

# A G E N D A

## 1. APOLOGIES FOR ABSENCE

## 2. CODE OF CONDUCT

Members are required to comply with the requirements of the Localism act 2011 and the Council's Code of Conduct regarding disclosable pecuniary interests, and personal and prejudicial interests.

- Check if there is an item of business in this agenda in which the member or other relevant person has an interest.
- Check that the interest has been notified to the Monitoring Officer (in writing) and entered in the register (if not, this must be done within 28 days).
- Disclose the interest at the meeting (in accordance with the Council's code of conduct) and in the absence of a dispensation to speak and/or vote, withdraw from any consideration of the item where appropriate.

## 3. MINUTES

To confirm the minutes of the Development Management Committee meeting held on 11 November 2014 (previously circulated) as a correct record.

## 4. PLANNING APPLICATIONS

To consider the planning applications set out in the Report (*attached*) of the Development Control Manager.

## 6. PLANNING APPEALS

To note the Report (*attached*) of the Development Control Manager on Planning Appeals.

### Members of the Committee

<b>Chairman</b>	Bill Batty-Smith	Mervyn Jeffery
<b>Vice Chairman</b>	Charles Dowden	Sherry Jespersen
	Audrey Burch	Geoffrey Miller
	Esme Butler	David Milsted
	Victor Fox	Val Pothecary
	Joe Hickish	

NEXT SCHEDULED COMMITTEE MEETING  
10am on 6 January 2014

**INDEX FOR PLANNING APPLICATIONS – 9 December  
2014**

**New Applications**

<b>App No</b>	<b>Location</b>	<b>Ward Member(s)</b>	<b>Page(s)</b>
2/2014/0916/OUT Mr R Lennis	Land South Of Le Neubourg Way Church View Gillingham Dorset	Cllr David Walsh Val Pothecaray	5 - 36
2/2014/1066/FUL Mr S Clark	Land At E 388332 N 105051 Blandford Forum Bypass Blandford St Mary Dorset	John Stayt	37 - 62
2/2014/0755/OUT Mrs R Noke	Rugby Cottage Church Track Bourton Dorset	Geoffrey Miller	63 - 73



**Application Type:** Outline Application

**Application No:** 2/2014/0916/OUT

**Applicant:** Sherborne School And Charities

**Case Officer:** Mr Robert Lennis

**Recommendation Summary:** Refuse

**Location:** Land South Of Le Neubourg Way, Church View, Gillingham, Dorset,

**Proposal:** Develop land for residential purposes with associated infrastructure and open space. Form vehicular and pedestrian access. (Outline application to determine access).

**Reason for Committee Decision:**

Major Development

**Planning Policies:**

**Local Plan:**

GH23 Land Adj. Sewage Treatment Works  
1.30 Archaeological Evaluations  
5.10 Traffic Management & Ped. Priority  
1. 1 Sustainable Development Strategy  
1. 6 Development in the Countryside  
1. 8 Standard Assessment Criteria  
1.12 River Valleys  
1.15 Foul Drainage Arrangements  
1.17 Sewage Treatment Wks Protect Area  
1.33 Landscape Character Areas  
1.38 Protected Species & Their Habitats  
1.39 Tree Preservation Orders  
1.40 Landscaping New Development  
2. 2 Making Best Use of Housing Land  
2. 5 Form of Major Housing Development  
2. 8 Monitoring Avail. of Housing Land  
2.12 Size of Sites for Affordable Hsng  
4. 3 Community Buildings/Halls/Libraries  
4. 8 Play Areas/Amenity Space, Res. Est.  
5. 3 Existing District Distributor Roads  
5.11 General Traffic Management  
5.20 Development Obligations  
GH 1 Dev of Gillingham as Main Centre

GH16 Area South of Chantry Fields  
GH21 Alternative Sites for Comm. Hall  
GH22 Land off Stour Meadows  
4. 5 Outdoor Sports Pitches / Rec. Space  
4. 7 Indoor Sports & Leisure Provision

### **Planning policy and guidance:**

The local plan policies listed above are saved policies from the North Dorset District-Wide Local Plan (LP) adopted January 2003. They are considered to be relevant to your considerations of this case. You will notice there are no policies prescribing housing numbers listed; that is because these policies in the adopted LP were effectively time limited to 2011 and therefore are not considered to be up to date. The Council's position regarding housing need, supply and delivery post 2011 can be traced through the Interim Position Statement (IPS) on Housing Provision and Housing Land Supply which was adopted 10 January 2011, the Annual Monitoring Reports (AMR) and the Strategic Housing Market Assessment updated in 2012. This is explained in more detail in the Planning Appraisal section below.

The applicant's Planning Statement (PS) includes reference to numerous appeals and a High Court decision on the topic of 'five-year housing supply'. This issue should be accorded great weight in your decision-making exercise as set out in paragraph 14 of the National Planning Policy Framework listed below.

### **National Planning Policy Framework (the Framework):**

Paragraph 6 states the purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Paragraph 7 explains that there are three dimensions to sustainable development: economic, social and environmental...

Paragraph 14 states *"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, ... For decision-taking this means:*

- approving development proposals that accord with the development plan without delay; and*
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted."*

Paragraph 47 of the Framework requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed housing needs for market and affordable housing in the housing market area (HMA). (note: For North Dorset DC this includes Bournemouth and Poole BCs, East Dorset DC, Christchurch BC, and Purbeck DC)

Paragraph 120 of the NPPF states: To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

The following sections of the Framework are considered to be most relevant to this proposal:

- \* 4. Promoting sustainable transport
- \* 6. Delivering a wide choice of high quality homes
- \* 8. Promoting healthy communities
- \* 10. Meeting the challenge of climate change, flooding and coastal change
- \* 11. Conserving and enhancing the natural environment
- \* 12. Conserving and enhancing the historic environment

In Annex 1: Implementation of the Framework paragraph 216 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).

#### *North Dorset Local Plan – 2011 to 2026 Part 1*

The following policies from the emerging North Dorset Local Plan – 2011 to 2026 are relevant:

- \* Policy 1 - Presumption in Favour of Sustainable Development
- \* Policy 2 - Core Spatial Strategy
- \* Policy 4 – The Natural Environment
- \* Policy 5 – The Historic Environment
- \* Policy 6 – Housing Distribution
- \* Policy 7 – Delivering Homes
- \* Policy 8 – Affordable Housing
- \* Policy 13 – Grey Infrastructure
- \* Policy 14 – Social Infrastructure
- \* Policy 15 – Green Infrastructure
- \* Policy 17 – Gillingham Strategic Site Allocation
- \* Policy 20 – The Countryside
- \* Policy 21 – Gillingham Strategic Site Allocation
- \* Policy 24 - Design
- \* Policy 25 – Amenity

Most of the 'saved' policies in the 2003 Local Plan listed above will be replaced when the North Dorset Local Plan – 2011 to 2026 Part 1 is adopted, as listed in Appendix A of that document. Appendix A also includes a list of the 'saved' policies that will continue to be retained until reviewed in the Local Plan Part 2 or through a neighbourhood plan. Policies that will continue to be saved after the adoption of the Local Plan Part 1 include:

- \* 1.12 River Valleys
- \* 4. 3 Community Buildings/Halls/Libraries
- \* GH16 Area South of Chantry Fields
- \* GH21 Alternative Sites for Comm. Hall
- \* GH22 Land off Stour Meadows
- \* GH23 Land Adj. Sewage Treatment Works

The proposed retention of these saved policies after the adoption of the Local Plan Part 1 shows that they are still 'live issues' that require further consideration through policy making either at the district or neighbourhood plan level. These adopted policies, with the exception of Policy 1.12, all seek to meet the town's infrastructure needs.

Section 6 of the applicant's PS outlines a number of policies from the emerging LP Part 1 claiming that there are significant unresolved objections to the relevant policies of the Local Plan. However, of the 2,012 representations made on the Pre-submission document, only 32 related to Policy 17 – Gillingham and 74 related to Policy 21 – Gillingham Strategic Site Allocation (SSA), of which 51 came from the five landowners and developers of the SSA. Whilst it is the case that there are some unresolved objections, the overall numbers of representations made in relation to the relevant emerging policies is low.

It should be noted that in relation to the SSA this Council is in discussion with a consortium of landowners to progress this site. Officers have setup a Gillingham Growth Board to keep stakeholders and community group involved in the progression of the scheme, and a Technical Advisory Group to address issues expediently. This proactive work will produce a master plan framework and applications for development in due course. This can be evidence by the recent submission of a scoping request for an Environmental Impact Assessment (application reference 2/2014/1315/SCOEIA).

It is considered that some weight could be given to these emerging policies, particularly once the Local Plan Part 1 has been submitted to the Secretary of State, which is expected to take place in early December 2014.

### **Description of Site:**

The application site, known locally as Chantry Fields, is located to the south of Le Neubourg Way outside of the designated settlement boundary for Gillingham and has an area of 9.96 hectares. To the north the site is bounded by residential development, to the east is Le Neubourg Way and the flood plain of the River Stour, while to the south is the Gillingham Sewage Treatment Works (STW) and open countryside to the west. The site is currently used as arable farmland with footpaths criss-crossing the site.

