

**Application number: 0/15/77190**

**Site Address: Pembers Hill Farm, Mortimers Lane, Fair Oak, Eastleigh**

**Proposal outline: Construction of up to 250 dwellings with access from Mortimers Lane and pedestrian/cycle links, open space and landscaping, all matters other than access reserved.**

*Extract*

**The Council's Cabinet Decision on 15 December 2016 regarding Options B and C should only be given minimal weight**

The officers' report emphasizes several times that the Pembers Hill Farm site forms part of Spatial Option C and that the Council has made "*a commitment to progressing this option, along with political, technical and corporate actions and work*" (para 12). Further text relating to this matter is provided in paragraphs 93-94, which conclude that: "*Support for a strategic site also indicates support in principle for any application within it, and this can be a material consideration.*"

In this case it is considered that no weight can be afforded to the Cabinet decision on the 15 December 2016. The officers' report to Cabinet on 15 December 2016 highlighted that there were a number of key weaknesses and key threats associated with the Allbrook-Bishopstoke-Fair Oak option (Options B and C).

The key weaknesses identified in paragraph 49 were:

- The proposed new transport link is constrained by the Highbridge Road rail over road bridge – potentially reducing the utility of the proposed new link and a significant issue in perception of the option by existing communities and potential investors for employment uses in this growth options.
- The proposal is of a larger scale than other projects delivered by the site promoters so additional guidance is likely to be required to deliver the project.
- The proposal to deliver, manage and secure strategic infrastructure is reasonable, but requires a significant amount of further detail before it can be endorsed.
- Proposed improvements to the transport network have received no objection in principle from the Highway Authority subject to further details

and assessment work being undertaken once precise details are better understood to ensure the mitigation is both appropriate and deliverable.

- The capacity of the site is constrained by European, national and local designations within the red line boundary.
- The relative proximity to the National Park will need to be further addressed, both in terms of any potential visual impact (including “dark sky” policy) and upon tranquillity, particularly through increased traffic movements.
- Effects on Air and Water Quality are unquantified and suitable mitigation strategies will need to be developed to avoid any adverse impacts on the River Itchen SAC.
- Care will have to be taken that increases in population would not lead to an unacceptable pressure upon existing wooded areas.
- The potential provision of a new road between Stoke Park Woods and Crowdhill Woods needs further consideration as there is potential to impact upon ancient woodland, bats and other protected species.
- Healthcare provision has been identified as particularly difficult to serve this growth option.
- Hydrological modelling of the area is likely to be required, given the presence of headwaters.

The key threats identified in paragraph 51 were:

- The potential for this option to adversely affect the River Itchen Special Area of Conservation (SAC). If it is not possible to avoid or mitigate impacts on the integrity of the SAC, the Council would need to demonstrate that there are no alternative development strategies that would avoid or have a lesser effect and that there are imperative reasons of overriding public interest (IROPI) sufficient to override the harm to the site, before being able to proceed with the inclusion of this proposal in the emerging local plan. Should this be required it is generally acknowledged that the IROPI test is passed in only the most exceptional of circumstances.
- Strong opposition to strategic development from local communities and the need to develop a shared vision.

- Careful management will be required to ensure that planning applications for sites within this area do not undermine the delivery of strategic infrastructure.
- The cost of the North Bishopstoke Bypass may escalate beyond initial assessments as design work progresses and more accurate costs become available which could make delivery unviable.

In the light of these significant potential problems, paragraph 52 stated that: *“In summary, the significant challenges in delivery of this scheme should not be underestimated. Significant further work is required to determine and confirm the deliverability of the option.”*

There are therefore a number of issues that are potential showstoppers on which the Council needs further evidence before deciding on which option to pursue. Until this evidence has been prepared and reviewed by the Council, the Council cannot in any sense be said to be committed to Options B and C.

The officers’ report on the Pember’s Hill Farm application states in paragraph 12 that: *“The Submitted Eastleigh Borough Local Plan 2011-2029 was not supported by the Planning Inspectorate at examination and as such its policies and strategy are of very little weight.”* This applies with even more force to the potential strategy of allocating development on Option B and C land, where the Council has not even completed its evidence base. This is necessary before it can make a sound decision as paragraph 182 of the NPPF states that: *“The plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence.”*

Paragraph 216 of the NPPF states that:

*“From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- ***The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and***
- *The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*

In this case the policy has not even been published and as the Council

acknowledged in paragraph 51 of the report to Cabinet on the 15 December 2016 there is “*strong opposition to strategic development from local communities and the need to develop a shared vision.*” To accord any weight to the strategic option of locating development on the Option B and C land would therefore fundamentally conflict with the Government’s planning policy advice in the NPPF.

## **Cumulative Impact**

Article 4 of the Schedule 4 of the Environmental Impact Assessment Regulations, which details the information, which is to be included in Environmental Statements states that:

*“A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, **cumulative**, short, medium and **long-term**, permanent and temporary, positive and negative effects of the development, resulting from—*

*(a) the existence of the development;*

*(b) the use of natural resources;*

*(c) the emission of pollutants, the creation of nuisances and the elimination of waste,*

*and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.”*

The cumulative impact of the development is determined by the impact of the development together with others proposed in the vicinity.

