



**STATEMENT OF CASE** for Test Valley Borough Council

Town and Country Planning Act 1990 (as amended)

Section 78 – Public Inquiry

Appeal by Gladman Developments Limited

Land East of Halterworth Lane, Romsey, Hampshire

Planning Inspectorate Ref: APP/C1760/W/24/3354052

Local Planning Authority Reference: 24/00174/OUTS

December 2024

## SECTION 78 TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Gladman Developments Limited

Outline planning application for demolition of existing buildings and erection of up to 270 dwellings, including affordable housing, with land for the potential future expansion of Halterworth Primary School, public open space, structural planting and landscaping, sustainable drainage system (SuDS) and vehicular access points. All matters reserved except for means of access

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### Statement of case of the Council

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#### 1.0 INTRODUCTION

- 1.1 The Local Planning Authority registered the planning application which is the subject of this appeal on 24<sup>th</sup> January 2024.
- 1.2 The application was described as follows:

*Outline planning application for demolition of existing buildings and erection of up to 270 dwellings, including affordable housing, with land for the potential*

*future expansion of Halterworth Primary School, public open space, structural planting and landscaping, sustainable drainage system (SuDS) and vehicular access points. All matters reserved except for means of access*

1.3 The application was refused under delegated powers on 23<sup>rd</sup> April 2024 for the 14 reasons set out in the Council's Decision Notice.

1.4 This statement outlines the case which Test Valley Borough Council as the Local Planning Authority (LPA) will be making at the forthcoming Public Inquiry, focusing on these reasons. It should be read in conjunction with the Statement of Common Ground dated 18th December 2024. The Statement of Common Ground provides a description of the site and the proposal.

## 2.0 **POLICY**

### 2.1 Government Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Planning (Listed Buildings and Conservation Areas) Act 1990

### 2.2 Test Valley Borough Revised Local Plan (2016) (RLP)

COM2 (Settlement Hierarchy)

COM7 (Affordable Housing)

COM15 (Infrastructure)

T1 (Managing Movement)

T2 (Parking Standards)

T3 (Park and Ride at Bargain Farm, Nursling)

E1 (High quality development in the Borough)

E2 (Protect, conserve, and enhance the landscape character of the Borough)

E3 (Local Gap)

E5 (Biodiversity)

E7 (Water Management)

E8 (Pollution)

LHW1 (Public Open Space)

LHW4 (Amenity)

ST1 (Skills and Training)

### 2.3 Supplementary Planning Documents (SPD)

Infrastructure and Developer Contributions

New Forest SPA Mitigation- Interim Framework

Solent Recreation Mitigation Strategy

Affordable Housing

## 3.0 **THE CASE FOR THE COUNCIL**

The Council will produce evidence to substantiate the reasons for refusal. The main issue in respect of each reason is set out below together with a description of the Council's case and the planning balance.

**3.1 Reason for refusal 1 – Countryside location and the Borough's future housing requirement**

The Council will provide contextual information with regard to countryside location of the appeal site, together with the further detail in respect of the draft local plan 2040 and the Regulation 18 document which does not allocate this site as a preferred strategic location. The case will confirm the proposal's non-compliance with policy COM2 of the Test Valley Borough Revised Local Plan. Development outside settlement boundaries will be permitted where;

- a) it is a type appropriate according to RLP policy; or
- b) it is essential to be located in the countryside.

When considered against criteria a) and b) the application proposal as a whole is not considered to satisfy either criterion and is therefore contrary to the adopted local plan.

- 3.2** At the date of determination the Council had a five year housing land supply. The HLS position for Southern Test Valley, as at 1 April 2023, was 7.01 years of supply. The balance was concluded that the benefits of the scheme do not outweigh the harm. However, the Revised NPPF published on the 12<sup>th</sup> December may alter the Councils position with regards to 5 Year Housing Land Supply and therefore the planning balance. The Councils current 5-year housing supply position is being updated. The updated position and weight given to this consideration in the planning balance will be provided to the Inspectorate and the Appellant when finalised in view of the Revised NPPF.