In addition to being outside the settlement boundary the majority of the site lies within the 400m STW protection area. Beyond this area in the northeast corner of the site the land is designated as an optional location for a central community hall for Gillingham.

Within the STW protection area in the north-western corner of the site toward Stour Meadows the land is designated for use as a cemetery in the adopted local plan.

With regard to flood zone designations, the Environment Agency flood maps indicate that the majority of the site lies within Flood Zone 1. This zone comprises land assessed as having the least chances of flooding and is therefore suitable for development. Outside of the proposed development site, to the southeast running along River Stour, the land is designated as Flood Zone 2.

The site is located southwest of the town centre. There are no bus stops near to the site though it is less than 400 metres from Gillingham Railway Station.

### **Constraints:**

Agricultural Land Grade - 3

Agricultural Land Grade - 4

Flood Zone 2 -

Parish Name - Gillingham CP

Public Rights of Way - Route Code: N64/84 Footpath

Public Rights of Way - Route Code: N64/46 Footpath

Public Rights of Way - Route Code: N64/50 Footpath

Settlement Boundary - Gillingham

TPO - Individual TPO 20/22/04 Higherfield and rear of, Common Mead Lane, Gillingham. Oak. T2

TPO - Individual TPO 20/22/04 Higherfield and rear of, Common Mead Lane, Gillingham. Ash. T3

TPO - Individual TPO 20/14/94 Gillingham No.14. Copper Beech. T1

Ward Name - Wyke

Ward Name - Gillingham Town

### **Consultations:**

#### **Dorset Wildlife Trust**

Consulted on the 4 September 2014, their comments dated 21 November 2014 are as follows: comments are listed under Representations.

#### **County Archaeological Office - DCC**

Consulted on the 21 August 2014, their comments dated 27 August 2014 are as follows: ...The application is accompanied by an Historic Environment Assessment (AC archaeology document no: ACW664/1/0)...The assessment points out the finds of Medieval remains immediately to the north of the site, and refers to the potential for these remains to extend into the site. This is correct in my opinion, and I advise that the applicant should be requested to undertake an archaeological evaluation of the proposed development..., this exercise is necessary for an informed planning decision to be made, so it should be undertaken before determination of this planning application...

#### **Rights Of Way - DCC**

Consulted on the 21 August 2014, their comments dated 22 September 2014 are as follows: ...Please note that the proposed works directly affect Footpath's N64/46, N64/50 and N64/84, as shown on the enclosed plans, and I strongly advise that the conditions below are included in any planning approval:

\* The footpath(s) must be diverted by legal order and that order must be confirmed before any works obstructing the path are commenced. If the path is obstructed in the absence of such a legal order this department will carry out enforcement action as deemed appropriate.

\* Whilst the works are taking place a temporary diversion of the footpaths must be put in place and signed appropriately....

### **Gillingham TC**

Consulted on the 21 August 2014, their comments dated 11 September 2014 are as follows: see below.

### **Transport Development Management - DCC**

Consulted on the 21 August 2014, their comments dated 4 September 2014 are as follows: The submitted Transport Assessment contains insufficient detail to satisfy the County Highway Authority that the proposed development is appropriate and acceptable in transport terms. Whilst measures are proposed to mitigate the traffic generated by the development, the effectiveness and suitability of these measures cannot be substantiated by the information provided by the applicant. However, the Authority is of the opinion that the Transport Assessment can be improved and enhanced to contain sufficient detail to enable a thorough review...

To this end, it is suggested that the applicant meets with the County Highway Authority, at the earliest opportunity, to progress this matter.

Particular items to consider will be:

- \* Insufficient information has been submitted relating to the LinSig models;
- \* Insufficient detail of proposed mitigation schemes;
- \* The submission of Stage 1 Road Safety Audits for the proposed off-site highway works;
- \* Accident data needs to cover the most recent three-year period;
- \* Clarification of paragraph 6.23 - internal trips within Wyke.

The County Highway Authority shall be grateful if you will allow an extension of time to the normal consultation period in order that the highway implications of this proposal can be properly assessed. We will let you have our comments as soon as possible.

### **Environment Agency**

Consulted on the 21 August 2014, their comments dated 11 November 2014 are as follows: see below.

### **Principal Technical Officer NDDC**

Consulted on the 21 August 2014, their comments dated 23 October 2014 are as follows: No objections in principle subject to conditions.

### **Dorset Police - Architectural Liaison Officer**

Consulted on the 21 August 2014 There was no response from this consultee at the time of report preparation.

### **Wessex Water**

Consulted on the 21 August 2014, their comments dated 4 September 2014 are as follows: see below.

### **Environmental Health Officer NDDC**

Consulted on the 21 August 2014, their comments dated 8 October 2014 are as follows: see below.

### **Mr T Warwick, Planning Policy Manager**

Consulted on the 21 August 2014, their comments dated 7 October 2014: These comments have been incorporated into the Planning Appraisal below.

### **Natural England**

Consulted on the 21 August 2014, their comments dated 27 August 2014 are as follows: see below.

### **County Ecologist - DCC**

Consulted on the 21 August 2014, their comments dated 26 August 2014 are as follows: see below.

### **Tree Officer South - NDDC**

Consulted on the 21 August 2014, their comments dated 29 August 2014 are as follows: While the application to form the access will require the removal of some roadside young Birch trees and hedgerow either side of the proposed access point, there are no issues with this part of the scheme.

A precautionary TPO (TPO 528-14\*) covering the whole of the site has been made to ensure that all the trees and tree lines are properly considered when reserved matters are applied for.

\*This TPO will be modified once the site has been viewed/surveyed in more detail.

### **Dorset Wildlife Trust**

Consulted on the 21 August 2014, their comments dated 24 November 2014 are as follows: comments are listed under Representations.

### **Highways Agency - Network Strategy Division**

Consulted on the 13 November 2014 There was no response from this consultee at the time of report preparation.

**Wessex Water** made the following comments:

The principal matters that concern Wessex Water are set out below;

\* Development proposals for 236 dwellings are sited upon land adjacent to Gillingham sewage treatment works.

\* There are a number of existing public sewers and water mains crossing this development land

\* Foul and surface water disposal and water supply connections to serve this new development

#### *Gillingham Sewage Treatment Works*

Development proposals are located close to the sewage works and there is a risk of odour nuisance arising from the operation of the works. Planning policy normally makes provision for development restraint zones around sewage treatment works to ensure that odour nuisance will not affect any new properties and residents' amenity.

The applicant has prepared assessments to review the impact of odour emissions from Gillingham STW. These include relevant surveys and atmospheric dispersion models to predict areas where odour emissions may lead to complaint. The applicant has used the results of this assessment to inform a layout plan which places new dwellings within areas which predict a low risk of complaint.

We note the assessment carried out and the summary of findings outlined in Section 6 however there are no allowances for future growth and planned expansion of the works which will be necessary to support the growth plans for Gillingham.

Weather patterns have a significant influence upon the model predictions and proposals indicate areas for development which are less than 100 metres from the existing north-western boundary of the works.

We remain concerned that this reduces tolerance for odour emission and introduces a significant constraint upon existing operations and future capacity improvements.

Past planning policy to safeguard areas at the north east for sewage works extensions now appear outdated owing to improved flood risk information. Future requirements for extensions are best served utilising land at the north-west boundary of the works.

We are currently preparing and planning options for capacity improvements at Gillingham STW which we will seek to implement from around 2018 to meet strategic site allocations and planned catchment growth outlined in the North Dorset Core Strategy. There is a high probability that the works will need to be extended at the northern boundary to provide additional filter beds and longer term treatment capacity. These strategic works will be compromised if permission for residential development is granted so close to the works.

In the circumstances we request that in line with the current saved policy GH23 and current plan preparation for site allocations we review the requirements for sewage treatment infrastructure before the council determines this application.

#### *Existing public sewers and water mains*

The planned layout appears to protect and retain easements for the existing water and sewerage pipelines. We request that the applicant contact Wessex Water to discuss access and easement arrangements before submitting detailed planning layouts.

Temporary works and construction plant loadings may cause damage to existing apparatus and protective measures may be necessary.

#### *Foul and Surface Water disposal*

Points of connection for foul and surface water drainage need to be agreed with Wessex Water. Downstream sewers operate as a syphon and a suitable appraisal will need to be carried out to confirm appropriate arrangements for foul water disposal.

Surface water disposal to the land drainage system will require flood risk measures that need to be agreed and approved with the Environment Agency and the Land Drainage Authority.

Wessex Water will adopt sewers subject to a formal S104 adoption agreement.

## *Water Supply*

Engineering appraisal with network modelling will be required to confirm points of connection and any network reinforcement to maintain satisfactory service levels. The applicant is advised to contact Wessex Water to confirm requirements.

Following discussions with Officers regarding the above-mentioned issues Wessex Water has also brought to our attention the following:

- \* We can advise that the existing sewage treatment works is approaching capacity.
- \* Consent conditions for discharges are likely to be tightened under environmental regulations prescribed by the Environment Agency.
- \* The modelling process uses a reduction for winter conditions which is not understood, summer values will normally provide more representative results. This will affect the accuracy of the results.
- \* The existing buffer zone around the works appears to provide an effective measure in reducing the risk of odour nuisance and maintaining residents' amenity.