It might be argued that in this case the subsequent phases are a separate project and will be subject to their own assessment. However, in this case they immediately adjoin the site, and will impact on the site and its impact on the surrounding area. This is of particular concern with regard to the potential impact on the River Itchen SAC as noted in the section relating to that issue and also flooding, where some of the Option C development will be in the same catchment.

With respect to flooding Professor David Sear, Professor of Physical Geography at the University of Southampton, states that:

*“The site is within the Eastleigh Borough Council (EBC) proposed options for future development. Thus in addition to the urban creep of 10% there is the real risk of additional development within this catchment. Whilst this is not mentioned,*

*EA (2012) and CIRIA (2015) both highlight the need for an integrated assessment of developments within the wider catchment development process. "Although the FEH advances the merits of SUDS (112.6), it cautions that the effect of run-off control techniques are usually only examined at the local scale. A more holistic approach is required to ensure that they do not have adverse effects elsewhere within the catchment". EA 2015 Operational instruction 197\_08 Issued 26/06/2012.*

*"In this instance the present application should be screened as part of a more comprehensive development of this catchment; in essence applying the likelihood scenario that is done for climate change, but applying it to land use change. In this instance we might reasonably suppose that under current planning options and applications, the pressure on the existing watercourse will increase over the period 2016-2050 (Figure 2). EBC and the developers have a duty to comment on the development in context of climate and future development to ensure sustainability into the future, and on the implications for flood risk. The applicants appear unaware of this requirement, and fail to make any reference to the wider catchment context in relation to overall flood risk. How for example will their development be able to reduce the impact If it is a policy commitment can only determine the impact by also future developments in this headwater catchment?"*

It is therefore imperative that the cumulative impact of the proposed subsequent phases of development are also assessed.

The officers' report states that: *"The Council's recently affirmed position on pursuing the strategic development site within which the application site sits also weighs in support of the development"* (para 168). According to the officers therefore this is part of one project which also involves the rest of the Option C land. If this is the case it is imperative that the cumulative environmental impacts of the option as a whole are assessed before a decision is made on this application.

This means that potentially significant impacts on the environment which will be affected by development on the Pembers Farm site have not been assessed.

The Council cannot have it both ways. Either this is a standalone proposal which has no significance as to whether Options B and C are ultimately selected by the Council, or it is an integral part of the proposals and part of the same project in which case the cumulative environmental impact of the wider development option needs to be assessed before a decision is taken.

## Flooding

The application site is located in Flood Zone 1 where there is a low probability of flooding. It is, however, located just upstream of the village of Fair Oak where the Hampshire County Council's 'Eastleigh Surface Water Management Plan' (Dec 2012) states that within the parish of Fair Oak and Horton Heath there have been a number of flooding incidents within this parish including the Summerlands Road and Botley Road. In order to minimise this risk will necessitate "*appropriate maintenance on the existing drainage and culverts to ensure that the flood risk is kept to a minimum.*" In terms of the potential surface water flood risk it states that: "*The area of most concern is within the centre of Fair Oak which, although on the line of the River Itchen, shows areas at risk within a relatively populated area. Flooding is not known to be an issue here at present and it is recommended that any future development includes provision to keep runoff rates to an absolute minimum and provide a suitable level of attenuation*" (page 19).

In this particular instance the site is located just upstream from the centre of Fair Oak and so is of great significance in ensuring that the development does not accentuate surface water run-off. In this respect it is of great significance that Dr David Sear is very concerned about the potential impact of development on this site and has made this clear in representations submitted to the council in relation to this application, which are not referred to in the officers' report. As an academic who specialises in hydrology his comments should be given great weight.

He points out in his letter to Mrs Errington, entitled 'Response to Technical Report', that in this instance "*you are dealing with a watercourse, unusually steep for the area, with a flashy hydrological regime, feeding into a culvert that runs through gardens and under properties and infrastructure. This makes the impacts of uncertainty much higher than at other sites.*" As a result "*the locally steep slopes, an incised valley, and a strongly connected land surface presents a higher risk that the inherent uncertainties in the methods used to design for flood mitigation will increase overall risk to downstream properties.*"

Professor Sear is concerned that even after the revisions made by the applicant's consultants that there has been an underestimation of the run-off rate, which is particularly serious because if you underestimate the rate of run-off you also underestimate the volume of storage required in the sustainable drainage system. He states:

*"This is serious because under-design of flood attenuation ponds – the main design response to the predicted additional runoff (soil drainage SUDs will not work effectively on the soil types at the site so can be discounted) will in circumstances of excess runoff, overtop and potentially fail catastrophically –*

resulting in significant flood damages downstream.

