Biodiversity Metric Calculation July 2021 (or a metric based on the latest guidance);
- ii. If offsetting is needed the details of the BNG project including its location;
- iii. A timetable for the provision of the BNG project;
- iv. Details of the management of the BNG project;
- v. Details of the future monitoring of the BNG project in perpetuity. The BNG package as approved shall be provided prior to the occupation of the penultimate dwelling on the site and thereafter retained as such; and
- vi. Written confirmation that the required number of offsetting BNG units had been secured.

The BNG monitoring report should be produced by a suitably qualified and experienced Ecologist and shall include the following for the target habitats:

- a) Credentials of the ecologist undertaking the monitoring;
- b) Assessment of habitats against the objectives and target condition defined in the management plan / assessment;
- c) Habitat type, extent and condition;
- d) Any presence recorded of target species;
- e) Date stamped photos accompanied by detailed site notes on extent of growth and condition using indicators in the management plan with any other notes of interest;
- f) If the target species /habitat is not present, provide detailed site notes on factors that are / could hinder growth or establishment;
- g) Detailed specific recommendations (where appropriate) on management actions to promote growth / establishment of target species / habitats including timescales for undertaking actions and marked site plans to show the actions; and,
- h) Photographs from the fixed monitoring points detailed in the management plan using high quality images.

28) Prior to the commencement of any construction work on site, an updated badger survey shall be undertaken by a suitably qualified and experienced ecologist, and a Method Statement for Badgers during Construction shall be submitted to the Local Planning Authority for written approval. The development shall be carried out in full accordance with the approved Method Statement.

29) Prior to the commencement of development including any site clearance or site set up works a Construction Ecological Management Plan (CEcMP) shall be submitted to and approved in writing by the Local Planning Authority.

The CEcMP shall include the following details:

- i. Updated ecological surveys, where necessary, to identify shifts in the ecological baseline condition as required (such as to support EPS

derogation licence applications) in order that revised impact avoidance and mitigation measures can be adopted as required; and

- ii. Mitigation measures to protect and mitigate against harmful construction impacts on protected wildlife species as set out in the Ecological Impact Assessment, EcoSupport (February 2025).

This includes (but not limited to):

- Avoidance of works during bird nesting (March to August inclusive) or only in accordance with an agreed mitigation plan to reduce any impact;
- Sensitive Lighting Strategy for Bats (Condition 32);
- The identification of a suitable reptile receptor area on site, the subsequent management of this area to maintain and increase its suitability for reptiles and then capture and relocate any reptiles within the wider site into this area;
- Full Dormice mitigation strategy as outlined in the Ecological Impact Assessment.

The development shall be carried out in full accordance with the approved CEcMP.

- 30) Prior to commencement of development a detailed Biodiversity Mitigation and Enhancement Plan including site plans showing the exact location within the application site of each feature for the placement of the wildlife enhancements set out in the Ecological Impact Assessment, EcoSupport, February 2025.

This includes the installation of a number of ecological enhancements are proposed including bat boxes, bird boxes, hibernacula, hedgehog highways, dormouse bridges etc.

- 31) No part of the development shall commence until such time as the highway works shown in principle on the submitted drawings have been approved and agreed through a Section 278 Design Check.

ENDS -----