### *Future requirements for sewage treatment*

The existing works is approaching capacity and we have identified a number of improvements that will be required to meet future demand and effluent treatment consents. Existing capacity at the works has already been enhanced with temporary treatment process to manage peak loadings.

Wessex Water has included schemes within our asset management plan for the period 2015 – 2020 seeking funding from the industry regulator OFWAT. These improvements will form a phased approach in a strategy to accommodate the planned growth within the catchment over the plan period to 2026 and beyond.

Existing planning policy safeguards areas under policy GH23 at the north-east of the works, which we now know to be affected by flood plain Zone 3.

We have recently undertaken pre-planning consultation with waste planning authority Dorset County Council earlier this year to progress preliminary project work. This identifies land north-west of the works in preference to the land previously safeguarded under policy GH23.

We are planning to provide the following works/schemes;

#### Phase A

- 2 Secondary filter tanks
- Tertiary filter

#### Phase B

- Chemical treatment plant & apparatus
- Sludge storage & handling plant
- Tertiary treatment

#### Phase C

- Additional capacity for Secondary treatment

Phase A & B will be required before 2020 and the additional secondary treatment under Phase C will be subject to growth rates within the catchment over the plan period.

These proposals will affect the odour emissions from the site and are predicted to increase the odour radius, however no odour modelling work has been carried out at this stage.

**Environmental Health Officer NDDC** (new title: Environmental Protection & Private Sector Housing Manager) has made the following observations:

*...I have subsequently had sight of the applicant's Odour Impact Assessment undertaken by Odournet, communication from Wessex Water, and the peer review (commissioned by the NDDC) of the applicant's Odour Impact Assessment undertaken by Arup.*

*The Arup report highlights a series of what might be described as 'deficiencies' in the assessment undertaken by Odournet and makes a series of suggestions concerning how these might be addressed. Such differences between professionals is to be expected, and I would not seek to comment regarding these matters, other than to say that there does appear to be some opportunity to revise the original assessment to provide a greater level of confidence in the conclusions and the predicted impact of odours.*

*However, where the reports do appear not to differ is around the principle that any residential development on this site will be subject, from time to time, to odours emanating from the STW. It may be almost impossible to predict, with any degree of accuracy, the impact of these odours upon receptors, given the variable nature of the odours, the range of human responses and, as the Arup report says, 'Odour modelling is not an exact science, there are uncertainties inherent in the actual modelling process, which is a simplification of the atmospheric processes involved but also from the data sources used.' The report goes on to list a number of these uncertainties, and again I will not seek to comment upon them individually, but would bring these issues to your attention.*

*I understand that a number of local residents have commented upon their experience of odours emanating from the Gillingham STW, and no doubt this evidence will be taken into consideration when determining this application.*

*It is also worth noting that the Odournet report appears to deal with the current odour emissions from the STW and does not take account of any future extension or enlargement of the facility. In this regard, I note that Wessex Water have confirmed that the Gillingham STW is at or near capacity and that there are plans in hand to increase the capacity by adding additional treatment plant at the site. I am unable to foretell how such increased capacity would affect odour emissions, but it is reasonable to assume that additional land will be required, potentially moving the odour sources closer to the proposed development site, and that the predicted odour concentration contours, as shown in the Odournet report, would no longer be applicable.*

*It seems to me that the fundamental question which the Planning Authority will have to consider is whether odours from the STW, at whatever level, frequency or concentration they might occur, would be considered acceptable to the residents if residential development were to take place on this site. In this regard, the Odournet report has identified what it considers to be an acceptable level of odour (1.5 ouE/m<sup>3</sup>), supporting this by citing previous decisions reached by the Planning Inspectorate and the courts,*

*when determining planning applications/appeals and 'nuisance' cases, respectively. Leaving aside the issue of how accurate the odour contours shown by Odournet may or may not be, the Arup report makes reference to one PI decision not mentioned by Odournet, where the Inspector concluded: "I believe that it is reasonable to take account of the 1.5 ouE/m<sup>3</sup> contour map in determining odour impact. In my view areas subject to such concentrations are unlikely to provide a reasonable permanent living environment" (my emboldening).*

*I would also highlight the following part of the Arup report, which I think warrants repeating in full:*

*"Whilst Appeal decisions are useful guides they are based on the evidence heard by the Inspector at the inquiry and represent the views of one or two experts. The underlying research into the use of these standards is sparse and the IAQM Guidance notes that the appropriate standard could lie between 1 - 10 ouE/m<sup>3</sup> and even then, there is at least one instance where numerous complaints had been received at exposures below 1.5 ouE/m<sup>3</sup>. Research carried out by Arup in collaboration with Royal Holloway College confirms this, the study finding that odour modelling results did not correlate well with odour complaints."*

*With reference to the reported court decision (on appeal in respect of action for 'nuisance'), that odours from a STW assessed at 1.5 ouE/m<sup>3</sup> did not amount to a statutory nuisance, it should be remembered that such a decision has the potential to be considered binding upon lower courts, potentially removing the statutory nuisance regime as a route of redress in the event of any future odour problems. It is my view that the planning regime should endeavour to protect the amenity of any future development and avoid such problems arising, particularly as reactive 'nuisance' action may well not be possible in these circumstances.*

*In conclusion, the evidence presented suggests that odour emissions from the STW will inevitably affect the proposed development site and I am of the opinion that this alone renders the site inappropriate for residential development. I would therefore recommend refusal of this application, in order to protect the local amenity.*

**County Ecologist - DCC** (new title Natural Environment Team) has made the following comments:

...From initial reading of the ecological survey reports and given the scale of the proposals it is clear that this application catches the criteria of the Dorset Biodiversity Appraisal protocol and should therefore be subject to the submission and approval of a Biodiversity Mitigation Plan.

The online documents relating to ecology do not contain assessment of possible residual loss of habitat. If the ecological consultant concludes that such a loss will result from the development we would expect the applicant to demonstrate that any such residual loss is unavoidable; cannot be mitigated and therefore how it will be compensated in-line with Section 118 of the NPPF. To this end the Dorset Biodiversity Compensation Framework provides the applicant with an appropriate and evidenced based metric (attached) for calculation.

**Natural England**(NE) has noted that based upon the information provided, the proposal is unlikely to affect any statutorily protected sites or landscapes. With regard to

protected species they have not assessed this application and associated documents for impacts on protected species.

...The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

...Landscape enhancements NE has noted that his application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. ...

**Environment Agency (EA)** - their concerns have been addressed fully with a revised flood risk assessment (FRA). They have provided the following comments:

...We note the revised FRA dated June 2014 now submitted to us. On this basis we have no further objection in principle to the proposals subject to ...conditions and informatives...

**Gillingham Town Council** has raised objections to the proposal on a number of issues. In summary they have raised concerns/objections with following:

- \* The application is a direct challenge to Local Plan and the relevant policies contained within it, particularly housing land supply figures and will lead to an over-supply of housing.

- \* The site has not been designated for residential development in the Local Plans.

- \* The site is outside of the settlement area and therefore contrary to saved policy 1.6 of the North Dorset Local Plan.

- \* The proposals will have an impact on infrastructure. Gillingham does not have the infrastructure in place to cope with the development - social infrastructure: education/doctors surgeries and impact on transport infrastructure, congestion.

- \* The proposed development will lead to increased commuting traffic and congestion, overloading capacity at the pinch-points, particularly at the Newbury junction

- \* The loss of a green area which is central to Gillingham and includes two well used public footpaths.

- \* The loss of grade 3 agricultural land.

- \* The loss of retained Local Plan policies with direct relevance to the site, as set out in the North Dorset Local Plan 2011 - 2026, particularly the following: GH16 - The area to south of Chantry Fields is proposed as an informal recreational area, GH 21 - safeguarded as one of 3 alternative option sites for a central community hall, GH 22 - Land off Stour Meadows proposed for possible use as an additional town cemetery, GH23 – safeguarded for the extension of the existing sewage treatment works.

- \* Concerns about the impact upon the sewage treatment works. Retained policy GH23

- \* Concerns about odour annoyance and the accuracy and inconclusiveness of the Odour Impact Assessment Report which states: The odour exposure levels that are

predicted to occur across the proposed development land range from below 1.5OU/m<sup>3</sup> to greater than 5OU/m<sup>3</sup>. Based on Odournets experience and the findings of recent odour related case law odour annoyance is a symptom that is most likely to develop at exposure levels between 3OU/m<sup>3</sup> and 5 OU/m<sup>3</sup>. However the occurrence of adverse odour impact and complaints at odour exposure levels below 3OU/m<sup>3</sup> cannot be excluded, although developments have been consented within this banding as demonstrated by case law.

\* Concerns about flooding and flood zone with clear evidence of flooding on this site. Contrary to Policy 1.13. Climate change has not been fully addressed.

\* The applicant is unable to demonstrate evidence to show that the application delivers wider sustainability benefits that outweigh the flood risk implications of developing this site.

\* Two of the proposed pedestrian routes would be flooded in a flood event and therefore safe access and egress to the site may not be possible.