**3.3 Reason for refusal 2 – Landscape**

It will be confirmed that the development will harm the landscape character through the combination of the physical and visual diminishment of the local gap. At its widest point, the new development will expand the developed residential land by approximately 280m into the gap. Whilst green infrastructure and further landscaping has been discussed as a positive aspect of the development, it would take a number of years to establish and even once established it would never comprehensively retain the physical distance and separation between the settlements which is why the land was designated in the first instance. Through the combination of the physical and visual diminishment of the local gap a detrimental impact on the landscape character would be created. The proposal undermines the strategic direction of the regulation 18 Draft Local Plan proposals for 2040 and the Test Valley Borough Revised Local Plan (2016). The proposal would not protect, conserve and enhance the landscape character of the Borough and would physically and visually diminish the local gap creating a coalescence of settlements contrary to policies COM2, E2 and E3 of the Test Valley Borough Revised Local Plan

(2016). The case will confirm the proposal's non-compliance with policies COM2, E2 and E3 of the Test Valley Borough Revised Local Plan (2016).

**3.4 Reason for refusal 3 – Affordable housing**

The provision of affordable housing on site would normally be required by policy COM7 of the Test Valley Borough Revised Local Plan 2016, the Council's Affordable Housing SPD and the Council Infrastructure and Developer Contributions Supplementary Planning Document. Please note the reason for refusal should also reference the Council's Affordable Housing SPD. The Council's position remains that in this case 108 affordable homes on site is required to be secured. Given the content of the Appellant's Statement of Case (para 5.4.2), the Council will discuss this matter with the Appellant with a view to progressing a section 106 agreement to secure affordable homes.

**3.5 Reason for refusal 4 – Highway impacts**

The proposal would give rise to an adverse effect on the function, safety and character of the local highway network contrary to policy T1 of the Test Valley Borough Revised Local Plan 2016. The Highway Authority confirmed in the consultation response dated 25<sup>th</sup> March 2024 that clarification on a number of matters is required. Paragraph 5.5.3 of the Appellants Statement indicates that the Appellant will work directly with Hampshire County Council (HCC) Highways. The Council will discuss this matter with the Appellant with a view to progressing a section 106 agreement to secure any highway requirements in line with the Infrastructure and Developer Contributions SPD.

**3.6 Reason for refusal 5 – Right of way**

The proposal is contrary to policy T1 of the Test Valley Borough Revised Local Plan 2016 and NPPF para 105. The Council will discuss the matter of provisions and contributions towards improving the usability of this route for future residents with the Appellant with a view to progressing a section 106 agreement to secure any requirements.

**3.7 Reason for refusal 6 – On-site public open space**

The proposal is contrary to policy LHW1 of the Test Valley Local Plan 2016 and the Infrastructure and Developer Contributions SPD. The Council will discuss the matter of suitable on and off-site provisions and contributions for public open space with the Appellant with a view to progressing a section 106 agreement to secure any requirements.

**3.8 Reason for refusal 7 – Off-site public open space**

The proposal is contrary to policy LHW1 of the Test Valley Local Plan 2016 and the Infrastructure and Developer Contributions SPD. The Council will discuss the matter of suitable on and off-site provisions and contributions for public open space with the Appellant with a view to progressing a section 106 agreement to secure any requirements.

### 3.9 Reason for refusal 8 – Health Infrastructure

The proposal is contrary to policy COM15 of the Test Valley Borough Local Plan 2016 and the Infrastructure and Developer Contributions SPD. At paragraph 5.9.2, the Appellant states that they accept the financial contribution of £176,991. The Council will progress the section 106 agreement including this contribution requirement.

### 3.10 Reason for refusal 9 – Flooding on and off-site

The proposal is contrary to policy E7 of the Test Valley Local Plan 2016. The Council notes the submission of the updated FRA and drainage strategy. A further request for comments on this has been sent to HCC, the lead local flood authority, to review this information. The Council will progress this accordingly with HCC and the Appellant.

