



Purpose: For Decision

## Planning Committee Report

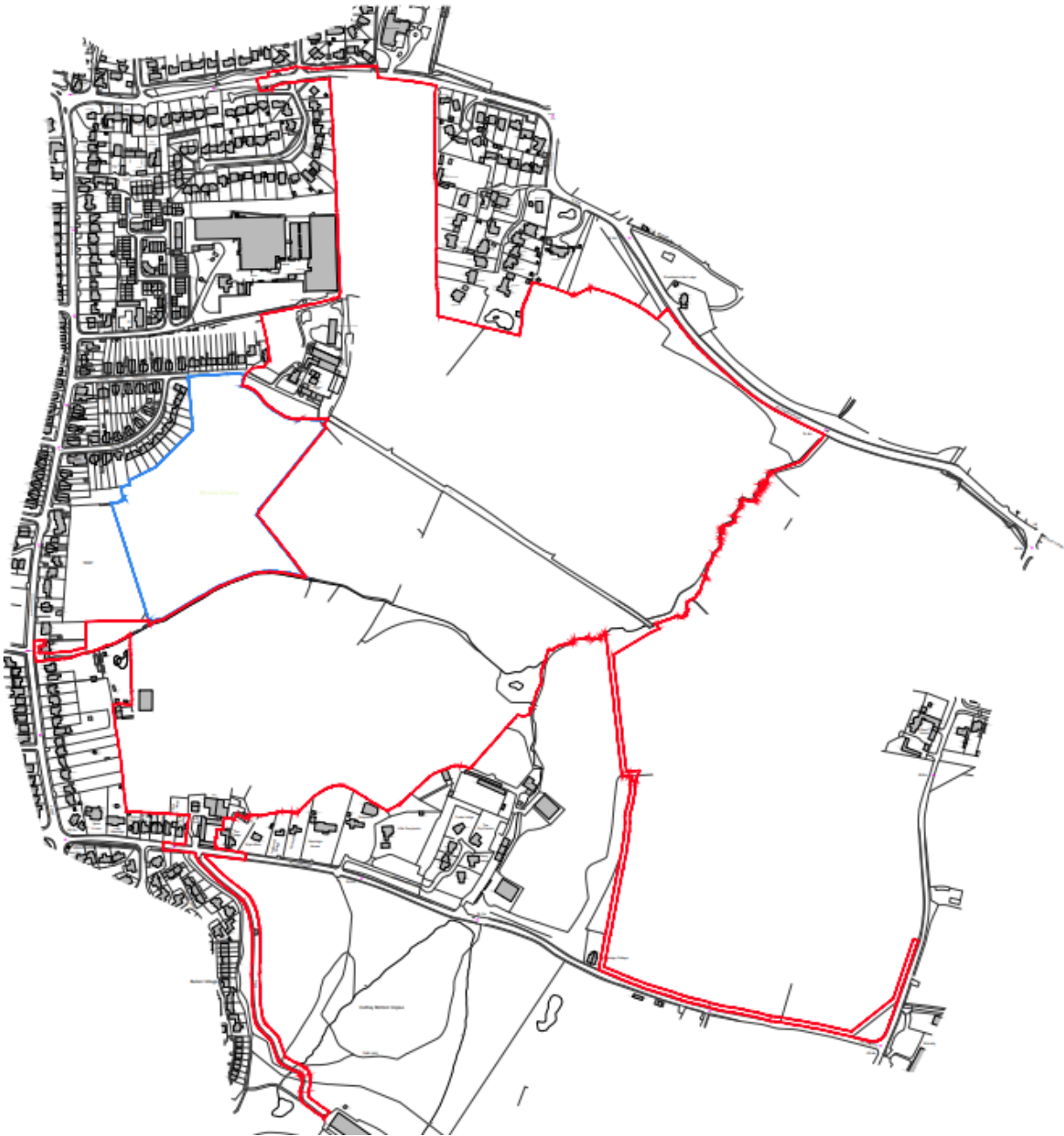
Report of	STRATEGIC MANAGER FOR PLANNING AND INFRASTRUCTURE DELIVERY
Date	<b>21<sup>st</sup> March 2023</b>
Application Reference	20/01061/FUL
Application type	Full
Application Description	Demolition of agricultural buildings and the garage to No 125 Marlborough Road; Proposed development consisting of 473 new dwellings (single and two storey dwellings (inclusive of 35% affordable housing) and inclusive of the conversion of the Coach House into pair of semi-detached dwellings; (leading to a net gain of 472 dwellings), single storey café and two storey doctors surgery and B1 office space with associated site infrastructure (inclusive of roads, parking, photovoltaic pergolas, garages, bin and bikes stores, below ground foul waste pump, electric substations, surface water detention basins and swales, landscape and ecological mitigations and net biodiversity enhancements); Proposed vehicular accesses off Bullen Road and Appley Road; Proposed public open spaces, Suitable Alternative Natural Greenspace and Allotments; Proposed three public rights of way; Proposed access, parking and turning for No 125 Marlborough Road and associated highways improvements
Site address	Land south of Appley Road, north of Bullen Road and east of Hope Road (West Acre Park), Ryde, Isle of Wight
Parish	Ryde
Ward Councillor	Cllr Michael Lilley
Applicant	Westridge Village (IOW) Ltd
Planning Officer	Sarah Wilkinson