\* Concerns about the visual impact on the surrounding area. The proposal will have a detrimental effect on the public views of the countryside.

\* Impact on wildlife/habitats - request for a further mitigation report due to the loss of habitat and loss of significant ancient hedgerows.

\* The recommendations of The Natural Environment Team to consider any potential residual loss in habitat against the Dorset Biodiversity Compensation Framework needs to be followed up.

\* The requirement for additional archaeological evaluation of the area, re possible Medieval remains, as recommended by senior archaeologist, to include excavation of trial trenches, preceded by geophysical survey before determination of this planning policy 1.29.

## **Representations:**

148 letters of representation were received, of which 1 offered comments which neither supported nor objected to the proposal, 147 objected to the proposal and 0 supported the proposal.

The comments from follow four groups are largely representative of the issues raised in the individual representations received with the notable exception of odour issues emanating from the sewage treatment works, and details of highway capacity and safety issues.

**Dorset Wildlife Trust** have raised objections to the proposal. In particular they "...would expect the applicant to demonstrate that any such residual loss to biodiversity is unavoidable; cannot be mitigated and therefore how it will be compensated in-line with Section 118 of the National Planning Policy Framework (NPPF).

As much of the habitat and species are associated with the River Stour there could be conflicts with also making this the main open space requirement on the development. Although this area is currently used as informal open space the level of human activity is low and therefore wildlife disturbance is also low. If this site is to be developed and the River Stour corridor becomes formal open space and where most people would be directed to, the wildlife would be disturbed more frequently.

The River Stour and the adjacent floodplain is an important wildlife corridor through Gillingham, the Chantry Fields are important feeding grounds for a host of wildlife. The potential open space alongside the river is all within Flood Zones 2 & 3 therefore during high river levels there will be almost no open space available for people or wildlife to migrate to away from floods.

The River Stour at this location is failing under the Water Framework Directive and this development should be looking to improve the classification to Good (currently Poor under the ecological status). The construction phase particularly could result in pollution, so measures to reduce this will be required during any further planning application.

A Green Infrastructure Strategy for the North Dorset towns is vital. The Gillingham Neighbourhood Plan Group has recognized Chantry Fields as one of the most important open spaces in Gillingham. Local people consider this land to have significant landscape, amenity, leisure, biodiversity, ecological and flood management value to them as individual residents and to the character of the town as a whole.

All studies into open spaces in Gillingham, have reached similar conclusions - there is insufficient open space within the town. Approving the construction of houses on Chantry Fields would significantly reduce the open space in the town and by increasing the number of residents would worsen the already poor ratio of open space area per head of population.

With no information on how the development would mitigate for the loss of habitats and design on enhancements of the site for biodiversity as required by NPPF, DWT objects to this development."

**Gillingham Neighbourhood Plan Group** have provide the following comments:

Gillingham Neighbourhood Plan Group (GPNG) object to this application. GPNG's position is based on the Gillingham Growth Study carried out by Atkins, reports by the Three Rivers Partnership, the Gillingham Open Space Audit and Assessment of Need carried out by NDDC, the Gillingham Landscapes and Open Spaces Assessment Report by Burden and considerable consultation with residents of Gillingham and surrounding Parishes.

The Group objects to this application on a number of grounds;

1. The planned southern extension provides all the housing required in Gillingham to satisfy the districts housing needs up to 2026 whilst contributing to infrastructure, employment and economic needs of the town.
2. More housing land has been identified than is required to meet the housing needs of the district for the foreseeable future. The land on which the applicant seeks permission to build has not been included in the Strategic Housing Land Availability Assessment because it is less suitable than other available land. Land that is assessed, on a broad range of factors, as being most suitable for housing should be used before less suitable land put forward for primarily financial gain.
3. Chantry Fields is widely regarded as one of the most important open spaces in the town. Local people consider this land to have significant landscape, amenity, leisure, biodiversity, ecological and flood management value to them as individual residents and to the character of the town as a whole. All studies into open spaces in Gillingham, whether conducted by professional consultants, the District Council or local groups have reached similar conclusions – there is insufficient open space within the town. Approving the construction of houses on Chantry Fields would significantly reduce the open space in

the town and by increasing the number of residents would worsen the already poor ratio of open space area per head of population.

4. The GPNG believes that NDDC's policy of contributing to meeting the local housing need by building housing in the "southern extension" is the best solution for the town as this will deliver benefits to those seeking to buy houses in the region, opportunities for land owners, developers and builders to increase their outputs and for existing residents, organisations and businesses in the town to benefit from the investment in the town in an holistic way. The GPNG believes that the "southern extension" is of strategic and long term significance to the town and that any housing development outside the "southern extension" will seriously threaten the benefits it will offer to a broad range of people who have done and will, live and work, in the town for many years of their lives, all for the purely short term financial benefit of a few who have no long term interest in the town or its people.

**Ramblers (North Dorset Group)** have raised objections to the proposed diversion of the public footpaths (N64/84, N64/46 and N64/50). They have noted that these are extremely popular footpaths and well used by recreational walkers, dog walkers, and visitors to Witherwood Nature Reserve.

The Ramblers do not support diversions onto estate roads unless there is no feasible alternative, therefore before any final plans are agreed (should the development be permitted) they suggest that at the developer consult with the relevant user groups to avoid potential dispute later. Also, should any additional Public Rights of Way be created within the development, they should be dedicated as Public Rights of Way.

We have also received representations from Montagu Evans on behalf of '**the consortium**' of landowners and site promoters of the Gillingham Strategic Site Allocation (SSA) as identified in Policy 21 of the emerging local plan. "...the Consortium, has alongside the Gillingham community, shown a strong and longstanding commitment to working together with NDDC and other stakeholders to ensure new development to meet identified needs within the town is properly planned in accordance with the requirements of the NPPF. The proposed SSA is now broadly supported by the local community and is recognised by the emerging Neighbourhood Plan; itself a key component of the 'localism' agenda promoted by the coalition government. To approve this application would undermine the community's confidence in working with the Council in order to shape the future growth of their community. To approve this application would quite simply threaten the deliverability and viability of the SSA which is itself at the heart of the community driven Local Plan. ... hereby strongly object to this application in order to ensure that the identified future needs of Gillingham can be properly met under the Plan Led system."

### **Relevant Planning History:**

2/2000/0341 – Outline application for the erection of a community centre and the creation of a vehicular access, car parking and open space. Approved with conditions 01 December 2000.

2/2000/0983 – Outline application to develop approximately 1 hectare (2.47 acres) of land for residential purposes. Refused permission, 28 September 2001, for the following reasons:

1) The application will add further to the existing over-supply of green field sites in the town and is, therefore, contrary to Planning Policy Guidance Note 3, Paragraph 32, which states that there should be a sequential test and a presumption that brownfield land will be developed before the release of greenfield land.

2) The application and resulting increase in population will add additional problems both to the under supply and the existing inadequacies of the relevant community infrastructure in the town. Some of the current inadequacies include the lack of a central community hall for the town, the need for an additional Primary School, the need for additional sports pitches and the need to improve the existing Leisure Centre at Hardings Lane. The application is, therefore, contrary to the Local Plan Policy 1.9.9 (as proposed to be modified) which states that adequate community infrastructure should be available to serve the new development.

3) The site is now safeguarded as a potential for a new community hall under Local Plan Proposed Modification Proposal 4.3 (iv) and should remain protected as such until a final decision is made on the location for the hall. This application for housing, if approved, would thwart this proposal.

### *2003 Local Plan Inspector's Report*

The applicant has drawn some selective quotes from the 2003 Local Plan Inspector's Report in Section 4 of their planning statement. 121 currently adopted 2003 Local Plan. They have drawn on the Inspector's recommendation that part of their site could support housing; the part outside of the sewage treatment works (SWT) protection area and the land outside the area liable to flood. However, they have neglected to include the Inspector's comments in relation to the larger 'land at Chantry Fields' site as set out in paragraphs 15.1.31 to 15.1.37 on pages 247 and 248 of the North Dorset District-wide Local Plan Inspector's Report (Part 2).

It appears to officers that the larger 'land at Chantry Fields' site considered by the 2003 Local Plan Inspector is similar to the current application site. This is because the Inspector also noted that the land included: the site of the proposed cemetery; most of the site reserved for the extension of the sewage works; and the area of land proposed for informal recreation. Whilst the Inspector was concerned about a significant over provision of housing in the plan, he also considered that "the residential development of the site would constitute an unwarranted and substantial incursion into the countryside. It could not reasonably be regarded as natural consolidation within defensible boundaries. Given the scale of the proposal, material harm to the rural character and appearance of the locality would be caused. In addition, such close proximity of some of the proposed housing to the existing sewage works would be unacceptable on amenity grounds."

The Inspector acknowledged the proximity of the site to the town centre and to employment sites, but stated that "I do not consider that this alone outweighs the arguments against residential allocation of the whole of this objection site as sought by the objector."

The area of land he had recommended could accommodate residential development was roughly equal to the area subject to Policy GH 21: Option site for new community hall.

## Planning Appraisal:

This is an outline application which seeks to establish the principle of residential development for 236 dwellings. This would comprise a mix of: 1 and 2 bed apartments and 2, 3, and 4 bed houses. Details of access to the public highway are also submitted for consideration. Matters reserved relate to the details of appearance, scale, layout, and landscape.