### 3.11 Reason for refusal 10 – Nitrate neutrality

The proposal is contrary to policies COM2 and E5 of the Test Valley Local Plan 2016. The Council notes that Natural England's consultation response states:

*No objection - subject to appropriate mitigation being secured.*

*In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:*

- *Nutrient mitigation as set out in the supporting documents is secured to fully offset the nutrient burden arising from this development*

At paragraph 5.11.2 of the Appellant's statement of case, it is confirmed that a letter confirming the source and availability of the credits is provided within the Nutrient Neutral Assessment & Mitigation Strategy (CD1.19). Appendix 3 of this document is titled confirmation of nitrogen credits. Attached is a statement from Environmental Trading Platform Limited dated 4<sup>th</sup> January 2024. This confirms:

*In the Test Valley catchment, ETP proposes a land reversion scheme, which Natural England has already reviewed in a draft assessment. We are on track to submit the final Detailed Assessment Statement (DAS) in the coming weeks, with complete sign-off expected from Natural England by April 2024. We can confirm this scheme will generate sufficient credits to fulfil the 169.47 kg TN nutrient requirement to support the GDL scheme at Halterworth Lane, Romsey.*

The appeal submission continues to lack detail in respect of where this land reversion scheme is and what the proposals are for this land both initially and in future with maintenance and monitoring. The Council will discuss this matter with the Appellant in order to reach an agreed position. The nitrates solution and method of calculating it will need to form part of any legal agreement to ensure PINS as the decision maker has sufficient information to assess the impact on the protected site.

### 3.12 Reason for refusal 11 – New Forest SPA

The proposal is contrary to policy E5 of the Test Valley Local Plan 2016 and the Infrastructure and Developer Contributions SPD. As is identified in the Appellant's statement of case, the need for contributions in accordance with the adopted New Forest SPA Mitigation - Interim Framework and Solent Recreation Mitigation Strategy (2017) is not in dispute. The calculation methods are set out in the framework.

- 3.13 The reason for refusal can be overcome by an agreed obligation to secure a contribution. The Council will discuss with the Appellant with a view to progressing a section 106 agreement including this contribution requirement.

3.14 **Reason for refusal 12 – Skills and Training**

The Council will progress the suggested conditions (see below paragraph 7.0 onwards) including a condition for skills and training in accordance with policy ST1 of the Test Valley Local Plan 2016 and the Infrastructure and Developer Contributions SPD.

3.16 **Reason for refusal 13 – Expansion of Halterworth School**

The proposal is contrary to policy COM15 of the Test Valley Local Plan 2016 and the Infrastructure and Developer Contributions SPD. The Appellant states at paragraph 5.14.2 of its statement of case that dates and details of the discussion with the school can be found in the statement of community involvement. Having reviewed the document these date from January 2024 and no further work appears to have been undertaken to understand how the application contributes to the delivery of additional primary school provision in the local area and the need which would increase as a result of the proposed development.

- 3.17 The Council is content to progress a discussion about the inclusion of this in the section 106 agreement, but it remains unclear what this school expansion actually consists of.

3.18 **Reason for refusal 14 – Public Art**

The proposal is contrary to the Infrastructure and Developer Contributions SPD. The Council notes at paragraph 5.15.2 of the Appellant's statement of case that it has agreed to a condition to ensure public art is provided. The Council will seek confirmation from the Council Arts Officer which will inform a condition or a section 106 agreement contribution.

4.0 **CORE DOCUMENTS**

The documents referred to in this statement of case which will form part of the updated Core Document list are:

- National Planning Policy Framework (NPPF)
- Test Valley Borough Revised Local Plan (2016) (RLP)
- TVBC Infrastructure and Developer Contributions SPD

- TVBC Affordable Housing SPD
- Community Infrastructure Levy Regulations (2010) as amended
- Relevant case law
- Relevant planning and appeal decisions

4.1 The Council reserves the right to add to the list above and to refer to other relevant documents as appropriate, including those specified in or that are necessary to respond to the Appellant's case.

## 5.0 **CONCLUSION**

At the date of determination the Council had a five year housing land supply and the balance was concluded that the benefits of the scheme do not outweigh the harm. However, the Revised NPPF published on the 12<sup>th</sup> December may alter the Councils position with regards to 5 Year Housing Land Supply and therefore the planning balance. The Councils current 5-year housing supply position is being updated. The updated position and weight given to this consideration in the planning balance will be provided to the Inspectorate and the Appellant when finalised in view of the Revised NPPF.