Reason for Planning Committee consideration	The planning application was previously referred to the Planning Committee for consideration on 27 <sup>th</sup> July 2021. The original report can be viewed by following this link:  <a href="#">20-01061-FUL Westacre Committee report</a>
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Recommendation

To agree to amended heads of terms to the legal agreement, to include mitigation land for curlew habitat and enhancement and mitigation strategy.



**Main considerations**

- Planning history and preamble
- Ecology
- Human rights

## 1. **Evaluation**

### Planning history and preamble

- 1.1 Councillors will be aware that this planning application was considered by the Planning Committee on 27<sup>th</sup> July 2021, with the committee resolving to approve the development subject to planning conditions and the satisfactory completion of a legal agreement. The legal agreement is required to secure the following measures:
- Financial contribution towards the provision of highway works to improve the Westridge Cross and the junction between Smallbrook Lane and Great Preston Road.
  - Secure highway improvements off Bullen Road.
  - Secure highway improvements at the junction of the site with Appley Road and wider highway improvements along Apply Road.
  - Secure highway improvements to the roundabout of Appley Road and Marlborough Road.
  - To provide three multi-user Public Rights of Way.
  - 35% affordable housing provision and an associated affordable housing scheme (166).
  - Mitigation payments to the Solent Protection Area, in accordance with the Bird Aware Strategy (in the region of £289,772).
  - Delivery of the SANG and its retention in perpetuity, including the financial contributions towards its maintenance.
  - Contribution towards Children's Services Facilities (Education) (in the region of £1,689,814 or figure as agreed with Education in line with the SPD).
  - Residential Travel Plan.
  - Provision of Allotments.
- 1.2 Since the application was considered by the Planning Committee officers have been negotiating with the developer to finalise the section 106 agreement. During this time Natural England contacted the LPA to advise that part of the site lies upon a site designated as functionally linked land as part of the Solent Waders and Brent Geese Strategy (site IOW 46) as shown below. This designation was not identified by the applicant and subsequently not raised as part of Natural England's formal planning response. Concerns were therefore raised that the Habitat Regulation Assessment did not reference this supporting habitat and therefore needed to be updated.