The main issues of this case are considered to relate to:

- \* Whether or not the NDDC is able to demonstrate a five year supply of deliverable housing sites, and the implications of that in terms of national and local planning policy;
- \* Affordable housing and contributions to be secured by a legal agreement;
- \* Odour pollution and the principles of sustainable development;
- \* Flood Risk Assessment;
- \* Ecology and mitigation;
- \* Heritage and archaeology;
- \* Highway Network;
- \* Landscape and Visual Impact Assessment;
- \* Footpaths

### *Context of national and local planning policy*

The planning system is plan-led. For the purposes of NDDC the law requires that applications for planning permission must be determined in accordance with the relevant adopted Local Plan policies (LPP) set out above unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions as it sets out the current government's planning policies for England and how these are expected to be applied. In particular, this means applying the presumption in favour of sustainable development as referenced above (paragraph 14 of the Framework).

The reason why the five-year supply of housing is an important issue to this case is that it determines the approach that must be taken to LPP relevant to the supply of housing. Paragraph 49 of the Framework explains that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. This in turn has implications for how development proposals should be determined, because paragraph 14 of the Framework states that where the (local) development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits.

In order to establish whether a five-year supply of housing can be demonstrated here it is necessary to consider firstly the housing need for the District, and then to look at whether sufficient deliverable housing sites are available to meet that requirement over the next five years. The Framework also requires that a buffer of either 5% or 20% is added to ensure choice and completion in the market for land.

### *Housing need objectively assessed*

Up to 2011 the adopted Structure Plan for Dorset and the adopted Local Plan for North Dorset set the housing targets (number of houses and land for delivery). Since 28 January 2011 NDDC has adopted an Interim Position Statement on Housing Provision

and Housing Land Supply (IPS), and an IPS on Affordable Housing. Having regard to these you will note that LPP 2.1 - 2.3 are not referred to above as they are considered to be time constrained to 2011.

Part 4 of the IPS states:

From 01 April 2011, the Council will monitor housing land delivery against the overall average annual net housing provision figures for North Dorset set out in Table 4.1 of the Draft Regional Spatial Strategy for the South West (i.e. the Option 1 figures: 290 net additional dwellings per annum up to 2016 and 220 net additional dwellings per annum thereafter). Performance will be assessed using April 2011 as a base date. This approach will continue until new housing numbers are formally established and / or included in a revised version of the New Plan for North Dorset.

Since 2012 local planning authorities have been directed by the Framework to have a clear understanding of the housing needs in their area and should prepare a Strategic Housing Market Assessment (SHMA). The new housing numbers established through the updated SHMA 2012 have resulted in a reduction in our target of net additional dwellings per annum (dpa) to 280 dpa as published in the NDDC's Annual Monitoring Report (AMR) 2013.

The SHMA Update Report showed that 865 net additional dwellings were built in North Dorset between 2006 and 2011. Taking account of vacancy rates, it suggested an annualised rate of housing provision from 2011 onwards of 280 dwellings per annum (dpa). This would equate to 4,200 homes over a 15 year period from 2011 to 2026.

The applicant's Planning Statement suggests that a figure of 350 dpa for North Dorset, and 7,000 dwellings over the period 2006 to 2026, is the needed. These figures come from the Secretary of State's Proposed Changes to the draft Regional Spatial Strategy (dRSS) for the South West (July 2008) but these were never taken forward to adoption and have never formed part of the development plan for North Dorset. Rather we adopted the dRSS figures from June 2006 as noted above in Part 4 of our IPS as a more realistic target for the district.

It is considered that the figures of SHMA are the most recent and robust annualised average housing provision figures for NDDC. This is because North Dorset lies entirely within the Bournemouth and Poole Housing Market Area (HMA). The figures in the 2012 SHMA Update formed part of the evidence base for the Christchurch and East Dorset Local Plan examination. Their Local Plan was found to be sound in an Inspector's report, as recently as 21 March 2014. Therefore the figures in the 2012 SHMA Update are currently the most up to date and tested evidence available for North Dorset.

#### *Housing land supply*

Local Authorities should identify and update annually a supply of specific deliverable sites, also known as housing land supply. The footnote to paragraph 47 of the Framework states "To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years..."

We are also advised by the Framework at paragraph 48 that “Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens.”

In the applicant’s Planning Statement, there is some criticism of sites that have been included in the Council’s five year supply, as set out in Appendix 2 of the 2013 Annual Monitor Review (AMR). The main criticisms are twofold:

- Firstly, that the Council has included a range of small sites, which are not considered deliverable because: planning permission has been refused or has expired; planning applications have been withdrawn; there have been pre-application discussions, but no permission has yet been granted; the site has been submitted by a landowner; or the site has been identified from maps and aerial photographs;
- Secondly, that the Council has included a number of larger allocated sites from the 2003 Local Plan, which are not considered deliverable because no planning permission has been granted.

The revised list of site, produced by the applicant consists almost entirely of: sites with planning permission, sites approved subject to further agreement, or sites where at the time the AMR was produced, and an application was submitted but undetermined.

If a site has been included in our supply where planning permission has been refused, this is only where the refusal relates to a matter that can be resolved through a further application (for example a refusal on grounds of design). Sites where permission has been refused on grounds of principle (for example where development is proposed outside a defined settlement boundary) are not included in our supply. A similar approach has been taken to withdrawn applications, i.e. only those where further negotiation is likely to result in the submission of an acceptable scheme have been included in the supply.

Sites where planning permission has expired have been included in the supply on the basis that consent would be granted again in the event that a further application was submitted and there was no clear evidence that the schemes would not be implemented within five years.

Sites submitted by landowners are sites that have been put forward and assessed through the Strategic Housing Land Availability Assessment (SHLAA) process. All such sites are shown in online maps in the Council’s SHLAA and will be sites that are considered acceptable in principle in the context of current adopted policy (for example they will generally be sites within defined settlement boundaries). Similarly, sites where there have been pre-application discussions included in the supply are generally only those which are within defined settlement boundaries or otherwise acceptable in policy terms).

There is only one site identified from Ordnance Survey Maps and aerial photographs and that is Pimperne School that we believe requires scrutiny. The site is capable of providing an estimated 10 dwellings. It is considered that since the new school is currently under construction, it is reasonable to expect the County to put this forward in the next five years hence the old school site would be deliverable.

The applicant noted 45 small sites they believe should be removed from the five year supply. Only 2 of these sites have the capacity for more than 10 dwellings and these are Scats Countrystore at Winterborne Kingston and The Beeches in Blandford Forum, both of which now have planning permission. For sites of 10 dwellings or fewer that do not have a planning permission, but are broadly 'policy compliant' and have a landowner / developer interest (expressed either through pre-application discussions or SHLAA) it is considered acceptable to include such sites in the supply since there is a realistic prospect that housing will be delivered on such sites in five years.

The applicant has also suggested that a further 5 larger sites (most of which have previously been allocated) should be removed from the five year supply. These are:

- Land between Barnaby Mead and Bay Lane, Gillingham (54 dwellings);
- Land south of the Meadows, Gillingham (90 dwellings);
- Land at Lodden Lakes, Gillingham (90 dwellings);
- Land to the south east of Wincombe Lane (Hopkins Land), Shaftesbury (57 dwellings); and
- Land north of the Livestock Market, Sturminster Newton (100 dwellings).

All of these sites, with the exception of part of the Hopkins Land, Shaftesbury are now coming forward and are likely to be built out in five years.

The site between Barnaby Mead and Bay Lane, Gillingham is already within the defined settlement boundary of Gillingham. The agent for the landowner has recently sought pre-application advice with a view to a planning application being submitted.

A planning application has been submitted for the land south of the Meadows (90 dwellings, planning application ref: 2/2014/0968/OUT) and is awaiting determination. The main reason this site did not come forward before was because the Council owned a strip of land required to gain access to the site in order for it to be developed. That land has now been sold to enable the site to be brought forward.

Land at Lodden Lakes forms part of the Strategic Site Allocation (SSA) at Gillingham and is, in effect, a continuation of the 'land south of the Meadows' site. This is likely to be one of the early phases of development on the SSA, which will come forward and be developed over the next five years.

Land to the south east of Wincombe Lane (Hopkins Land), Shaftesbury falls within the allocated 'land east of Shaftesbury' site in the 2003 Local Plan. The overall site has a number of planning consents in place and an overall capacity for just over 800 dwellings, about 340 of which had been built by March 2013. The Hopkins Land lies at the northern end of this site. When the 2013 AMR was published, it was considered that the whole of this site would be developed in the next five years.

In recent months Barratt Homes have had pre-application discussions and have undertaken public consultation with a view to bringing forward land further north to the south east of Wincombe Business Park, which is identified as an area for housing growth in the North Dorset Local Plan 2011 to 2026 Part 1. A planning application (ref: 2/2014/1350/FUL) has now been submitted for 196 homes in this area, including 17 on part of the Hopkins Land. It is accepted that in the event that consent is granted to Barratt Homes for the site to the north (and part of the Hopkins Land), that the remainder of the Hopkins Land may not be developed within five years, as any developer here would need to compete not only with Barratt Homes to the north, but also

Persimmon to the south. In the event that part of the Hopkins Land (with capacity for about 40 homes) were to be taken out of the supply, it would be reasonable for the Council to then include the site to the south east of Wincombe Business Park, which will be developed by Barratt Homes, which has a larger capacity (179 dwellings on the basis of the submitted planning application).