5.1 The Council will provide to the Inspectorate our position in the view of the requirements of NPPF in considering this appeal.

5.2 The Council expects to call 3 or 4 witnesses, to be confirmed to the Inspectorate at a later date.

## 6.0 **SUGGESTED CONDITIONS**

The following conditions are suggested for the proposal.

- 1) This list is submitted without prejudice
- 2) This list reflects the Council's understanding of the appeal at this time

The Council will seek to confirm agreement with the applicant.

1. Applications for the approval of all the reserved matters referred to herein shall be made within a period of three years from the date of this permission. The development to which the permission relates shall be begun not later than whichever is the later of the following dates:

- i) five years from the date of this permission: or
- ii) two years from the final approval of the said reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with the provision of S.92 of the Town & Country Planning Act 1990.



2. Approval of the details of the layout, scale and appearance of the building(s), and the landscaping of the site (herein after called "the reserved matters") shall be obtained from the local planning authority in writing before the development is commenced.

Reason: To comply with the Town and Country Planning (General Management Procedure) (England) Order 2015 (or any order revoking and re-enacting that Order).

3. The development hereby permitted shall be limited to no more than 270 dwellings.

Reason: For the avoidance of doubt and in the interest of proper planning.

4. Any application for approval of reserved matters shall be accompanied by full details of existing and proposed ground levels and proposed building finished floor levels (all relative to ground levels adjoining the site). The development shall only be carried out in conformity with the approved details.

Reason: To ensure a satisfactory visual relationship of the new development with the surrounding area in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1 & E2.

5. No development shall commence on site (including any works of demolition or site clearance), until a Construction and Demolition Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include the following:

- 1) the parking of vehicles of site operatives and visitors;
- 2) loading and unloading of plant and materials;
- 3) storage of plant and materials used in constructing the development;
- 4) hours of construction, including deliveries;
- 5) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- 6) wheel washing facilities;

- vii) measures to control the emission of dust and dirt during demolition and construction;
- 7) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- 8) measures for the protection of the natural environment
- 9) Confirmation that no fixed plant or machinery shall be installed outside of any building
- 10) Confirmation of audible reversing alarms on mobile plant and machinery will be of a type which, whilst ensuring that they give proper warning, have a minimum noise impact on persons outside sites (for example, 'white noise' reversing alarms).

The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

Reason: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase having regard to Test Valley Borough Revised Local Plan (2016) Policy E8

- 6. The reserved matters application for the landscaping shall include details, including planting plans, sections and a management plan.

Reason: In the interest of the amenities of the area and enhancing the biodiversity in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1, E2 & E9.

- 7. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.

Reason: In the interests of improving water usage efficiency in accordance with policy E7 of the Test Valley Borough Revised Local Plan 2016.

8. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:  
Site location - 09840-FPCR-ZZ-ZZ-DR-L- 002 PO9  
Site Layout - 09840-FPCR-ZZ-ZZ-DR-L- 004 PO2  
Details - P21004-001 C  
Details - P21004-002 B  
Site Survey - TOPO-01-2D 1 of 2  
Site Survey - TOPT-02-2D 2 of 2  
Parameter plan - 09840-FPCR-ZZ-ZZ-DR-L-0003 P03  
Reason: For the avoidance of doubt and in the interests of proper planning.
9. No development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Revised Local Plan (2016) Policy E1.
10. No development shall take place until an Employment and Skills Plan to encourage and promote skills and training in the construction industry in accordance with the Construction Industry Training Board (CITB) Client Based Approach to developing and implementing an Employment Skills Strategy on Construction projects, Local Client Guidance - England, v2, CITB and the National Skills Academy 2016 has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
Reason: Details are required prior to commencement in order to identify and provide skills needs and training delivery in accordance with Test Valley Borough Revised Local Plan 2016 policy ST1.
11. The reserved matters application(s) shall include details of a scheme for any external building or ground mounted lighting/illumination. Such details shall be submitted for the written approval of the local planning authority and shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution. The

submitted details shall also demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated.