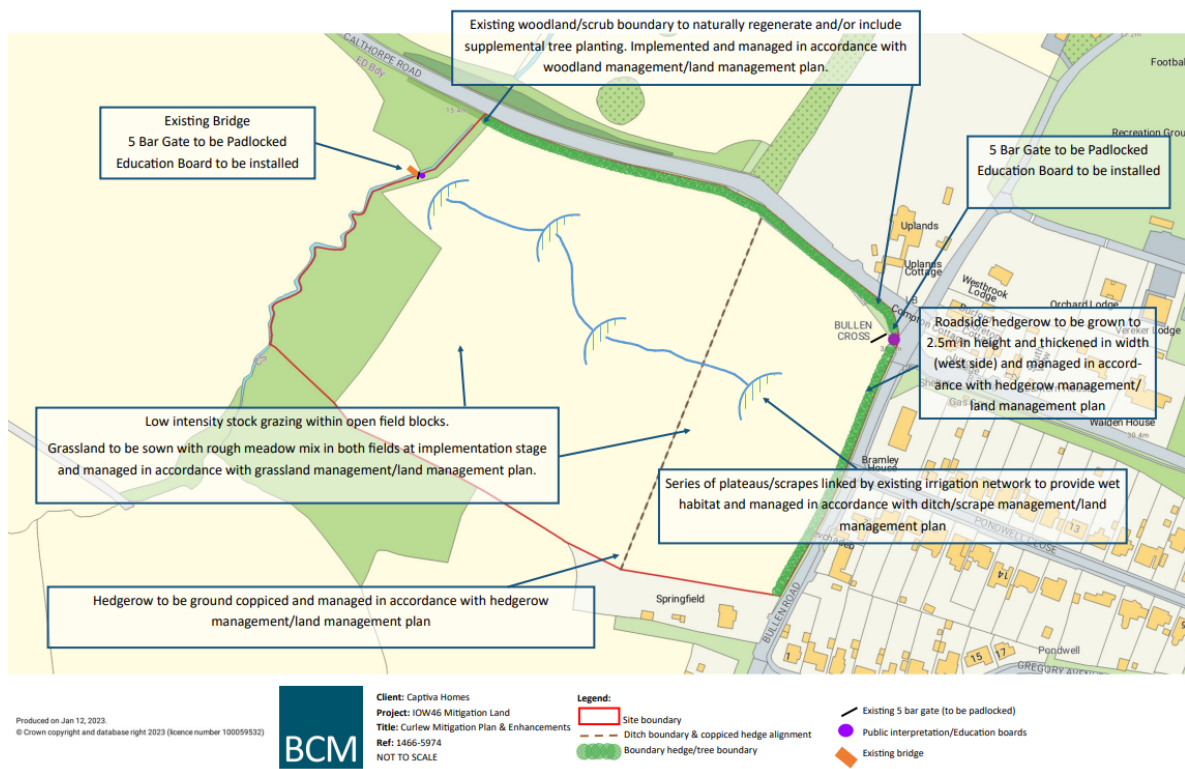
- 1.3** During this same time period the LPA also received a letter from the landowners' solicitor to confirm that on 13th September 2022, they, on behalf of their client, exchanged contracts for the unconditional surrender of the agricultural tenancy held over Westridge Farm by the then tenant farmers. This established that the tenant farmers will vacate the farmland at Westridge Farm by no later than 23 December 2022 and the Westridge Farmhouse by no later than 31 March 2023.
- 1.4** This report provides updates to sections of the original committee report in respect of ecology (paragraphs 6.99 – 6.114 inclusive) and human rights (paragraphs 6.21 – 6.28 inclusive). All other parts of the report are considered to remain relevant as previously written.

#### Ecology

- 1.5** On the receipt of comments from Natural England with regard to site IOW 46 discussions have taken place with the developer to establish how the loss of habitat could be mitigated.
- 1.6** Site IOW 46 covers an area of 11.27 hectares and is identified within the Solent Waders and Brent Goose Strategy as a Low Use Site. The Strategy sets out that "In order to assess the importance of each site, a metric-based analysis technique was developed; five metrics were devised; sites were given a score for each metric and then each score was summed to give an overall score. The overall score results in a classification of site importance as either "core", "primary support area", "secondary support area" or "low use site"."
- 1.7** Low use sites are defined as sites that have records of birds but in low numbers. Count data has been provided to show that four positive count visits were recorded, noting the presence of 6, 14, 13 and 15 curlews. Negative visits were not recorded, and it is therefore not clear how many times the site was surveyed, and zero birds recorded. For comparison the submitted information details that a maximum count on a 'core site' was recorded as 600 birds. Therefore, officers consider that the recorded presence of up to 15 curlew on this site is comparatively

very low.