Barratt Homes have also had pre-application discussions with the Council with a view to bringing forward the 'land north of the livestock market' site in Sturminster Newton.

In summary, it is considered appropriate to include four of the five larger sites identified in the planning statement in the five year supply. The only one where they may be some justification for its partial exclusion is the Hopkins Land at Shaftesbury. However, the main reason why this site would not be developed in five years would be competition from house builders on adjacent land. Whilst one of the competing sites is already in the five-year supply, the other one isn't and should be added in the event that part of the Hopkins Land is excluded.

Committee members will also be aware of Policy 21 – Gillingham Strategic Site Allocation in the emerging local plan. This is a southern extension to Gillingham which will take the form of a sustainable mixed-used development that will expand the built-up area of the town to the south and east. This would provide 1,240 homes by 2026 and about 1,800 homes overall. The local community, as evidenced through comments in the representations, have been engaging with and are supportive of this approach and allocation. The land owners in the allocation have formed a consortium to advance discussions with the Council and with a view to submitting a masterplan framework for the site in the near future. To this end, the consortium has recently requested a scoping opinion from the Council on potential environmental impacts of the development.

#### *Buffer of 5% or 20%*

Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer on their housing targets to 20%. Over the last plan period from 1994 to 2011 housing completions in NDDC were above the housing target. In recent years housing completions have been below target despite housing land supply and extant permissions being available.

The applicant has provided Planning Decisions by the Secretary of State and a High Court Judgement with their Planning Statement. These cases relate to issues of housing land supply not being available (see Judgement by Mr Justice Lewis para 2.). What is clear from my reading of these cases is that they are being considered on their merits and that the Courts and Inspectorate had some regard to the exceptional economic circumstance and the historical record of the delivery at the Council over a 5 year, 10 year, & 20 year period. Mr Justice Lewis also opined (para 47.) that "A decision-maker would need to have regard to a reasonable period of time measured over years rather than looking at one particular point, to ensure that the situation was one of persistent under delivery rather than a temporary or short lived fluctuation. The precise period of time would be a matter for the judgment of the decision-maker."

The applicant has taken a narrow view of these decisions to make an argument that our housing completions did not meet our housing targets in recent years (2006 onward). However they have had no regard for NDDC historic performance and the effects of the economy. This approach is misleading as completions are a reflection of the market and completions in isolation say nothing about housing land supply, or historic delivery. It

would be unreasonable to assess housing completion and targets of NDDC over such a short period as the applicant suggests in their Planning Statement.

Councillors are advised that a more reasonable approach to assessing housing delivery and completions would be over a longer period of 1994-2011, or the plan period of 2003-2011, plus the completions in 2011-13 and the target set by the IPS.

Evidence shows that NDDC has delivered above the planned rate of housing need. This can be demonstrated through the Council's 2011 AMR which included a review of performance of housing delivery against the housing provision figures of the adopted 2003 Local Plan. Figure 1 (below) shows that 6,708 dwellings (gross) were completed between 1994 and 2011, against a Local Plan target of 5,900 dwellings (gross). Broken down further this would also show a surplus during the plan period from 2003 to 2011. As such, it is considered that an additional buffer of 5% should be factored into any housing land supply calculations for the District.

Settlements	Total Gross Dwellings Planned 1994-2011	Gross Dwelling Completions 1994-2011	Over/Under Supply Against Target	Over/Under Supply Percentage
Blandford	1,050	1,373	323	30.76%
Gillingham	1,610	1,822	212	13.17%
Shaftesbury	1,170	674	-496	-42.39%
Sturminster	640	738	98	15.31%
Stalbridge	170	225	55	32.35%
Rural Areas	1,260	1,876	616	48.89%
<b>Total</b>	<b>5,900</b>	<b>6,708</b>	<b>808</b>	<b>13.69%</b>

Source: North Dorset District Council

Figure 1 - Gross Dwelling Completions in North Dorset 1994 to 2011 (by Settlement) Compared to Planned Level of Housing Provision

Housing numbers were reviewed through the 2012 SHMA Update and the average annual requirement, which is now established in Policy 6 – Housing Distribution of the emerging North Dorset Local Plan – 2011 to 2026 Part 1 is 280 dpa. Delivery in the first two years of the plan period has been:

2011/12      375  
 2012/13      144

This represents a total of 519 completions against the two-year target of 560 dwellings. It is considered that the shortfall over the two-year period of 41 dwellings can be made up over the next five years.

The five year supply target adjusted to reflect this shortfall is 1,511 net dwellings  $[(280*5) + ((280*5)*5\%) + 41 = 1400 + 70 + 41 = 1,511]$ . Please note this figure would be slightly higher if the shortfall to the housing target were added to the housing target and then the buffer was applied (1,513).

Appendix 2 of the 2013 AMR shows a housing land supply of 1,688, which clearly exceeds the five year supply target of 1,511. In the event that part of the Hopkins Land was to be excluded (40 units) and the Barratts application north of Wincombe Lane were

to be added to the supply (179 units), that would give an overall supply of 1,827 (1,688 – 40 + 179 = 1,827), which also exceeds the five year supply target of 1,511.

On the basis of the five year supply target of 1,511, the required average annualised rate of provision is 302 dpa (1,511 / 5 = 302). On the basis of the 1,688 figure, North Dorset has a supply of 5.6 years (1,688 / 302 = 5.6 years). On the basis of the 1,827 figure, North Dorset has a supply of 6.0 years (1,827 / 302 = 6.0 years).

The evidence set out above demonstrates the applicant's statement that there has been a "record of persistent under delivery of housing" could not be supported over a more reasonable representation of housing delivery and completions. As such, it is considered that an additional buffer of 5% should be factored into any housing land supply calculations.

### *Affordable Housing*

The applicant's Planning Statement indicates that the level of affordable housing to be provided is to be agreed with the Council.

The 2012 SHMA Update showed that Gillingham had the highest level of need for affordable housing in North Dorset. Few affordable dwellings have been delivered in the town in recent years: the Council's 2013 AMR showing that only 11 affordable homes were delivered in Gillingham between 2007/08 and 2012/13. In view of the identified need and low levels of delivery recently, it is important to secure the maximum amount of affordable housing on this site.

Policy 8: Affordable Housing of the North Dorset Local Plan – 2011 to 2026 Part 1 requires 30% of housing to be provided as affordable within the built-up area of Gillingham and 35% within the southern extension to the town, subject to any site-based viability assessment. The same proportions are sought in the Council's Interim Position Statement (IPS) on Affordable Housing (adopted in January 2011) and in our emerging Local Plan Policy 8: Affordable Housing. Please be aware that in the IPS 35% affordable is sought on any proposed urban extension to the town, subject to site-based assessments of viability. On that basis, it is considered that 35% affordable should be provided on the site, unless a site-based assessment shows that this is not viable.

The applicant has not submitted a S106 agreement. In discussion with Officers they have indicated that they would be willing to enter into a legal agreement however the details have not been agreed at this time. As such the lack of any legal agreement to secure any relevant and necessary affordable housing or off-site measures should be the subject of a bespoke reason for refusal.

### *Odour pollution*

Turning to the next issue of pollution, LPP 1.17 and GH23 do not set out to stop development but rather protect the needs of the Gillingham STW to provide for future growth of the town and avoid conflict in relation to the expansion and normal operation of the STW. Odour is included in the definition of pollution in the Framework (Annex 2: Glossary) and pollution is an environmental issue. It is clearly stated that the effects of pollution on general amenity and the potential sensitivity of a development to adverse effects from odour should be taken into account (paragraph 120). This test of general amenity is also listed in LPP 1.8 (iii).

The Framework also states that decision makers should ensure that new development is appropriate for its location. It is considered that the test to be applied having regard to the Framework, as well as the local plan, is to assess the potentially adverse impacts of odour pollution on the general amenity of future residents. If it can be demonstrated that general amenity would be adversely affected then this could outweigh the benefits of the development.

Sewage Treatment Works (STW) are often a source of odour pollution and it is necessary to keep development of regularly occupied premises away from such works particularly where development occurs downwind of the prevailing wind direction. Historically this Council, in consultation with Wessex Water, has utilized protection areas around STWs to achieve this objective of separation between highly sensitive development and the highly unpleasant odour from a STW. However, with modern techniques of odour modelling the size of protection areas are being challenged to demonstrate their need.

Odour modelling seeks to assess the impact of odour by measuring an hourly mean odour concentration which is not exceeded for 98% of the time. The impact of odour is measured by reference to European Odour Units (ouE/m<sup>3</sup>). The models produce isopleths of equal concentration. Then depending on the source and receptor predictions are made on the impacts of concentration levels of odour. Any predictive modelling has inherent uncertainties and there is a subjective element in what data is input and how results are interpreted.