*“For small catchments such as the proposed development there is considerable structural uncertainty in the models used, and similarly considerable measurement uncertainty in the data used to develop these models (Van Asselt & Rotmans 2002). The resulting outputs are accepted by even by the originators of the best practice documents to be inaccurate. Since such errors are additive, it is likely that the estimates made using this approach to the proposed development site are highly uncertain – sufficiently so to pose a substantial risk to downstream properties and their ecology.”*

He considers that: ***‘In the light of uncertainty in the models used, the measurements made and future climate and land use, the proposed development will result in higher flood risk and ecosystem damage during and after construction creating a legacy that will be negative in so far as the downstream communities and ecology are concerned.’***

You are also dealing with a watercourse, unusually steep for the area, with a flashy hydrologically regime, feeding into a culvert that runs through gardens and under properties and infrastructure. This makes the impacts of uncertainty much higher than at other sites.

As a result Professor David Sear advises that this particular headwater stream catchment is uniquely risky relative to other sites, and that rather than developing it, Eastleigh Borough Council and the developers should instead be focusing on how to protect and enhance it as part of the wider development plan options and suite of applications from the current developer as offset for the loss of other greenfield sites.

This emphasises again that it is essential to assess the cumulative impact of development on the Option C land as a whole rather than granting approval for the Pembers Hill Farm application in isolation.

Again there is no indication in the officers’ report that they have engaged with the Environment Agency with regard to Professor Sear’s report. Without assessing Professor Sear’s critique of the applicant’s flood modelling the council is unable to demonstrate that it has complied with the advice in paragraph 103 of the NPPF that: *‘When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.’*

## **Landscape**

While the applicant’s claim that there would not be significant adverse impact on the landscape, the Council’s landscape officer, Louise O’Driscoll takes a different

view point and in the most recent version of her comments on the Council's website are as follows:

### Comments

The visual intrusion of the development on the countryside at viewpoints 7,10,11,12 and13 is considered to warrant an unacceptable urbanisation of the countryside character of this area and especially viewpoints 7,11, and 13. Screening by existing trees in view 7 cannot be taken as permanent as most of them are dead. The visual intrusion of the development is exacerbated by its location on rising ground culminating in a localised high point in the topography.

The development is very disconnected from the existing area of housing to the south east of the site. Whilst new public footpaths are usually welcome it is noted that the one proposed through Gore Copse runs roughly parallel to Hall Lands Lane. The failure of the development to connect with Hall Lands Lane is a problem. In addition it is not clear what agency would maintain the land at Gore Copse. The implication is that this would be transferred to the local authority. This would place a significant maintenance burden on the council.

Dave Bowen's comments that the open space provided is too small and disconnected is supported, especially as most of this seems to be allocated for flood water attenuation. There is a clear route to the through the centre of the housing area to the north end of the site. Is this intended to provide access to a future extension of the site. If so we need to be considering the whole intended area of development in the round, not only for reasons of the quantum and location of open space, but for other reasons too.

The nearest large park is off Knowle Lane. However I gather that pedestrian access along this road is dangerous. The development therefore needs to make provision for a safe pedestrian connection to Knowle Hill Park.

The development would appear to be far too dense to be able to accommodate the required parking without the public realm becoming overly dominated by vehicles and under provided with street trees.

Recommendation; refusal

#### Additional comments in response to applicant letter of 17.11.15

Our comments regarding the viewpoints above still stand. The development is not absorbed into the landscape and in many cases breaks the skyline within the view. The comment about the landform exacerbating views of the development still stands. Please find separate document analysing the views of the development from the nearest surrounding footpaths.

In relation to the proposed footpaths and links, whilst the proposed footpath through Gore Copse is welcomed; it is the failure of the development to connect with Hall Lands Lane to the west and footpaths 19 and 21 to the east which is unacceptable.

In relation to the open space Dave Bowen, the Parks and Open Spaces Manager, and I have discussed the proposal and both agree that the useable open space provided is not nearly large enough. The boundary green infrastructure shown, whilst necessary, cannot be included in the open space allocation. Neither can the attenuation basins or Gore Copse, however necessary or desirable they are. Maintenance contributions from developers only cover a fixed time period, beyond which the maintenance will be a burden on the council. Whilst the access through Gore Copse is welcomed it will be for Dave Bowen and Richard Mould-Ryan to determine whether the council wishes to adopt the area. If they do wish to adopt it they will want the path to be constructed to a high quality, durable spec and any necessary tree management work carried out before handover.

The illustrative design demonstrates that this development has not been designed in a way that is conducive to connection to any potential extension to the north.

The indicative masterplan should be re-submitted at a recognised scale. However, we still believe that the proposal would result in an unacceptably dense and car dominated layout, with significant parts of the space currently shown as green space being needed for parking.

Recommendation; refusal

Given that these are the Council's own professional officer's comments it is considered that they should be given significant weight.

In this respect it is not considered that the officers' report gives an accurate summary, which states in paragraph 13 that:

*“**Landscape Officer** – the site has a medium to high landscape value and combined with other nearby development the landscape effects are likely to be significant. To mitigate this, a design code is necessary with lower than usual housing densities and screen belts proposed. Also adequate useable public open space required.”*

There is thus no mention that the landscape officer had recommended refusal. This represents an unacceptable omission in the officers' report.