- 1.8** The Strategy is supported by a report entitled 'Guidance on Mitigation and Off-setting requirements' and therefore accepts the principle of loss in habitat, subject to re-provision or contributions. This guidance sets out that "All Low Use sites have the potential to be used by waders or brent geese. These sites have the potential to support the existing network and provide alternative options and resilience for the future network. The in-combination loss of these sites would impact on the continued ecological function of the wader and brent goose network. In all cases proportionate mitigation, off-setting and/or enhancement measures will be required."
- 1.9** As a very rough and approximate calculation based on the available information, the SANG within the proposed development would account for 77 percent of site IOW 46, with buildings/roads occupying the remaining 23 percent. Therefore, the majority of the land would not be lost to development. However, as the SANG is intended to encourage recreational activity away from the coast Natural England considered that the land would be lost as habitat.
- 1.10** The current site IOW 46 forms part of the former active farmland and therefore the land has been managed in line with farming practices and would have had cattle grazing on it from time to time. In order to mitigate for the loss of the habitat additional land has been identified close to the site to provide enhanced habitat, as mitigation, which can be managed and maintained in perpetuity. This land covers an area of 6.4 hectares on the corner of Bullen Road and Calthorpe Road. The mitigation site would be kept free of activity in order to ensure that any curlews using it would not be disturbed by animals or human activity, enhanced to provide optimum curlew habitat and would also be managed in line with ecological practices in perpetuity. This is considered by officers to result in significant enhancement over and above the existing site IOW 46 and would potentially encourage its use for greater numbers of birds.
- 1.11** The applicant has submitted a curlew mitigation and enhancements plan and a management plan for the long-term maintenance of the mitigation land. These documents have been consulted upon with Natural England and an updated Habitat Regulations Assessment has been undertaken by officers, which has been agreed with Natural England. It is therefore considered that the proposed additional land outside of the red line boundary would be appropriate to mitigate for the loss of site IOW 46. The mitigation land and enhancement plan is shown below:



**1.12** In order to ensure that the land is retained for this purpose and maintained appropriately for optimum curlew habitat the section 106 agreement would be amended to include provision for these works. This matter has been bought back to committee for consideration of the revised habitat enhancement and mitigation works to compensate for the loss of curlew habitat and the associated required change to the heads of terms listed within the previous recommendation. The requirement for the mitigation land and management plan being added.

### Human rights

**1.13** As outlined above the LPA have been provided with information to confirm that the family with a tenancy have exchanged contracts for the unconditional surrender of the agricultural tenancy.

**1.14** Third parties raised concerns to the original application on the grounds of human rights. These concerns relating to the impact from additional traffic, the submission of the application during the covid pandemic and that the scheme would deny the family operating the farm employment, a home and an income. Officers consider it appropriate to update this section in light of the surrender of the tenancy.

**1.15** The original report commented that “ultimately, potential interference with human rights, and personal circumstances are a material planning consideration. The weight to be attached to those considerations is entirely a matter for the decision maker.” It went on to outline that “In forming the recommendation, officers had regard to all of the material planning considerations and specific regard to the need to balance the social and economic benefits of providing 472 additional homes against the loss of the existing tenant to continue to farm and live on this land. The local planning authority has to balance the material planning considerations as against the development plan which informs its recommendation. Officers considers that a decision to approve planning permission in the form identified in

this report strikes the correct balance for the purpose of the proportionality and legitimacy of interference with Convention rights.” This is considered to remain the same, but officers would attribute less weight to this issue in light of the change in circumstances. This change does not result in any alterations to the recommendation.

## **2. Options**

**2.1** It is considered that the following options are available to Councillors:

1. To agree the amended heads of terms to the legal agreement, to include provision for the additional mitigation land, mitigation and enhancement plan and management plan and that the enhancement works should be undertaken and the land managed and maintained in perpetuity and resolve to permit the proposed development.
2. To require alternative mitigation.
3. Reconsider the application in its entirety.

## **3 Conclusions and recommendation**

**3.1** The application is being brought back to committee for consideration of the revised habitat enhancement and mitigation works to compensate for the loss of curlew habitat. As a consequence, there are changes to the legal agreement heads of terms as set out within the recommendation of the original report and paragraph 1.1 above. Natural England, the relevant statutory body, have supported the proposed revised enhancement and mitigation work.

**3.2** It is the opinion of officers that no other material matters have changed to justify any other elements of the permission being reconsidered. Furthermore, officers are satisfied in light of Natural England advice, that the revised enhancement and mitigation works are appropriate and acceptable so options 2 and 3 are not recommended.

**3.3** Officers therefore recommend that Planning Committee agrees the amended heads of terms to the legal agreement, to include provision for the additional mitigation land, mitigation and enhancement plan and management plan and that the enhancement works should be undertaken and the land managed and maintained in perpetuity and resolve to permit the proposed development.