External lighting shall only be provided in accordance with the approved scheme(s) and shall thereafter be retained as approved.

Reason: To ensure the favourable conservation status of bats and birds in accordance with Policy E5.

12. No development hereby permitted shall commence until plans and particulars showing the detailed proposals for width, alignment, gradient and type of construction proposed for the roads, footways and accesses, including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels, together with details of street lighting, landscaping (including the materials to be used for paving and hard surfaces and the finished levels in relation to existing levels), the method of disposing of surface water, and details of a programme for the making up of the roads and footways has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of highway safety, tree protection, ecological protection and mitigation in accordance with Policies T1, E2 and E5 of the Test Valley Borough Revised Local Plan (2016).

13. No dwelling shall be occupied until plans and particulars showing detailed proposals for public art to be provided on site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the last dwelling on site has been occupied.

Reason: In the interest of public amenity and public open space in accordance with Policies LHW1 and LHW4 of the Test Valley Borough Revised Local Plan (2016).

14. No development shall take place until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological evaluation, in accordance with a written scheme of investigation that has been submitted to and approved by the Planning Authority. Development shall be carried out in accordance with this detail.

Reason: To assess the extent, nature and date of any archaeological deposits that might be present and the impact of the development upon

these heritage assets in accordance with Test Valley Revised Local Plan policy E9.

15. No development shall take place until the applicant or their agents or successors in title has secured the implementation of a programme of archaeological mitigation of impact, in accordance with a Written Scheme of Investigation that has been submitted to and approved by the Planning Authority. Development shall be carried out in accordance with this detail.  
Reason: To mitigate the effect of the works associated with the development upon any heritage assets and to ensure that information regarding these heritage assets is preserved by record for future generations in accordance with Test Valley Revised Local Plan policy E9.
16. Following the completion of archaeological fieldwork a report shall be produced in accordance with an approved programme submitted by the developer and approved in writing by the local planning authority setting out and securing appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.  
Reason: To contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available in accordance with Test Valley Revised Local Plan policy E9.
17. Prior to the commencement of development full details of the layout for the parking and manoeuvring onsite of contractor's and delivery vehicles during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period.  
Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2016 policy T1.
18. No development shall take place until a method for ensuring that minerals that can be viably recovered during the development operations are recovered and put to beneficial use and a method to record the quantity of recovered mineral (re-use on site or off site). The following completion recovery methods shall be submitted to and approved in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved detail.  
Reason: To ensure viable and safeguarded mineral resource opportunity is provided in accordance with policy 15 Safe guarding – mineral resources of the adopted Hampshire Minerals and Waste Plan 2013.
19. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the local planning authority) shall

be carried out until a remediation strategy has been submitted to and approved in writing by the local planning authority detailing how this unsuspected contamination will be dealt with. The remediation strategy shall be implemented as approved.

Reason: To safeguard future residents from risks to human health associated with contamination, and to prevent pollution of ground and groundwater having regard to policy E8 of the Test Valley Borough Revised Local Plan 2006.

20. No work relating to the construction of the development hereby approved, including deliveries, collections or works of demolition or preparation prior to operations, shall take place before the hours of 07.30 nor after 18.00 on Mondays to Fridays; before the hours of 08.00 nor after 13.00 on Saturdays; and at all on Sundays and Public Holidays, unless otherwise agreed with the LPA.

Reason: In the interests of the amenities of neighbouring properties in accordance with Test Valley Borough Local Plan policies E8 and LWH4.

21. No development shall commence until a method of demolition and construction has been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the local planning authority. No piling or any other foundation designs using penetrative methods shall take place without the express written consent of the local planning authority.

(This scheme should include dust control measures).

Reason: In the interests of the amenities of neighbouring properties in accordance with Test Valley Borough Local Plan policies E8 and LWH4.

22. Development shall proceed in accordance with the measures set out in the Ecological Impact Assessment (fcpr, Jan 24). Thereafter, enhancement features shall be permanently maintained and retained in accordance with the approved details, with photographic evidence provided to the Local Planning Authority within 6 months of occupation.

Reason: to enhance biodiversity in accordance with Policy E5 of the Test Valley Revised Local Plan DPD.