The applicant has submitted an Odour Impact Assessment for Proposed Residential Development (OIA) as part of their case. This is a specialised field for which our Environmental Protection & Private Sector Housing (EPPSH) has no expertise. As such we commissioned a peer review of the applicant's Assessment. Both the applicant's Assessment and our review have had regard to relevant guidance and Planning Appeal Decisions.

The OIA concludes that the odour exposure levels that are predicted to occur across the proposed development site range from below 1.5 ouE/m<sup>3</sup> to greater than 5 ouE/m<sup>3</sup>. It found the main source of odour from the STW is from the storage and treatment of sludge. It is said that there is potential to reduce emissions from this source by implementation of engineering measures but gives no specific actions to be taken, and the comments from WW would imply this is not a viable option. The site, in the applicant's opinion, is partially suitable for residential development in areas predicted to be less than 3 ouE/m<sup>3</sup>. This is area of housing on the indicative layout plan submitted.

The applicant has also drawn attention to the fact that there have been relatively few complaints recorded by WW's Gillingham STW. This could be interpreted one of two ways: the protection area implemented through LP policy is working, or the odour from the STW is not so great as to require such a large protection area.

The applicant's OIA and our peer review have regard to the guidance from relevant bodies and guidance. I would draw your attention to the Environment Agency – H4 Odour Management (March 2011) document which has a bench mark of 1.5 ouE/m<sup>3</sup> for the most offensive odours. Whilst Defra's Code of Practice on Odour Nuisance from STWs (CoP) states that in relation to Planning Controls and amenity, "Encroachment of odour-sensitive development around sewage treatment works can lead to significant problems, with existing sewage treatment works becoming subject to complaints, perhaps for the first time. At the same time, people in the area who may be affected by

statutory odour nuisance need protecting by their local authority whose responsibility it is to enforce the abatement of statutory nuisances."

However, as mentioned above it is considered that the test here as set out in the Framework is one of 'general amenity' not statutory nuisance which implies a higher threshold. Rather unhelpfully, none of the appeal decisions referred to on this subject address the issue of 'general amenity' directly. The closest reference to anything like this is in Appeal ref: APP/U2805/A/11/2162382, decision date: 28 February 2013 Land at Ashley Road, Middleton, Leicestershire, HE16 8YP where the Inspector opines "...it is reasonable to take account of the 1.5 ouE/m<sup>3</sup> contour map in determining odour impact. In my view areas subject to such concentrations are unlikely to provide a reasonable permanent living environment."

For the purposes of this case it is considered that 'reasonable permanent living environment' would equate to what one might expect in terms of general amenity when dealing with highly sensitive receptors and highly unpleasant source. Therefore taking account of the 1.5 ouE/m<sup>3</sup> isopleth line would be appropriate for assessing general amenity. As such, it can be demonstrated that approximately half of the proposed development site would be adversely affected by odour pollution.

Members should also be cognisant of WW's need to expand as they have stated above that they are near capacity for this site. On this point I would draw your attention again to the comments of your EPPSH Manager listed above "...odour emissions from the STW will inevitably affect the proposed development site...". Furthermore the peer review we had commission concluded that the applicant's OIA is not considered to be sufficiently robust for NDDC to be confident that future occupants of the proposed development site would not have their general amenity adversely affected by odours.

### *Flooding*

Turning to the issue of flooding, the applicant has submitted a revised flood risk assessment. This has satisfied the concerns of the EA. The comments raised, and photograph submitted, in the representations have been taken into account. The fact remains that the majority of this site is designated as having a low risk to flooding. As such, it is considered that the risk of flooding has been adequately addressed.

### *Ecology*

Turning to the issue of ecology, the applicant's ecological survey reports that there are a number of protected species that live on or adjacent to the proposed development site, such as numerous bat species, otters, water voles. The site and adjacent features provide important habitats such as the River Stour, species-rich hedgerows and veteran trees. The application should at this point be able to demonstrate how these species and habitats would be retained and how they may be enhanced in order to ensure the development protects the long term future of the ecological interest to be found in and around the site in accordance with the Framework paragraphs 109 and 118.

The aim of the Council should be to conserve and enhance biodiversity. As such the applicant needs to demonstrate that any such residual loss to biodiversity is unavoidable; cannot be mitigated and therefore how it will be compensated in-line with the Framework. The applicant has been given an opportunity to address these issues however at the time of writing this report no additional information has been received.

With no information on how the development would mitigate for the loss of habitats and design on enhancements of the site for biodiversity, it is considered that this should be the subject of a bespoke reason for refusal.

### *Archaeology*

In addition to our saved LP Policies 1.28, 1.29, & 1.30, the Framework informs us at paragraph 128 that "...Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

You will have noted above that DCC's Senior Archaeologist is of the opinion that having had regard to the applicant's Historic Environment Assessment (HEA) the site requires further investigation (trenching and geophysical survey). This is because the applicant's HEA has identified that adjacent to the proposed development site medieval artefacts have been found and there is potential for them to extend into the site.

The applicant at this point does not intend to carry out any further archaeological investigations citing that the National Planning Policy Guidance (NPPG) states "...only a small proportion – around 3 per cent – of all planning applications justify a requirement for detailed assessment." They consider that in respect of this current application the results of their desk based assessment do not identify potential archaeological interest in the site of such significance that would require preservation in situ, or exclusion from development, to an extent that they would negate the principle of development of this land and therefore question whether a field evaluation is necessary at this stage.

The point may be academic whether the locations are in or very near to the site and how this should be interpreted but from my reading of their HEA the matter is fairly clear. From the HEA summary: "The principal archaeological interest in the study area is the medieval suburb of Gillingham which, until recently, survived as an area of earthworks. Excavations undertaken in advance of development recorded a large medieval farm complex and a number of associated structures and boundaries. Two early medieval smelting ovens were also recorded close to the northern boundary of the application area. It is considered that there is some potential for deposits of this date to survive within the application area."

This potential has also been acknowledged in the applicant's Geo-Environment Phase 1 Report. It is considered that, having regard to the applicant's submission of information, there is sufficient potential to merit pre-determination archaeological fieldwork on the site, putting it within the three percent of planning applications referred to in the NPPG. Hence, it is considered that the concerns of the County Archaeologist should be upheld and this would make a separate reason for refusal until a more thorough investigation of the site can be agreed.

### *Highway Network*

Turning to the issue of the highway network, comments from DCC as Local Highway Authority are listed above in full.

The submitted Transport Assessment contains insufficient detail to satisfy the County Highway Authority that the proposed development is appropriate and acceptable in transport terms. Whilst measures are proposed to mitigate the traffic generated by the

development, the effectiveness and suitability of these measures cannot be substantiated by the information provided by the applicant.

Until these issues have been resolved they amount to a separate reason for refusal in transport terms.

### *Landscape and Visual Impact Appraisal*

The applicant has supplied a Landscape and Visual Appraisal (LVA) with the application. This has been carried out with regard to 'Guidelines for Landscape Visual Impact Assessment' Third Edition, published by the Landscape Institute and The Institute of Environmental Management.

The overview of the findings is as follows:

The existing visibility of the site is limited. The natural topography, the raised railway embankment, dense planting along the river corridor and development at Brickfields Business Park restrict views from the south west, south and south east. The appraisal of the proposals and the landscape and visual impacts of them has determined that a carefully designed scheme will have minimal impact on the character of the wider landscape in the locality.

The conclusions of the appraisal - undertaken in accordance with the steps identified in the 'Guidelines' set out above, found that the site is visually well contained within the wider landscape, does not impact negatively on identified designations and that redevelopment represents an opportunity to create some enhancement to the way that the site is viewed in the landscape and create a more positive edge to Gillingham.

With respect to the previous local plan Inspector, landscape assessment is a subjective matter and it is not clear if he was supplied with a LVA. Having walked the site and seen the selected viewpoints of the LVA, it is considered that the findings of the LVA paint an accurate picture of the site in the context of the wider landscape. However, it is considered that the impact would be more neutral rather than positive or creating any particular enhancement. As stated this is a subjective issue and many of the representations received place a high value on this site for its proximity to the town, accessibility of footpaths, and general openness.

If the Council's housing targets are met as we believe they have been then the proposed development would be contrary to several of our saved policies, not least those relating to the settlement boundary of Gillingham and resisting development in the countryside. How this feeds into the planning balance has been dealt with below.

### *Footpaths*

Dorset County Council has noted the presence of designated footpaths in their observations. They raised no objections to the proposal in principle or the relocation/diversion of these footpaths. We also acknowledge the concern raised by the Ramblers and several of the individual representations. It is considered that if you were minded to approve the application the relocation/diversion of footpath could be reasonably accommodated at the detailed layout stage.

Akin to the issue of landscaping, Members should be aware that the footpaths through the site, the access they provide to the countryside and general amenity/recreation are prized features as expressed in the representations. Accommodating a designated

footpath through or around a development site creates a significantly different experience to a footpath running through the middle of a field in terms of informal amenity or recreation.

### *Planning Obligation*

The applicant has not submitted a Section 106 legal agreement which would allow NDDC to secure affordable housing and contributions toward on and off-site impacts that would arise from a development of this nature. In discussions with officers the applicant has stated their willingness to enter into such an agreement subject to negotiation of the details. Therefore if you were minded to grant approval we would ask that you delegate authority to the Development Services Manager to allow for these contributions to be secured and report back to you. If you are minded to refuse the application this could be the topic of a separate reason for refusal.

### **Conclusion:**

#### *Planning balance*

Members should be mindful that the government is seeking to boost significantly the supply of housing, including affordable housing, when carrying out their balancing exercises and acknowledge the benefits of a scheme that would boost housing supply with associated affordable housing (if this could be secured by a legal agreement) in terms of the economic and social roles that make up sustainable development.

Paragraph 14 of the Framework provides guidance on how the presumption in favour of sustainable development should apply to decision-taking, and only advises departure from determining proposal in accordance with adopted policies in situations where the Development Plan is absent, silent, or relevant policies are out of date. At this time the Council is able to demonstrate a five year housing land supply. As such, relevant policies for the supply of housing do not need to be treated as out-of-date by operations of paragraph 49 of the Framework. Therefore, the presumption in favour of sustainable development should be considered having regard to the saved LPP.

In light of the Council's demonstrable housing supply, and in the absence of any other material considerations, the benefits of this proposal would not outweigh the identifiable objectives of the local plan policies referred to above in terms of amenity and STW protection area, landscape character, community needs, ecology, archaeology, and highway safety. The fact that it is development in the countryside under the policies of the adopted LP can also be taken into account in the context of this scenario. Some of the objectives referred to (with the exception of the settlement boundary and development in the countryside) would also breach various Framework policies which have been referred to in the body of this report and reasons for refusal.

If NDDC was found to not have an adequate supply of housing and our housing policies considered out-of-date the second test for decision-taking under paragraph 14 of the Framework would apply. In this scenario (ignoring the settlement boundary and development in the countryside) it would be the view of your officers that the identified harm from odour pollution would 'significantly and demonstrably' outweigh the benefits of the proposal in this particular location. Furthermore, the issues identified relating to of archaeology, ecology, and highway safety are also specific to policies in the Framework and would add to the balance against this proposed development.

The desire of the local community to accommodate future housing for Gillingham on the strategic site allocation as identified in the emerging local plan should also be acknowledged in the balancing exercise though the amount of weight it could be afforded only minimal weight given the emerging nature of any specific neighbourhood plan proposals.

Overall, given the findings above, it is considered that on balance the adverse impacts of the proposal outweigh any benefits that could be identified whether the policies under the Development Plan or the Framework are applied.

**Recommendation:** Refuse

**Reason(s) for Refusal:**

1. The proposed development by reason of its siting and scale would be harmful to the visual amenity and enjoyment of the countryside contrary to the saved policies 1.1, 1.6, 1.8, GH1, GH16, and GH22 of the North Dorset District-Wide Local Plan adopted 2003, and policies 1, 2, 6, 17, and 20 of the emerging North Dorset Local Plan 2011-2026 Part 1. Additionally, it should be noted that the in accordance with paragraph 14 of the National Planning Policy Framework the proposal should not be considered sustainable development as it involves development in the countryside and no matters have been identified which outweigh the conflicts identified with saved development plan policies.
2. The proposed development by reason of its siting and scale would have an adverse impact on the general amenity of the future occupants and inhibit the ability of the existing Gillingham sewage treatment work to expand and meet the needs of the community contrary to the saved policies 1.8 and 1.17 of the North Dorset District-Wide Local Plan adopted 2003, paragraph 120 of the National Planning Policy Framework, and policy 25 of the emerging North Dorset Local Plan 2011-2026 Part 1.
3. The proposed development by reason of its siting and scale would have an adverse effect, directly or indirectly, on protected species and their habitat contrary to the saved policies 1.1 and 1.38 of the North Dorset District-Wide Local Plan adopted 2003, paragraph 118 of the National Planning Policy Framework, and policy 4 of the emerging North Dorset Local Plan 2011-2026 Part 1.
4. The applicant has provided insufficient information to assess the potential impact on archaeological remains within the proposed development site contrary to saved policy 1.30 of the North Dorset District-Wide Local Plan adopted 2003, paragraph 139 of the National Planning Policy Framework, and policy 5 of the emerging North Dorset Local Plan 2011-2026 Part 1.
5. The applicant has provided insufficient or inadequate details to demonstrate the safety and improvements to the transport network are sufficient for the proposed scale of development. As such it is considered that the proposed development by reason of its siting and scale would generate significant pedestrian and vehicular movements causing severe conflict or serious risk to the transport network contrary to the saved policies 5.10 and 5.11 of the North Dorset District-Wide Local Plan adopted 2003, paragraph 32 of the National Planning Policy Framework, and policies 13 and 24 of the emerging North Dorset Local Plan 2011-2026 Part 1.

6. The proposal does not include provision to secure affordable housing or contributions toward off-site impacts the development is likely to create contrary to the saved policies 1.8, 2.4, 2.12, 4.2, 4.5, 4.7 of the North Dorset District-Wide Local Plan adopted 2003, sections 6 and 8 of the National Planning Policy Framework, and policies 1, and 8 of the emerging North Dorset Local Plan 2011-2026 Part 1.

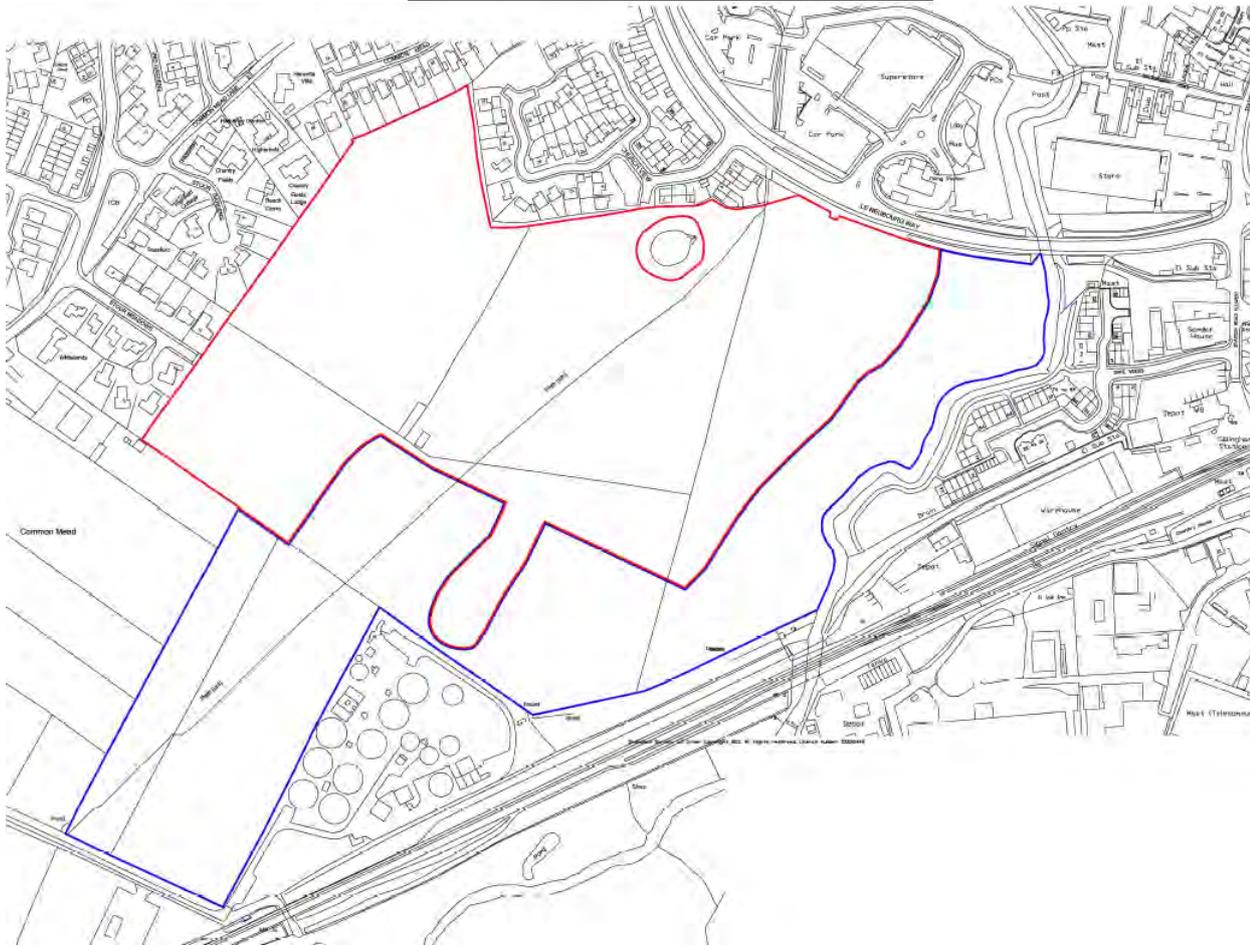
Informative: Reason 6 can be overcome by the submission of a suitable and agreed Undertaking under Section 106 of the Act.

**Human Rights:**

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

**DECISION:**

LOCATION PLAN 2/2014/0916/OUT



**DO NOT SCALE**

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